

 <p style="text-align: center;"><b>County of Sacramento</b>  <b>Department of Health Services</b>  <b>Division of Behavioral Health Services</b>  <b>Policy and Procedure</b></p>	Policy Issuer (Unit/Program)	BHS-CMH-YDF
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Title: Prison Rape Elimination Act		Functional Area: Legal
Approved By:		
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**Background/Context:**

The United States Prison Rape Elimination Act of 2003 (PREA) provides for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape. The Act aims to curtail prison rape through a “zero tolerance” policy, as well as, thorough research and information gathering. The Act requires all public and private facilities housing adult or juvenile offenders and community-based correctional facilities to develop standards for detecting, preventing, reducing and punishing prison rape.

The United States Department of Justice (DOJ) issued the Final Rule in May 2012. The Final Rule provides the standards by which facilities must comply and the reason(s) by which the standards were developed. The Code of Federal Regulations (CFR) 28, Part 115 Section 115.341 requires, within 72 hours of the youth’s arrival and periodically throughout a youth’s confinement, information shall be obtained and used to reduce the risk of sexual abuse by or upon a youth. The information is to include any gender non-conforming appearance or manner or identification as lesbian, gay, bisexual, transgender or intersex and whether the youth may therefore be vulnerable to sexual abuse. Section 115.342 states that in deciding whether to assign a transgender or intersex youth to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the youth’s health and safety, and whether the placement would present management or security problems.

Title 15, Section 1453 requires the Youth Detention Facility (YDF) health administrator, in cooperation with the facility administrator, to develop and implement policies and procedures for treating victims of sexual assaults, preservation of evidence and for reporting such incidents to local law enforcement.

The YDF is committed to providing a safe, secure, humane environment, free from youth on youth sexual violence, staff sexual misconduct and sexual harassment. All sexual misconduct is strictly prohibited and may be referred to the District Attorney for filing of criminal charges.

**Purpose:**

The objective of this policy and procedure is to ensure Juvenile Justice Institutions Mental Health Team (JJIMHT) members understand and adhere to PREA standards for the prevention, detection, response, investigation, tracking and elimination of sexual assaults, sexual harassment and sexual misconduct between youth and/or staff and youth.

**Details:**

1. Zero Tolerance Standard
  - A. The Sacramento County Probation Department maintains a zero tolerance policy for sexual misconduct in the YDF and for all youth under its jurisdiction.
  - B. This zero tolerance standard applies to all youth and individuals employed by the Probation Department, the County, independent contractors and volunteers assigned to the facility.
2. Supervision and Monitoring
  - A. The Probation Department maintains a staffing plan that provides for the adequate level of staffing and, where applicable, video monitoring, to protect youth against sexual abuse.
  - B. The Probation Department evaluates whenever necessary, but no less frequently than once each year, in consultation with the PREA coordinator the staffing plan, prevailing staffing patterns, the deployment of video monitoring systems and other monitoring technologies.
  - C. Probation staff may consult with or request JJIMHT clinical members assess youth to better inform the need for heightened needs for supervision, additional safety precautions or separation from other specified youth.
3. Protection from Retaliation
  - A. The Probation Department maintains a policy protecting all youth and personnel who report sexual abuse or sexual harassment or cooperate with investigations related to a report of sexual abuse or sexual harassment from retaliation by other youth and/or staff and designate which staff members or divisions are charged with monitoring retaliation.
  - B. The Probation Department employs multiple protection measures for youthful victims or abusers, removal of alleged staff or youthful abusers from contact with victims and provide for emotional support services for youth or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
4. Employee Education
  - A. All employees, contractors and volunteers who may have access to youth detained in the YDF receive instruction related to the prevention, detection, reporting, response and investigation of a youth sexual assault or sexual harassment. The training includes:
    - I. The zero tolerance policy for sexual abuse, sexual harassment and the youths' right to be free from sexual abuse and sexual harassment.

- II. The right of youth and personnel to be free from retaliation for reporting sexual abuse and/or sexual harassment.
  - III. Dynamics of sexual abuse and harassment in juvenile facilities.
  - IV. Common reactions of youthful victims of sexual abuse and sexual harassment.
  - V. How to detect and respond to signs of sexual abuse or harassment between youth.
  - VI. How to determine if sexual contact is consensual or non-consensual.
  - VII. How to avoid inappropriate relationships with the youth.
  - VIII. How to communicate effectively and professionally with youth, including those who identify as lesbian, gay, transgender, intersex and gender non-conforming.
  - IX. How to comply with mandatory reporting laws.
- B. All employees, contractors and volunteers of the JJIMHT receive instruction relative to PREA during the Probation Orientation Training and shall comply with Probation requests for trainings thereafter.
  - C. All employees, contractors and volunteers are required to sign an Acknowledgement Form indicating they have read and understand the PREA Policies and Procedures.
  - D. JJIMHT clinical members are mandated reporters and shall comply with mandatory reporting laws.
5. Specialized Training for Employees
- A. The Probation Department ensures all full-and part-time mental health staff practitioners regularly working in the YDF have been trained (in addition to that above) in the following:
    - I. How to preserve physical evidence of sexual abuse.
    - II. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
    - III. The Probation Department maintains documentation that mental health practitioners have received the training referenced in this standard.
6. Assignment to Living Unit, Programming and Education
- A. The Probation Department maintains a classification system intended to provide for the safety of the youth, other youth, facility staff and the public by placing the youth in the appropriate, least restrictive housing and programs settings.
  - B. Classification factors include, but are not limited to: age, maturity, sophistication, emotional stability, program needs, legal status, public safety considerations, medical/mental health considerations and sex of the youth.
  - C. Classification procedures compel Probation staff not to separate youth from the general population or assign youth to a single occupancy room based solely on the youth's actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, gender, sexual orientation, gender identity, gender expression, mental or physical disability or HIV status.
  - D. Youth may be placed in single occupancy rooms upon their specific request or in accordance with Title 15 regulations regarding separation.

7. Youth Report of Abuse and/or Harassment
  - A. The Probation Department provides multiple methods for youth to privately report sexual abuse and sexual harassment, retaliation by other youth or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
  - B. The Probation Department provides at least one way for youth to report abuse or harassment to a public or private entity or office that is not part of the Probation Department and that is able to receive and immediately forward youth reports of sexual abuse and sexual harassment to YDF officials, allowing the youth to remain anonymous upon request.
  - C. Reports of abuse and/or harassment shall be accepted whether given verbally, in writing, anonymously or from third parties; all reports shall be promptly documented.
  - D. Employees shall be provided a method to privately report sexual abuse and sexual harassment of youth.
8. Employee Responsibilities
  - A. All employees, contractors and volunteers must immediately report any knowledge, suspicion or information received regarding an incident of sexual abuse or sexual harassment that has occurred in the facility, whether or not it is part of the agency having oversight of the facility; in addition, report of retaliation against youth or staff who have reported such an incident and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation must be immediately reported.
  - B. JJIMHT clinicians shall report sexual abuse to the Supervising Probation Officer (SPO) and/or other YDF officials, and when required to the designated state or local services agency where required by mandatory reporting laws.
  - C. If the JJIMHT clinician is the first to be informed of the alleged sexual abuse and/or harassment, the clinician shall request the youth not take any actions that could destroy physical evidence and immediately notify the youth supervision staff and the SPO.
  - D. Actions taken in response to a report of sexual abuse and/or sexual harassment shall be coordinated between staff first responders, medical and mental health practitioners, investigators and YDF administration.
9. Access to Services
  - A. Youthful victims of sexual abuse shall receive timely, unimpeded access to emergency treatment and crisis intervention services as determined by medical and mental health practitioners according to their professional judgment.
  - B. The YDF shall offer medical and mental health evaluation and, as appropriate, treatment to all youth who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility.
  - C. The evaluation and treatment of such victims shall include, as appropriate, recommendations for follow-up services, treatment plans, and, when necessary, referral for continued care following transfer to, or placement in, other facilities, or their release from custody.

- D. The youth shall receive crisis counseling from the JJIMHT members assigned to the facility.
  - E. Upon request of the youth, the SPO will notify a local Rape Crisis Center.
  - F. The youth shall be monitored for suicidal ideation or other psychiatric decompensation.
  - G. The youth has a right as a victim of sexual assault to have a victim advocate and/or victim support person of the youth's choosing present during any medical examination and any investigatory interviews conducted by law enforcement, the District Attorney or defense counsel.
10. Incident Reviews
- A. YDF Administration shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
  - B. Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
  - C. The review team shall include Probation Administration, input from line supervisors, investigators, and medical and mental health practitioners.
11. Disciplinary Sanctions for Employees
- A. Employees shall be subject to disciplinary sanctions up to and including termination for violating sexual abuse and/or sexual harassment policies.
  - B. Any employee, contractor or volunteer who engages in sexual abuse and/or sexual harassment shall be prohibited from contact with youth and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
  - C. The YDF shall take appropriate remedial measures, and shall consider whether to prohibit further contact with youth, in the case of any other violation of sexual abuse or sexual harassment policies, by an employee, a contractor or volunteer.
  - D. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
  - E. Disciplinary sanctions for violations of policies relating to sexual abuse and/or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary history and the sanctions imposed for comparable offenses by other employees with similar histories.
  - F. All terminations for violations of sexual abuse and/or sexual harassment policies and procedures, or resignations by employees who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
12. Disciplinary Sanctions for Youth
- A. A youth may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding the youth engaged in youth-on-youth sexual abuse or following a criminal finding of guilt for youth-on-youth sexual abuse.

- B. Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the youth's disciplinary history and the sanctions imposed for comparable offenses by other youth with similar histories.
  - I. In the event disciplinary sanctions result in the isolation of the youth, the youth shall not be denied daily large-muscle exercise or access to any legally required educational programming or special education services.
  - II. Youth shall receive daily visits from a medical or mental health care clinician.
  - III. Youth shall also have access to other programs and work opportunities to the extent possible.
- C. The disciplinary process shall consider whether a youth's mental disabilities or mental illness contributed to his or her behavior when determining the type of sanction, if any, should be imposed.
- D. The Probation Department may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- E. For the purpose of disciplinary action, a report of sexual abuse and/or sexual harassment made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
  - I. If, upon the conclusion of an investigation, it is determined the allegations of sexual abuse and/or harassment were not made in good faith and are false, the youth or staff making the allegation may be subject to discipline.

**Reference(s)/Attachments:**

Prison Rape Elimination Act, Juvenile Facility Standards, United States Department of Justice Final Rule, National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), CFR 28, Part 115

Board of State and Community Corrections (BSCC) Title 15 Minimum Standards for Juvenile Facilities, Regulations Effective April 1, 2014

Sacramento County Probation Department Policy and Procedure-Juvenile Institutions Prison Rape Elimination Act (PREA)

Sacramento County Probation Department PREA Acknowledgement Form

**Related Policies:**

BHS-CMH-YDF-02-01-Basic Rights of Detained Youth

BHS-CMH-YDF-02-03-Confidentiality

BHS-CMH-YDF-02-04-Discrimination Policy

BHS-CMH-YDF-02-06-Grievance Policy

BHS-CMH-YDF-04-01-Child Abuse Reporting

BHS-CMH-YDF-06-09-Response and Recommendations to Probation

BHS-CMH-YDF-08-01-Administrative, Technical and Physical Safeguards

BHS-CMH-YDF-08-09-Release of Protected Health Information

BHS-CMH-YDF-09-07-Probation Issued Code of Conduct

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