


Policy Bulletin
 DJJ 6.210 (REV 09/10)

POLICY BULLETIN (PB)			
Subject: PRISON RAPE ELIMINATION ACT (PREA)			
PB Number: 17-08			
	California Department of Corrections and Rehabilitation Division of Juvenile Justice	Manual: <input type="checkbox"/> Administrative (YAM) <input type="checkbox"/> Education Services (ES) <input checked="" type="checkbox"/> Institutions and Camps (I&C) <input type="checkbox"/> Parole Services (PS) <input type="checkbox"/> Special Education (SE)	Revision #: 242 Section #: 1445

The purpose of this Policy Bulletin (PB) is to provide all Division of Juvenile Justice (DJJ) Institutions and Camps (I&C) manual holders with information regarding the attached revised DJJ policy for Prison Rape Elimination Act (PREA).

The purpose of this revised policy is to ensure compliance with Public Law 108.79, Prison Rape Elimination Act of 2003, Assembly Bill 550 (Chapter 303, Statutes of 2005), the Sexual Abuse in Detention Elimination Act, and 28 Code of Federal Regulations, Part 115, National Standards to Prevent, Detect and Respond to Prison Rape all set expectations for correctional facilities to prevent, detect and respond to sexual violence, staff sexual misconduct and sexual harassment behind bars.

Instructions

This PB contains changes to the above reference manual(s). To update your manual(s), please follow the directions below step by step.

1. Locate the correct manual(s), as marked above.

Remove	Insert	Special Instructions
Prison Rape Elimination Act (PREA), Institutions and Camps (I&C) Manual, Section(s) # 1445-1447.2, Revision Date: 2006	PREA, I&C Manual, Section #1445	N/A
N/A	Insert the forms behind index in numerical order.	For the most current versions of forms, go to: http://intranet/ops/JJ/Pages/Forms.aspx

3. Update the Revision Record Log (first page of the manual) using the revision number reference above.

This cover sheet does not need to be archived in the manual, only the attached items.

Please distribute to interested parties and make additional copies if necessary. Please direct any inquiries to Sandi Becker, Policy, Procedures and Regulations (PP&R) Unit Manager, at (916) 683-7467.

Original Signed By:
 ANTHONY LUCERO
 Director

02/17/2017
 Approval Date

Attachment(s)



Manual: Institutions and Camps
Chapter: 1
Policy: 1445
Rule: Prison Rape Elimination Act (PREA) Policy

Effective: 03/01/2017
Replaces: 1445 – 1447.2
Dated: 2006

Authority & Related Standards/References	Requirements
<p>Code of Federal Regulations, Part 115, National Standards to Prevent, Detect and Respond to Prison Rape</p> <p>Public Law 108-79, Prison Rape Elimination Act</p> <p>California Assembly Bill 550 (Chapter 303, Statute 2005), Sexual Abuse in Detention Elimination Act</p> <p>Evidence Code 1035.2</p> <p>PC §§ 220, 216, 261.5, 262, 264, 264.1, 264.2, 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 289.5, 289.6, 293(a), 422.6, 422.7, 422.75, 646.9, 679.04,</p> <p>CCR §§ 3316, 3335, 3337, 3377.1(c), 3401.5</p> <p>GC §§ 6254</p>	<p>This policy has a training requirement: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>This policy has an audit requirement: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>This policy has restricted distribution: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>This policy requires a local procedure: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>This policy requires youth notification: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>This policy requires youth handbook updates: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>This policy requires:</p> <p><input checked="" type="checkbox"/> Annual Review <input type="checkbox"/> Bi-Annual Review <input type="checkbox"/> Tri-Annual Review</p>

Policy Statement: The purpose of this policy is to ensure compliance with Public Law 108-79, the Prison Rape Elimination Act of 2003 (PREA), California Assembly Bill 550 (Chapter 303, Statutes of 2005) the Sexual Abuse in Detention Elimination Act, and 28 Code of Federal Regulations, Part 115, National Standards to Prevent, Detect and Respond to Prison Rape. It will provide policies for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct and sexual harassment against CDCR offenders. Another purpose of this policy is to provide policies for the successful community re-entry of offenders. Finally, this policy informs staff of their responsibilities and liabilities as specified in the law.

Signature/Approval
Date

Original Signed By:
 ANTHONY LUCERO
 Director

02/17/2017
 Approval Date

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SSV-IJ **Survey of Sexual Violence, Incident Juvenile**

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1. Policy

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing a safe, humane, secure environment, free from offender-on-offender sexual violence, staff sexual misconduct and sexual harassment. This will be accomplished by maintaining a program to address education/prevention, detection, response, investigation, and tracking of these behaviors and to address successful community re-entry of the offender. CDCR shall maintain a zero tolerance for sexual violence, staff sexual misconduct and sexual harassment in its institutions, community correctional facilities, conservation camps, and for all offenders under its jurisdiction. All sexual violence, staff sexual misconduct, and sexual harassment are strictly prohibited. This policy applies to all offenders and persons employed by the CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

Retaliatory measures against employees or offenders who report incidents of sexual violence, staff sexual misconduct or sexual harassment as well as retaliatory measures against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and/or criminal prosecution. Retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent an employee or offender from reporting the incidents.

2. Definitions

Aggressor - A person who commits or attempts to commit sexual violence, staff sexual misconduct, or sexual harassment.

Bisexual - A person who is sexually attracted to both sexes.

Coercion - A threat, however communicated, to commit an offense; to inflict bodily injury in the future on the person threatened or another, to accuse a person of any offense, to harm the credit or business reputation of any person, to take or withhold action as a public servant, or to cause a public servant to take or withhold action.

Chapter: 1
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Cross-Gender - Of the opposite biological sex. Example: A male custody staff patting down a female offender is a cross-gender search.

Gay - Slang term for a homosexual.

Gender Expression - A person's expression of his/her gender identity, including appearance, dress, mannerisms, speech, and social interactions.

Gender identity - Distinct from sexual orientation and refers to a person's internal, deeply felt sense of being male or female.

Gender non-conforming - Gender characteristics and/or behaviors that do not conform to those typically associated with a person's biological sex.

Intersex - An individual born with external genitalia, internal reproductive organs, chromosome patterns, and/or endocrine systems that do not seem to fit typical definitions of male or female.

Lesbian - A female homosexual.

LGBTI - An acronym that refers to sexual minorities, including lesbian, gay, bisexual, transgender and intersex individuals.

Locally Designated Investigator (LDI) - The designated institutional staff that has been trained to conduct investigations into allegations of sexual violence and/or staff sexual misconduct.

"Need to Know" Basis - When the information is relevant and necessary in the ordinary performance of that employee or contractor's official duties.

Non-consensual - Not giving permission for or consent to an action being taken by another person.

Offender - Any inmate, ward/youth, parolee, or other person currently under the jurisdiction of the CDCR.

PREA Compliance Manager (PCM) - Facility employee with sufficient time and authority to coordinate the facility's efforts to comply with the DJJ PREA policy.

PREA Coordinator - DJJ coordinator with sufficient time and authority to develop, implement and oversee division efforts to comply with the PREA standards in all DJJ facilities.

Rape - Refer to PC Section 261.

Sexual Violence Committed by Offenders will Encompass:

Abusive Sexual Contact

Contact of any person without his or her consent, or by coercion, or contact of a person who is unable to consent or refuse AND intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person

Nonconsensual Sex Acts

Contact of any person without his or her consent, or by coercion, or contact of a person who is unable to consent or refuse AND contact between the penis and vagina or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus or penetration of the anal or genital opening of another person by the hand, finger, or other object.

Sexual Assault Response Team (SART) - A coordinated interdisciplinary team of law enforcement, prosecution, medical, and advocacy experts collaborating to meet the forensic needs of the criminal justice system, and the medical and emotional needs of the victim of sexual violence or staff sexual misconduct.

In CDCR, unless a facility has been previously authorized for on-site SART exams, staff at that facility will utilize the resources available via contract at the local community hospital for SART examination of the victim and offender-suspect.

Sexual Harassment by an Offender (towards an offender) - Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an offender toward another offender.

Staff Sexual Harassment (towards an offender) - Repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Staff Sexual Misconduct - Any threatened, coerced, attempted, or completed sexual contact, assault or battery between staff and offenders. Any sexual misconduct by staff directed toward an offender, as defined in Title 15, California Code of Regulations (CCR) Section 3401.5 and Penal Code (PC) Section 289.6. The legal concept of “consent” does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and shall subject the staff to disciplinary action and/or to prosecution under the law.

Staff - Any person employed by the CDCR, including employees, volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, parole, or headquarters. Employee refers to those individuals who are appointed through civil service employment laws and assigned to a CDCR-DJJ facility.

Transgender - A person whose gender identity differs from his or her birth sex.

Transgender Man - A person whose birth sex was female but who understands oneself to be and desires to live life as a male.

Transgender Woman - A person whose birth sex was male but who understands oneself to be and desires to live life as a female.

Victim - For purposes of this policy, a victim is an offender who has been subjected to sexual violence perpetrated by another offender, staff sexual misconduct, or sexual harassment.

Victim Advocate - An individual typically employed by a Rape Crisis Center whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by an approved counseling center. The Victim Advocate will be summoned to assist the alleged victim of an in-custody sexual assault of rape, sodomy, oral copulation, or forcible acts of sexual penetration. In cases where an outside Victim Advocate is not available, a designated employee will be summoned. If available, this designated employee has been certified by a rape crisis center as trained in the counseling of sexual assault victims and who either:

- a. Is a psychiatrist, psychologist, licensed clinical social worker, psychiatric mental health registered nurse, staff person with a master’s degree in counseling, or others listed in Evidence Code section 1010; or

- b. Has the 40 hours of specialized training listed in Evidence Code section 1035.2 and is supervised by a staff member in subsection (a) above.
- c. If a designated employee is utilized as a Victim Advocate, proof of required training must be on file in his/her training record or in his/her personnel file.

Victim Support Person - Any person of the alleged victim's choosing (which could include another offender, personal friend, or family member including registered domestic partner).

3. Education and Prevention

Staff Training

- a. All staff, including employees, volunteers and contractors, shall receive instruction related to the prevention, detection, response, and investigation of offender sexual violence, staff sexual misconduct, and sexual harassment. This training will be conducted during new employee orientation, annual block training, and will be included in the curriculum of the Correctional Training Academy. The training will be gender-specific based on the offender population at the assigned facility. Participation in the training will be documented on a CDCR 844 Training Participation Sign-In Sheet.
- b. Employees shall also be trained in how to conduct cross-gender pat-down searches, transgender pat-down searches, and unclothed body cavity searches. When conducting these types of searches, employees shall ensure that they are conducted in a professional, respectful manner and in the least intrusive manner possible consistent with security needs. Searches shall be conducted in accordance with policy, procedure and training as per CCR, Title 15, Section 3287(b).
- c. All staff shall be trained on how to communicate professionally with offenders, including those who identify themselves as Lesbian, Gay, Bisexual, Transgender, Intersex, and Gender Non-Conforming.
- d. Specialized training may be offered to employees who volunteer to act as victims' advocates. This training includes certification by a rape crisis center as trained in the counseling of sexual assault victims. For any employee volunteer who is not a psychiatrist, psychologist, licensed clinical social worker, psychiatric mental health RN, staff person with a master's degree in counseling, or other's listed in Evidence Code section 1010, this specialized training also includes the 40 hours of specialized training listed in Evidence Code 1035.2. Only employees who voluntarily agree to act as a victim advocate shall be utilized in that capacity. Employees who volunteer will be subjected to background clearance to ensure no prior history of violence.
- e. All employees who are assigned to investigate sexual violence and/or staff sexual misconduct will receive specialized training per PC Section 13516 (c). The curriculum utilized in the class must be Office of Training and Professional Development (OTPD) approved. The Hiring Authority or PREA Compliance Manager (PCM) shall ensure employees investigating incidents of sexual violence and/or staff sexual misconduct are properly trained.

Offender Education

Verbal and written information shall be provided to offenders which will address:

- i. Prevention/Intervention;
- ii. Reporting;
- iii. Treatment and Counseling.

Initial offender orientation on PREA will be provided to the offender population during the intake process via either written, in-person or video presentation within 10 days of intake in both English and Spanish.

- i. Approved PREA posters which contain the telephone numbers for reporting sexual violence, staff sexual misconduct and sexual harassment, as well as the telephone number for the local Victim Advocates shall be posted in designated locations throughout the facility. At a minimum, these areas shall include all housing units, medical clinics, law libraries, visiting rooms, program offices, and offender work areas.
- ii. The PREA brochure entitled “Sexual Assault Awareness” and the PREA booklet entitled “Sexual Abuse/Assault – Prevention and Intervention” will be distributed during initial processing on the intake unit. Both the brochure and booklet shall be available through case managers at each facility, and the information will also be included in each facility’s offender orientation handbook.
- iii. Appropriate provisions shall be made to ensure effective communication for offenders not fluent in English, those with low literacy levels and those with disabilities.
- iv. Facilities may consider the use of offender peer educators to enhance the offender population’s knowledge and understanding of PREA and sexually transmitted diseases.
- v. PREA offender education shall be documented on a DJJ 8.141 Record of PREA Education form.

4. Preventive Measures

- a. Each institution shall enable offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite biological sex viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room or bed-checks. Except in circumstances where there would be an impact to safety & security, modesty screens shall be placed strategically in areas that prevent incidental viewing. In circumstances where modesty screens impact safety and security, staff of the opposite biological sex shall announce their presence when entering the area.
- b. In order to minimize cross-gender exposure, the Facility Watch Commander on every shift shall have the overall authority to ensure each facility makes the announcement, “Staff of both genders will be present within all housing areas of the facility.” This information shall also be included in each facility’s offender orientation handbook. This will allow the offender to take into consideration that staff of the opposite gender may be present when the offender is performing bodily and bathing functions.

Security Rounds

A custody supervisor assigned to each facility or unit on every shift shall conduct unannounced security checks to identify and deter sexual violence, staff sexual misconduct and sexual harassment of any kind. DJJ staff shall be prohibited from notifying other staff that the custody supervisor is making his/her rounds. These security checks shall be documented in the Unit Log in red pen. The Unit Log shall indicate the date, time, and location the security check was conducted.

5. Searches

Facility staff shall document all cross-gender pat-down searches, cross-gender skin searches and cross-gender visual body cavity searches in accordance with the Conducting Searches Policy (I&C Manual, Section 1801). Documentation of cross-gender searches shall be reviewed by the supervisor and routed to the institutional PREA Compliance Manager to retain for audit purposes. If the search is incidental to an emergency or crime documented on a DJJ 6.160 Crime Report, the search shall also be documented in the narrative portion of this form.

6. Offender Housing

Offenders at high risk for sexual victimization, as identified on the DJJ Form 8.138 PREA Screening Tool, shall be evaluated for the potential need for special housing consideration (e.g., excluded from dormitory placement) on a case-by-case basis.

- a. Within 48 hours of arrival at a DJJ facility, each offender shall be screened using the DJJ Form 8.138 PREA Screening Tool. Note: Each youth shall be re-assessed for risk of victimization or predatory behavior using the DJJ 8.138 whenever a new risk factor becomes known, within 48 hours of arrival at a new facility, and no less frequently than every 180 days.
- b. The original DJJ 8.138 PREA Screening Tool shall be filed in the confidential section of the youth's Field File.
- c. The housing assessment shall be completed within 24 hours after the administration of the PREA Screening Tool.
- d. If a determination is made at the conclusion of the assessment that there are no available alternative means of separation from likely abusers, the offender will be placed on Temporary Intervention Program (TIP) for his/her protection.
- e. The assigned casework staff shall schedule the offender for an expedited appearance before the Juvenile Justice Administrative Committee for discussion of his/her housing needs. Offenders will not be disciplined for refusing to answer, or not disclosing complete information related to their sexual orientation or sexual violence history.
- f. Based on information that the offender has been a victim of sexual violence or victimization, the custody supervisor conducting the initial screening shall discuss housing alternatives with the offender in a private location. The custody supervisor shall not automatically place the offender on Temporary Intervention Program (TIP) due to his/her victimization status alone.

7. Detection, Notification and Reporting

- a. Offenders may report violations of this policy to any staff member in writing or verbally, utilizing the Ward Grievance Process, through the sexual assault hotline or through a third party.
- b. The agency shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties, or the investigation of the offender's allegations.
- c. Upon receiving any allegation of sexual abuse, the Superintendent or designee shall promptly report the allegation to the alleged victim's parents or legal guardians except when any of the following apply:
 - i. The facility has official documentation showing the parents or legal guardians should not be notified;
 - ii. The alleged victim is under the guardianship of the child welfare system, in which case the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians; or
 - iii. The alleged victim is 18 years of age or older, in which case the youth's parents or legal guardians can only be notified with the alleged victim's consent.
- d. The Superintendent or designee shall also report the allegation to the alleged victim's juvenile attorney or other legal representative of record within 14 days of receiving the allegation.

CDCR employees have a responsibility to protect the offenders in their custody.

- a. All staff are responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being, or has been the victim of sexual violence, staff sexual misconduct or sexual harassment.

- b. In addition to reporting, staff has a responsibility to assist the offender and refer him/her to medical/mental health for evaluation.
- c. Staff shall ensure the reporting of information is done as soon as possible and in a confidential manner. A DJJ 6.160 Crime Report shall be submitted for each allegation of sexual violence by an offender against another offender.
- d. An offender may report sexual violence, staff sexual misconduct, or sexual harassment that occurs under the jurisdiction of the CDCR, to any staff member.
 - i. If the staff member who receives the report is non-custody, he/she shall immediately notify his/her supervisor and the Watch Commander.
 - ii. Each employee who observes the incident or is provided a report by the victim must complete required reports.
- e. Staff is reminded that victims of sexual violence, sexual misconduct and sexual harassment may be seriously traumatized physically and/or mentally.
- f. Staff is expected to be sensitive to the offender during their interactions with him/her.
- g. Per DJJ's Mental Health Services Treatment Guide (I&C Manual 6250.1), any staff member can refer a youth to mental health clinicians.
 - i. If a staff member has a significant concern that an offender may be subject to sexual victimization, he/she should immediately submit a mental health referral. This referral will be completed using the Mental Health Referral in the Ward Information Network (WIN).
 - ii. The Senior Psychologist will screen the referral and assign it priority as emergent, urgent, or routine. Once assigned to a clinician, the youth will be seen based on timeframes in the Mental Health Services Treatment Guide.

8. Notification via Staff Misconduct Complaint Process

Any employee receiving notice of alleged staff sexual misconduct via a completed ward grievance or any other form of communication shall immediately notify the superintendent, or highest-ranking official on duty.

9. Notification via Third Party Reporting of Misconduct Against an Employee, Contractor, or Volunteer

- a. An allegation of staff sexual misconduct or sexual harassment against a departmental employee, contractor, or volunteer by a third party, including other offenders, staff members, family members, attorneys, or outside advocates, on behalf of an offender shall be submitted on a DJJ 8.496 Staff Misconduct Complaint form or in a written complaint to the hiring authority of the area in which the individual is assigned.
- b. Complaints determined to involve personnel from other agencies or institutions shall be forwarded to the proper hiring authority through the chain of command for appropriate response. The supervisor accepting the complaint shall complete and sign the Acknowledgement Section of DJJ 8.496 and forward a copy to the complainant within five (5) working days of receipt.
- c. When a third party files such a complaint on behalf of an offender, the Superintendent or designee assigns the Locally Designated Investigator (LDI) to complete the initial review.
 - i. The LDI (PREA Compliance Manager [PCM] or other custody supervisor) shall take the offender to a private setting to discuss the complaint and assess immediate housing needs.
 - ii. The LDI shall document the content of the interview of the offender in a confidential memorandum and immediately deliver that memo to the Superintendent or designee.
 - iii. Following delivery of the confidential memo, the LDI shall submit a mental health referral of the offender to ensure that his/her potential trauma is addressed.

- iv. Finally, the LDI shall complete a SSV-IJ if indicated. Copies of the confidential memo, the mental health referral and the SSV-IJ shall be forwarded to and retained by the PCM.
- d. Upon receipt of the confidential memorandum summarizing the LDI's interview of the offender, the Superintendent shall refer the investigation to the Office of Internal Affairs (OIA) via the 998 process (if the complaint is an allegation of staff sexual misconduct or sexual harassment of an offender by a staff member). Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings.
- e. Any allegation of staff sexual misconduct or sexual harassment believed by staff to constitute an emergency shall be reported immediately to a supervisor. Notification to the OIA, Regional Office, SAC or OIA Administrator on Duty (AOD) shall also be made. In the event of such an emergency, staff shall follow-up with the written report within one (1) day of learning the information. Examples that constitute an emergency are as follows:
 - i. Possible loss of life or serious bodily injury;
 - ii. Serious breach of facility security;
 - iii. Further aggravation of a potentially dangerous situation;
 - iv. Activities which seriously compromise or jeopardize an investigation;
 - v. An illegal activity which may occur imminently.

10. Notification via Third Party Reporting of Sexual Violence or Sexual Harassment Against an Offender

- a. Third Party reports of sexual violence or sexual harassment against an offender shall be forwarded to a custody supervisor in writing.
- b. The custody supervisor shall forward the written third-party report of the allegation to the Superintendent. The Superintendent shall:
 - i. Assign the LDI to complete the initial review.
 - a. The LDI shall take the offender to a private setting to discuss the complaint.
 - b. The LDI shall document the content of the interview of the offender in a confidential memorandum and immediately deliver that memo to the Superintendent or designee.
 - c. Following delivery of the confidential memo, the LDI shall submit a mental health referral of the offender and complete a SSV-IJ if indicated.
 - ii. Copies of the confidential memo, the mental health referral and the SSV-IJ shall be forwarded to and retained by the PCM.
 - iii. Upon receipt of the confidential memorandum summarizing the LDI's interview of the offender, the Superintendent shall refer the investigation to local law enforcement (if the allegation involves sexual violence by an offender).
 - iv. Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings. If warranted, the suspect may be subject to administrative/criminal proceedings. If criminal proceedings are recommended, the case will be referred to the local district attorney.
- c. Complaints determined to involve offenders from other agencies or institutions shall be forwarded to the proper hiring authority through the chain of command for appropriate response. Any allegation believed by staff to constitute an emergency shall be reported immediately to a supervisor. See examples listed in previous section.
- d. Completion of a DJJ 6.160 Crime Report is required on third party reports and anonymous reports only if the allegation is substantiated.

11. Notification from/to Other Confinement Facilities

Upon receiving an allegation that an offender was the victim of sexual violence or staff sexual misconduct while confined at another facility, the hiring authority at the facility where the allegation was received shall notify the hiring authority of the facility or appropriate office of the agency where the alleged sexual violence or staff sexual misconduct occurred and the appropriate investigative agency. This initial notification shall be made via telephone contact or electronic mail and will be followed up with a written summary of the alleged victim's statements. Such initial notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The facility where the alleged sexual violence or staff sexual misconduct is reported will be responsible to complete the SSV-IJ form.

When the facility where the alleged sexual violence or staff sexual misconduct occurred is a DJJ facility, the Superintendent at that facility shall ensure that the allegation is investigated and reported in accordance with Sections 20 through 22 of this policy. Upon completion, a closure report shall be returned to the facility where the alleged incident was reported.

12. Response

It is expected that all staff shall maintain professional behavior when interacting with an alleged victim of sexual violence or staff sexual misconduct and display sensitivity to the potential emotional impact of the situation.

- a. It is important for all staff to understand that this is a very serious situation.
- b. Incident-specific information shall be treated as confidential and disclosure made only to employees who have a "need to know" and to other persons and entities as permitted or required by law.

Initial Contact

Upon the initial contact between an alleged victim and an employee, that employee will take the alleged victim to a private secure location. The Initial PREA Contact Guide will be posted in the vicinity of the YCC station on each living unit to remind staff of steps that should be taken in the initial contact with the alleged victim.

For the purposes of protecting evidence, the employee shall make every effort to encourage the victim to avoid:

- a. Showering;
- b. Removing clothing without medical supervision;
- c. Using the restroom facilities; and
- d. Consuming any liquids.

When receiving an allegation from an offender of sexual violence or staff sexual misconduct that occurred in a detention facility while the offender was a minor, it will be the responsibility of the Watch Commander to notify the appropriate agencies.

13. Custody Supervisor Responsibilities

The custody supervisor has significant responsibility in this policy. As an aid for the custody supervisor, a DJJ 8.129 Custody Supervisor PREA Checklist has been developed.

If the victim alleges staff sexual misconduct, the Superintendent or designee will be immediately notified via the Watch Commander.

- a. The Superintendent or designee will assign the LDI to conduct inquiry work until sufficient information is obtained to warrant an OIA investigation or the information collected refutes the allegations (as determined by the Superintendent).
 - i. The inquiry and/or investigative information will be thoroughly documented on a Confidential Memorandum.
 - ii. This memorandum shall be maintained with the investigatory file. The complaint will be investigated utilizing standard investigatory procedures. Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings per Section 25 of this policy.
- b. If the youth is 18 years of age or older:
 - i. The custody supervisor must tell the victim that his/her name will become a matter of public record unless he/she requests that it not become a matter of public record, per PC Section 293 (a).
 - ii. The victim should be provided the Victim of Sex Crimes form (DJJ 8.139) to complete to either request or waive confidentiality of his/her name. .
 - iii. If the victim elects to request confidentiality, the custody supervisor must complete the DJJ 8.136 Victim Restricted Information Deletion form.
 - iv. If the victim chooses to have his/her name remain confidential, any written report concerning these offenses must indicate that the victim requested confidentiality of his/her name per PC Section 293(a).
 - v. If the victim has requested confidentiality, the victim's name and address may not be released except to specified persons or as authorized by law.
- c. If the youth is under the age of 18 years of age:
 - i. The custody supervisor must check the box on the Victim of Sex Crimes form, which states, "VICTIM IS A MINOR AND THEREFORE CANNOT SIGN FORM. PLEASE ASSUME THAT THIS MINOR DOES NOT WANT HIS/HER NAME TO BECOME A MATTER OF PUBLIC RECORD" and complete the DJJ 8.136 Victim Restricted Information Deletion form
- d. The custody supervisor shall assign a custody escort to the victim who shall remain with the victim for the entire exam process, whenever possible. Gender preference should be considered when assigning a custody escort to the victim.
- e. The custody escort will ensure effective communication (i.e., complexity of the issues, language barriers, and literacy).
- f. The Watch Commander shall follow the DJJ 8.132 Watch Commander Notifications Checklist.
 - i. Just before or at the time the victim is sent to the outside Forensic Medical Examination, the Watch Commander is required to contact the Rape Crisis Center to request a Victim Advocate be dispatched. If one is not available, designated trained staff from the facility will be dispatched or called in to act as the Victim Advocate.

Crime Scene Preservation

The custody supervisor shall ensure the crime scene has been secured. Outside Law Enforcement staff will process the crime scene, collect evidence, and secure evidence, to include the rape kit examination. They will

also be responsible to photograph/videotape the crime scene and evidence collected, make a diagram of the crime scene, and collect/package all evidence.

Evidence

- a. Care must be taken to ensure that any potential evidence is identified, preserved, and collected. Examples of evidence include, but are not limited to:
 - i. Any clothing worn by the victim and suspect,
 - ii. Hair or clothing fibers,
 - iii. Dried or moist secretions,
 - iv. Semen, blood or saliva stains,
 - v. Stained articles of clothing, blankets, or other foreign materials on the body of the victim or suspect,
 - vi. Fingernail scrapings, and
 - vii. Any other trace evidence.
- b. Based on when/where the incident occurred, a designated evidence officer will be requested to collect evidence that may be destroyed if not preserved. The designated evidence officer and any other employee who collects evidence will process it according to facility procedure.
- c. All DNA related evidence taken from the body of the victim or suspect (i.e., fingernail scrapings, body fluid, hair, etc.) must be collected by the Sexual Assault Response Nurse (SANE) during the Forensic Medical Examination. This individual is located at the SART location, in accordance with State of California, Office of Emergency Services Reporting Instructions. Refer to the institutions local Memorandum of Understanding (MOU) regarding processing of the clothing that the victim and suspect wore at the time of the incident. All other evidence such as clothing (from his/her bed area) and bedding will be collected per facility procedure.
- d. Once the SART has completed its process with the evidence, it will be returned to the custody escort to transport back to the facility where it will be secured in an evidence locker and logged appropriately, maintaining the chain of custody.

14. Victim Advocate and Victim Support Person

Victims of the crimes listed below have the right under PC 264.2 and PC 679.04 to a Victim Advocate and Victim Support Person for both the medical examination and the investigatory interview:

- a. PC Section 261 Rape.
- b. PC Section 261.5 Unlawful sexual intercourse with person under 18.
- c. PC Section 262 Rape of spouse.
- d. PC Section 286 Sodomy.
- e. PC Section 288a Oral copulation.
- f. PC Section 289 Forcible acts of sexual penetration.

Victim Advocate and Victim Support Person for the Forensic Medical Examination

In incidents where an offender has alleged sexual violence or staff sexual misconduct, the watch commander or designee shall immediately notify the local Rape Crisis Center that the alleged victim is being transported to an outside hospital for a forensic medical examination and a victim advocate from the crisis center is needed.

Per PC Section 264.2, the victim of the crimes listed above has the right to have a victim advocate present and a victim support person of the victim's choosing at the examination. In most cases, the victim advocate will be from the local rape crisis center.

- a. The victim support person may be excluded from the examination if the watch commander/designee or medical provider determines that the presence of the victim support person would be detrimental to the purpose of the examination or poses a threat to the safety and security of the outside hospital.
- b. If a victim support person is excluded, the watch commander/designee or medical provider who made the decision shall document the reason on the DJJ 6.160 Crime Report (i.e., if time for the support person to attend would result in a significant delay and/or the person requested would present a risk to the safety/security of the outside hospital).
- c. A MOU between the DJJ facility and Local Rape Crisis Center shall be established to ensure that both agencies understand their roles and responsibilities when responding to sexual violence or staff sexual misconduct.

Victim Advocate and Victim Support Person for Investigatory Process

Per PC Section 679.04, victims of the crimes listed previously in this article, have the right to have a victim advocate and a victim support person of the victim's choosing present at any interview by law enforcement, the district attorney, or defense attorneys.

- a. If the investigator or the district attorney determines that the presence of the victim support person would be detrimental to the interview, the victim support person may be excluded from the interview.
- b. The victim must be notified verbally or in writing of this right by the attending investigator or the district attorney prior to the interview.
- c. Reasons for exclusion of the victim support person are the same as identified previously in the medical examination process and shall be documented on the DJJ 6.160 Crime Report.

15. Medical Services Responsibilities

Before the victim and/or suspect leave the facility for the forensic medical examination, the DJJ medical staff will provide indicated emergency medical response, taking steps not to contaminate evidence.

- a. The assigned Registered Nurse (RN) will determine if the victim has issues to be addressed, such as:
 - i. Difficulty understanding the situation,
 - ii. Language barriers, or
 - iii. Physical limitations.

The assigned RN will ensure that any of the above that are present will be addressed through the establishment of effective communication per departmental policy.

- b. To the extent possible, staff in the Outpatient Housing Unit will maintain physical and visual separation between the victim and suspect(s).
- c. Follow-up testing for sexually transmitted infections/diseases and HIV will be offered by the facility medical staff as clinically indicated.
A medical provider will determine if the injuries sustained by the victim are serious and shall document this determination on a DJJ 8.235 Medical Report of Unusual Occurrence or Injury in the "Description and Extent of Injury" section of the report.

16. Transportation Responsibilities

The transportation sergeant or designated supervisor shall maintain Sexual Assault/Battery Transportation Kits in a plastic storage bin. Each kit will consist of:

- a. 1 clean jumpsuit;
- b. 2 pieces of “examination table” type paper (approx 18" x 36" each);
- c. 2 Evidence Collection Envelopes;
- d. 2 Evidence Collection Paper Bags.; and
- e. 2 pairs of latex gloves and other required personal protective equipment (PPE).

The transportation officer will follow the steps outlined in the DJJ PREA Transportation Guide (provided to all peace officers assigned to a transportation hub) for specific requirements related to the transportation of sexual assault victims and suspects.

17. Forensic Medical Examination

The victim will be taken to the designated outside hospital for completion of the forensic medical examination.

- a. The Sexual Assault Nurse Examiner (SANE) shall provide the required Forensic Medical Examination, per the Office of Emergency Services, as well as the appropriate Forensic Medical Report:
 - i. Acute (<72 hours) Adult/Adolescent Sexual Assault Examination,
 - ii. The Forensic Medical Report: Non-Acute (>72 hours) Child/Adolescent Sexual Abuse Examination, or
 - iii. The Forensic Medical Report: Sexual Assault Suspect Examination.
- b. These examinations will consist of:
 - i. An explanation of the process,
 - ii. The offender’s signature on consent forms (some offenders will require assistance to explain the consent forms prior to signing them), or
 - iii. Discussion of the incident and when/how it occurred, and a detailed physical examination that will include evidence collection and photographs.
- c. As required in Penal Code section 2638 (part of AB 550), immediate HIV/AIDS prophylactic measures will be provided. In addition, information regarding sexually transmitted infections, HIV and pregnancy options, will be discussed with the victim and/or suspect. Testing for sexually transmitted infections, HIV, and pregnancy (if appropriate) will be offered.

18. Return to Triage and Treatment Area/Receiving and Release

Upon the return of the victim from the outside hospital, the youth shall be administered a DJJ 8.281 Suicide Risk Screening Questionnaire (SRSQ) and appropriate action will be taken based upon the SRSQ score.

- a. If the results of the SRSQ lead to the youth being placed on Suicide Intervention (SI), a psychologist will interview the youth within one hour or (if outside of regular business hours) by 10:00 o’clock the next morning. Until that time, the offender shall be placed under constant and direct supervision to ensure he/she does not attempt to hurt him/herself or someone else.
- b. Medical clearance will be required prior to determination of appropriate housing for the victim.

- i. This medical clearance will be documented on an Interdisciplinary Progress Note.
 - ii. The on-duty RN will also complete a Mental Health Referral request for a routine mental health evaluation for all victims of sexual violence or staff sexual misconduct. This referral will be upgraded to “urgent” status when the youth exhibits any of the post-trauma signs listed below.
- c. Staff is reminded to be aware of post-trauma signs of delayed breakdown that require immediate referral to the Mental Health program. Some signs include:
- i. Insomnia;
 - ii. Agitation;
 - iii. Suspiciousness heightened vigilance;
 - iv. Withdrawal from customary activities and friends;
 - v. No appetite;
 - vi. Aimless wandering around;
 - vii. Hyperactivity;
 - viii. Any new ritualistic or highly repetitive conduct;
 - ix. Crying;
 - x. Automaton/robotic appearance or movement;
 - xi. Sudden change in behavior, the person is no longer him/herself;
 - xii. Aimless restlessness;
 - xiii. Self-injurious or suicidal behavior;
 - xiv. Self-deprecating remarks;
 - xv. Bizarre or unusual behavior or outbursts;
 - xvi. Fear of venturing beyond “security blanket” areas;
 - xvii. Newly developed clinginess on friends or custody staff.
- d. Victims of staff sexual misconduct or sexual violence that included sexually abusive vaginal penetration shall be offered pregnancy tests and, if pregnancy results, victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- e. Victims of staff sexual misconduct or sexual violence shall be offered tests for sexually transmitted infections as medically appropriate.
- f. Upon the victim’s return to the facility’s designated medical location, the custody supervisor will arrange housing for the victim. All housing options should be considered, including input from the victim regarding his/her housing preference, move to a different living unit, transfer to a different facility and safety concerns. Consideration should also be given to assigning the victim to a living unit with offenders with similar experiences.

Mental Health Responsibilities:

All victims of a sexual violence or staff sexual misconduct shall be referred for a routine evaluation by a mental health clinician upon his/her return to the facility, unless the referral is upgraded to “urgent” due to signs of trauma as discussed above.

- a. The mental health clinician completing the mental health evaluation shall ensure that the victim receives appropriate mental health services.
- b. Any stressors related to the reported sexual violence/staff sexual misconduct (e.g., safety/security issues or fear of retaliation) shall be documented in the Unified Health Record and considered in the decision regarding the victim’s need for mental health services.

- c. Any victim who requests mental health services related to reported sexual violence/ staff sexual misconduct shall be provided services as deemed appropriate (i.e., individual and/or group therapy, referral to a psychiatrist for medication evaluation, etc.).
- d. If appropriate, the victim shall be given educational materials to provide information related to the medical and mental health conditions which may result after sexual violence/ staff sexual misconduct.
- e. Victims shall be monitored for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences.
- f. Specific responsibilities of mental health staff shall be consistent with DJJ policies and procedures supplemented by local operating policies and procedures.
- g. Local law enforcement officers will provide a Miranda warning and interview the suspect to obtain his/her account of the incident.

19. Suspect Processing

Offender on Offender

To the extent possible, all staff will ensure that there is no physical, verbal, or visual contact between the victim and suspect.

- a. The suspect will be escorted to the designated medical location for medical screening and then to the outside hospital for the forensic examination.
- b. The suspect must consent to the forensic examination or custody staff will take steps necessary to obtain a search warrant or will follow procedures outlined in a MOU with the local district attorney's office.
- c. The custody supervisor will contact Local Law Enforcement, the local district attorney's office, or the OIA for assistance in obtaining a search warrant.
- d. Steps identified earlier in this article for collection of evidence, transportation, and physical examination of the alleged victim shall be the same for the suspect.
- e. Upon completion of the forensic medical examination, the suspect will be assigned to the BTP unless BTP is contraindicated pursuant to mental health issues.
- f. A Juvenile Justice Administrative Committee will meet expeditiously to formalize this assignment.
- g. Local law enforcement officers will provide a Miranda warning and interview the suspect to obtain his/her account of the incident.

Staff on Offender

Immediate efforts shall be made to eliminate sight and sound contact between the victim and the staff member.

- a. Suspects are afforded criminal and administrative rights, therefore when a staff member is identified as a suspect, and before processing, contact with a Locally Designated Investigator and OIA should be made.
- b. The Superintendent or designee shall determine if the employee should be placed on administrative time off consistent with departmental policy during the course of the investigation.

20. Investigation

All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing. Except in limited circumstances or exigent circumstances, investigators shall not rely solely on offender interpreters, readers, or other types of offender assistance during an investigation of sexual violence, staff sexual misconduct, or sexual harassment.

Staff on Offender

- a. Allegations of staff on offender sexual misconduct will be reviewed by a Locally Designated Investigator (LDI), as assigned by the Superintendent.
- b. The LDI will complete an allegation inquiry and thoroughly document all information that was gathered on a Confidential Memorandum, then immediately deliver that memo to the Superintendent or designee.
- c. Following delivery of the confidential memo, the LDI shall submit a mental health referral of the offender to ensure that his/her potential trauma is addressed.
- d. Finally, the LDI shall complete a SSV-IJ if indicated. Copies of the confidential memo, the mental health referral and the SSV-IJ shall be forwarded to and retained by the PCM.
- e. Upon receipt of the confidential memorandum summarizing the LDI's interview of the offender, the Superintendent shall refer the investigation to the Office of Internal Affairs (OIA) via the 998 process (if the complaint is an allegation of staff sexual misconduct or sexual harassment of an offender by a staff member). Upon conclusion of the investigation, the alleged victim of staff sexual misconduct will be provided written notification of the findings (per Section 25 of this policy).
- f. Criminal investigations with probable cause determination shall be referred to the District Attorney's Office. All allegations of staff sexual misconduct and sexual harassment shall be documented on the DJJ 8.496 Staff Misconduct Complaint Form.

Offender on Offender

- a. All sexual violence allegations to include sexual assaults, attempted sexual assaults, and sexual battery committed by offenders, as well as allegations of sexual harassment committed by offenders shall be initially investigated by the LDI.
- b. The LDI shall document the content of the interview of the offender in a confidential memorandum and immediately deliver that memo to the Superintendent or designee.
- c. Following delivery of the confidential memo, the LDI shall submit a mental health referral of the offender and complete a SSV-IJ if indicated. Copies of the confidential memo, the mental health referral and the SSV-IJ shall be forwarded to and retained by the PCM.
- d. Upon receipt of the confidential memorandum summarizing the LDI's interview of the offender, the Superintendent shall refer the investigation to local law enforcement (if the allegation involves sexual violence by an offender).
- e. Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings (per Section 25 of this policy).
- f. If warranted, the suspect may be subject to administrative/criminal proceedings. If criminal proceedings are recommended, the case will be referred to the local district attorney.
- g. The LDI or Custody Supervisor may utilize the DJJ 8.135 Sexual Assault Interview Guidelines when questioning the alleged victim regarding the specific facts of the allegation.
- h. Credibility of an alleged victim, suspect, or witness must be determined based on sound facts and evidence rather than an individual's status.
- i. Pursuant to PC Section 293(a) and Government Code Section 6254, the Victims of Sex Crimes form (DJJ 8.143) must be attached to all criminal reports relating to PC Sections 220, 261, 261.5, 262, 264, 264.1, 273(a), 273(d), 273.5, 286, 288, 288(a), 289.5, 422.6, 422.7, 422.75, and 646.9.

21. Investigation of Sexual Violence or Staff Sexual Misconduct (more than 72 hours post incident)

- a. If the alleged incident is reported or discovered more than 72 hours after the occurrence, in addition to the applicable provisions discussed above, the custody supervisor shall secure the alleged crime scene (if feasible) and place the alleged suspect (if he/she can be identified) on TIP with consideration for referral to a BTP.

- b. The victim should be questioned using the DJJ 8.135 Sexual Assault Interview Guidelines regarding the specific time and location of the incident. The SANE shall be contacted to make a determination as to whether the victim is to be taken for a forensic examination.
- c. In addition, the victim should be asked if he/she retained any evidence of the incident (i.e., soiled clothing/bedding, etc.). If so, these items shall be gathered by the designated evidence officer and processed per the institutional evidence collection procedures.
- d. Medical staff shall conduct an examination of the victim and alleged suspect to determine the presence or absence of physical trauma, and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate.
- e. Medical staff shall also refer the victim to Mental Health for evaluation/counseling.

22. Reporting to Outside Agencies

All terminations for violations of agency staff sexual misconduct or harassment policies, or resignations by employees that would have been terminated if not for their resignation, shall be reported to any relevant licensing body by the hiring authority or designee.

23. Reporting to Outside Agencies for Contractors

Any contractor or volunteer who engages in staff sexual misconduct shall be prohibited from contact with offenders and shall be reported to relevant licensing bodies by the hiring authority or designee.

24. Reporting to Offenders

Staff on Offender

Following an offender's allegation that a staff member has committed sexual misconduct of an offender, the alleged victim shall be informed as to whether the allegation has been substantiated, unsubstantiated, or unfounded. The PREA Compliance Manager or designee shall inform the offender (unless the allegation has been determined to be unfounded) whenever the alleged abuser is:

- a. No longer posted in the offender's unit;
- b. No longer employed at the institution;
- c. Has been indicted on the alleged sexual misconduct; or
- d. Has been convicted of the alleged sexual misconduct.

Offender on Offender

Following an investigation into an offender's allegation that he or she suffered from sexual violence by another offender, the institution shall inform the alleged victim if the allegation has been substantiated, unsubstantiated or unfounded. The institution shall also inform the alleged victim whenever the alleged abuser:

- a. Has been indicted on the alleged sexual violence;
- b. Has been convicted on the charge.

The agency's obligation to inform the offender of changes shall terminate if the offender is released from the agency's custody.

25. Allegation Follow-up

For at least 90 days following a report of sexual violence or staff sexual misconduct, the institutional PREA Compliance Manager (PCM) shall assign a supervisory staff member to monitor the conduct and treatment of offenders or staff who reported the sexual violence or staff sexual misconduct and of the victim to ensure there are no changes that may suggest retaliation. All DJJ staff members shall report any known indication of retaliation against a youth or staff member that reported sexual abuse/misconduct or cooperated in an investigation of such an incident.

For a report of sexual harassment, the institutional PCM has discretion to assign this monitoring.

- a. The assigned supervisor shall notify the institutional PCM of any such changes.
- b. The PCM shall act promptly to remedy any such retaliation and ensure a DJJ 8.133 Protection Against Retaliation (Staff) or DJJ 8.134 Protection Against Retaliation (Youth) form is initiated.
- c. Items to be monitored on the DJJ 8.133/8.134 include:
 - i. Periodic offender status checks,
 - ii. Offender disciplinary reports,
 - iii. Housing or program changes, or
 - iv. Negative performance reviews or reassignments of staff.
- d. The monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need.
- e. The PCM shall track all DJJ 8.133/8.134 forms and maintain all documentation, as required in the Records Retention Schedule.
- f. The obligation to monitor shall terminate if the investigation determines that the allegation is unfounded or proven false.

26. Classification Process

In cases of alleged sexual violence or sexual harassment (offender-to-offender), a determination shall be made for all suspects if placement on a BTP is warranted, for reasons outlined in the BTP Policy

27. Disciplinary Process

Upon completion of the investigative process, the existing disciplinary process, which includes referral for criminal prosecution and classification determinations, shall be followed.

If the allegation of sexual violence warrants a disciplinary write-up, a Disciplinary Decision-Making System (DDMS) report shall be submitted and processed according to policy. If a criminal charge is warranted, the case shall be referred to the local district attorney.

28. Alleged Victim – False Allegations

Following the investigation into sexual violence, staff sexual misconduct or sexual harassment, if it is determined that the allegations made were not in good faith or based upon a reasonable belief that the alleged conduct occurred, the offender making the false allegations may be subject to disciplinary action. A charge is appropriate only if evidence received indicates the offender **knowingly** made a false report. An allegation deemed unsubstantiated or unfounded based on lack of evidence, does not constitute false reporting.

29. Referral of Completed Cases for Independent Review

Upon completion of the investigations and disposition of the involved offenders, each sexual violence or staff sexual misconduct case shall be forwarded to the Office of the Inspector General, Bureau of Independent Review and the Sexual Abuse in Detention Elimination Ombudsperson, for possible review.

30. Institutional PREA Review Committee (IPRC)

Overview of the PREA Incident Review Process

The purpose of this Section is to set forth California Department of Corrections and Rehabilitation (CDCR) policy governing the sexual violence and staff sexual misconduct incident review process. The policy has its foundation in CFR, Chapter 28, Prison Rape Elimination Act (PREA) standards.

Per 28 CFR, Standard §115.386, each facility is required to conduct an incident review at the conclusion of every sexual violence or staff sexual misconduct investigation, including allegations that have not been substantiated. A review is not required for allegations that have been determined to be unfounded.

- a. Upon completion of the investigation, the PREA Incident Folder will be created. The PREA Incident Folder will consist of the applicable reports; Medical Report of Injury or Occurrence, DJJ Form 8.412 Section Five (Medical Attention), Confidential Memoranda, DDMS Reports (as appropriate) and the SSV-IJ form. The PREA Incident Folder will be routed to the Facility's PREA Compliance Manager where staff suspect names shall be redacted.
- b. The PREA Compliance Manager shall make a good faith effort to reach a judgment on whether staff's actions prior to, during, and subsequent to the reporting of the incident are in compliance with policies, procedures, and applicable law and determine if follow-up action is necessary.
 - i. The PREA Compliance Manager shall usually schedule these PREA incidents for review by the Institutional PREA Review Committee (IPRC) within 30 days of the conclusion of any investigation.

Institutional PREA Review Committee (IPRC):

The IPRC is a committee of facility staff chaired by the Superintendent tasked with reviewing these PREA-related incidents except those determined to be unfounded.

- a. The IPRC shall meet to review these PREA incidents on at least a monthly basis, or on a schedule to ensure all cases are reviewed within 30 days of conclusion of any investigation.
- b. The IPRC shall normally be comprised of the following staff:
 - i. Superintendent or designee, as chairperson and final decision-maker,
 - ii. PREA Compliance Manager
 - iii. At least one other manager
 - iv. Training Officer
 - v. Health Care Clinician
 - vi. Mental Health Clinician, and
 - vii. Chief of Security
- c. The IPRC shall:
 - i. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

- ii. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
- iii. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- iv. Assess the adequacy of staffing levels in that area during different shifts;
- v. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;
- vi. Prepare a report of its findings and any recommendations for improvement;
- vii. Determine a plan to correct findings and document in the report;
- viii. Document implementation of the Action Plan or reasons for not doing so, and
- ix. Submit the report to the Superintendent for final review before submission to the DJJ PREA Coordinator.

Division PREA Coordinator

28 CFR, Standard §115.388, requires the agency to review data collected pursuant to standard §115.387 in order to assess and improve the effectiveness of its sexual violence prevention, detection, and response policies, practices, and training.

Division PREA Review Committee (DPRC)

The Division PREA Coordinator shall select headquarters staff including the Deputy Director, Associate Director of Facility Operations, Associate Director of Mental Health, and the PREA Analyst, to participate in a quarterly review of all PREA Incidents that have been received by the DJJ (Division) PREA Coordinator.

The Division PREA Coordinator and identified staff shall:

- a. Identify problem areas;
- b. Take corrective action (or follow-up on status provided by the facility) on an on-going basis; and
- c. Prepare an annual report of the group's findings and corrective actions for each facility, as well as the division as a whole.
- d. The annual report will be routed through the chain of command to the Agency Secretary for review and approval.
- e. Once the quarterly report has been approved by the Secretary, it will be forward to the Office of Public and Employee Communication for placement on the CDCR website.

Records Retention

All case records associated with such reports including incident reports, investigation reports, offender information, case disposition, medical and counseling evaluation findings, recommendations for post-release treatment and/or counseling shall be retained in accordance with the CDCR Records Retention Schedule.

31. Annual Review of Staffing Plan

Whenever necessary, but no less frequently than once each year, in consultation with the PREA Coordinator, the facility superintendent, the facility PREA Compliance Manager, the Chief Financial Officer and the Associate Director of Facility Operations shall assess, determine, and document whether adjustments are needed to:

- a. The staffing plan;
- b. The facility's deployment of video monitoring systems and other monitoring technologies; and
- c. The resources assigned to ensure adherence to the staffing plan.

Based upon the assessment described above, the DJJ shall develop, implement and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. Refer to 28 CFR, Standard §115.313 for specific requirements of the staffing plan and video monitoring.

32. Community Re-Entry

Institutions shall provide victims of in-custody sexual violence, staff sexual misconduct, or sexual harassment with access to:

- a. Mailing addresses and phone numbers of outside rape crisis organizations,
- b. Victim advocacy groups, and
- c. Immigrant services agencies per 28 CFR, Standard 115.353.

When necessary, these victims of sexual violence, staff sexual misconduct or sexual harassment shall be given referrals for continued mental health or medical care upon discharge from DJJ facilities to the community.

33. Tracking – Data Collection and Monitoring

- a. The PREA Compliance Manager shall report investigations into allegations of sexual violence and staff sexual misconduct on the monthly update of the Annual Tracking Report (ATR), including whether the perpetrator was a staff member or offender, disposition or current status. This information shall be reported to the Division's PREA Coordinator by the fifth day of every month. Additionally, the Locally Designated Investigator shall be responsible for completing the Survey of Sexual Violence-Incident Juvenile (SSV-IJ). The SSV-IJ will be submitted to the Division PREA Coordinator no later than the next business day from the date of the allegation.
- b. The OIA shall maintain records of investigations into allegations of staff/offender sexual misconduct, and will report by case number, the type of sexual misconduct, subcategory (male staff with female offender, female staff with male offender, etc.); whether the allegations were sustained; and whether a DA referral was made.
- c. The CDCR shall aggregate the incident-based data at least annually. The 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 United States Department of Justice.
- d. CDCR shall maintain, review, and collect data as needed from all available documents including incident reports, investigation files, and PREA incident reviews. Upon request, the agency shall provide all such data from the previous calendar year to the United States Department of Justice no later than June 30.
- e. Reports shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the division's progress in addressing sexual violence and staff sexual misconduct.
- f. The report shall be approved by the CDCR Secretary and made readily available to the public through the CDCR website. Specific material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of a facility; however, the report must indicate the nature of the material redacted.

Chapter: 1
Policy: 1445
Rule: Prison Rape Elimination Act (PREA) Policy

Effective: 03/01/2017
Replaces: 1445 – 1447.2
Dated: 2006

34. PREA Data Storage and Destruction

CDCR shall ensure that all PREA data collected are securely retained. All aggregated PREA data shall be made readily available to the public at least annually through the CDCR website. Before making aggregated PREA data publicly available, all personal identifiers shall be removed. PREA data collected shall be maintained for 10 years after the date of the initial collection.

Attachment A

PRISON RAPE ELIMINATION ACT: TRANSPORTATION GUIDE

Instructions: Utilize this form as a guide to ensure PREA protocols for preservation of evidence during transportation are followed.

SECTION 1: Ensure the victim and suspect, to the best of your ability, do not:

- Shower
- Remove clothing without custody supervision
- Use restroom facilities
- Consume any liquids

Ensure no visual or physical contact occurs between victim and suspect(s).

Refer to the institution's local MOU regarding processing of the clothing the victim and suspect wore at the time of the alleged incident prior to processing the youth into a transportation jumpsuit.

SECTION 2: Prior to leaving facility, the transportation officer shall:

- Ensure the victim/suspect(s) is fitted in a clean jumpsuit prior to transportation – if necessary; assisting the designated evidence officer in processing the victim/suspect clothing prior to transportation.
- The designated evidence officer shall process the clothing worn by the victim/suspect as evidence according to facility procedure.
- If the victim/suspect has blood/bodily fluids on his/her skin or hair as a result of the assault and that evidence will be compromised during processing for transport, he/she shall be provided with a latex glove and sterile swab and directed to swab the fluid. The swab shall then be given to the designated evidence officer and processed into evidence per facility procedure. Any blood/bodily fluid that is internal or that will not be disturbed during processing for transport shall be collected by the SART/SANE nurse examiner.
- The designated evidence officer shall place two clean sheets of “examination table” type paper on the floor; placing one on-top of the other. This paper is used for the collection of evidence which may fall during the disrobing process.
- The designated evidence officer shall instruct the youth to remove his/her shoes prior to stepping onto the paper.
- The designated evidence officer shall instruct the youth to stand in the middle of the paper and to carefully disrobe; processing each article of clothing as evidence according to facility procedure. The evidence officer shall secure bags over the victim/suspect(s) hands to preserve evidence prior to the SART examination.
- After all clothing worn by the victim/suspect is processed as evidence, the transportation officer shall instruct the suspect/victim to step off of the paper and to dress in the clean jumpsuit.
- The designated evidence officer shall recover the top sheet of paper folding it with caution to ensure that any evidence shed by the victim while disrobing is contained within the folded paper. Process this paper in a separate envelope/bag as evidence per facility procedure; discarding the bottom sheet of paper.
- Take a Sexual Assault Transportation Kit from the transportation office.
- From that kit, place one piece of “examination table” type paper on the back seat and floor of the transportation vehicle.
- Escort the victim/suspect to the transportation vehicle and ensure he/she sits on the paper on the seat.

SECTION 3: Upon arrival at the outside hospital or on-site SART location:

- Provide evidence envelopes/bags to medical personnel if needed.
- Assist medical personnel in processing victim/suspect(s) into a clean jumpsuit or gown if applicable.
- Process the paper from the transportation vehicle separately; placing each in their own envelope/bag. ***Fold with caution to ensure that any evidence shed by the victim is contained within the folded paper and place in separate evidence envelopes/bags and process per facility procedure.***
- Collect all evidence envelopes/bags from medical personnel for processing per procedure at the facility.

SECTION 4: Upon completion of the SART/SANE examination:

- Transport youth back to the TTA or designated medical location for medical and mental health clearance.
- Secure all collected evidence per facility procedure.
- Prepare a DJJ6.160 Crime Report and forward to Custody Supervisor.

ATTACHMENT B

Instructions: To be utilized as a guide during a PREA incident. If you are a non-custody staff member, notify the custody supervisor for assistance in responding to this situation.

SECTION 1: Ensure the victim and suspect, to the best of your ability, **DO NOT**:

- Shower
- Remove clothing without custody supervision
- Use restroom facilities
- Consume any liquids or food

SECTION 2: Initial Contact with Victim

- Activate alarm, if needed.
- Assess immediate medical and custody needs.
- Contact supervisor and inform of situation.
- Take the victim to a secure location.
- Seek assistance to secure the crime scene.
- Listen to the victim and take notes on his/her statements.

SECTION 3: Initial Contact with Suspect

- Activate alarm and apply restraints, if needed.
- Place in holding cell. ***Ensure no contact with the victim.***
- Assess immediate medical and custody needs.

SECTION 4: Custody Escort

- Escort to designated medical location.
- Document spontaneous comments.