
Prison Rape Elimination Act (PREA) Standards

800.1 APPLICABILITY

This policy shall be applicable to all Department Employees, volunteers and contractors who have contact with offenders.

800.2 GENERAL DEFINITIONS (§ 115.5)

Definitions related to this policy include:

Community corrections - Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility approved programs during nonresidential hours.

Contractor - A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Exigent circumstances - Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Garrity - Garrity v., New Jersey, 385 U.S. 493 (1967) was a legal case in which two police officers were threatened with termination if they would not testify to the fixing of tickets. The police officers violated state criminal code and internal policy. They were threatened with the loss of their job if they did not answer questions. The Supreme Court said their coerced testimony could not later be used against them in criminal matter, because it is a violation of the Fifth Amendment – the right against self-incrimination. As a result, correctional authorities must administer a “Garrity” warning which clearly informs the staff that his/her answers to questions will not be used against them in a criminal prosecution.

Gender - A socially constructed concept classifying behavior as either masculine or feminine unrelated to one's external genitalia.

Gender nonconforming - A person whose appearance or manner does not conform to traditional society gender expectations.

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Investigative findings include:

- **Substantiated allegation:** An allegation that was investigated and determined to have occurred.

- **Unfounded allegation:** An allegation that was investigated and determined not to have occurred.
- **Unsubstantiated allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Mandated child abuse reporter - “Pursuant to Penal Code Section 11166, a mandated reporter shall make a report to an agency specified in Section 11166.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter shall include with the report any non-privileged documentary evidence the mandated reporter possesses relating to the incident.”

Offender - Any person under the authority of the Probation Department, including persons detained in a lockup, regardless of adjudication status.

Over familiarity - Conduct between a staff and youth that have resulted in or are likely to result in intimacy, including but not limited to a kiss, hug, and a close personal or non-work related association.

Prison Rape Elimination Act (PREA) - The Prison Rape Elimination Act was signed into law in 2003. The Prison Rape Elimination Act requires the gathering of national statistics regarding elimination of prison rape and the development of guidelines about how to address prisoner rape. The broad goal of the law is to implement a zero tolerance policy for sexual assaults in correctional facilities, including inmate-on-inmate assault and staff-on-inmate assault.

Rape - The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, non-forcibly or forcibly against that person’s will; where the victim is incapable of giving consent because of his or her youthfulness or his/her temporary mental or physical incapacity; achieved through the exploitation of the fear of threat of physical violence or bodily injury.

Sex - one's anatomical make up, including external genitalia, chromosomes, and reproductive system

Sexual abuse - Sexual abuse includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (b) Contact between the mouth and the penis, vulva, or anus;
- (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (d) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- (e) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

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- (f) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (g) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (h) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
- (i) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, offender, or resident, and
- (j) Voyeurism by a staff member, contractor, or volunteer.

Sexual assault - Any involuntary sexual act in which a person is threatened, coerced, or forced to engage against their will or any sexual touching of a person who has not consented.

Sexual assault with an object - The use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

Sexual fondling - The touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, buttocks) for the purpose of sexual gratification.

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one offender, prisoner or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to an offender, prisoner or resident 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.

Sexual misconduct - In terms of this policy means sexual abuse and sexual harassment.

Sexualized conversations - Any verbal and non-verbal communication that takes place between people, which includes sexual jokes, innuendos, sexual references, banter in which sexual topics are openly discussed. Sexualized conversations are always inappropriate between staff and youth, as these will erode professional boundaries and encourage over familiarity. Sexualized conversations can also be “red flags” of a potential problem which may exist between staff and youth, or between youth themselves.

Staff - For purposes of the Prison Rape Elimination Act, a staff is any paid employee, contractor, volunteer, official visitor or agency representative who enters and comes to a facility. No staff person can engage in sexual activity with any youth.

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

Volunteer - An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

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Voyeurism - An invasion of privacy of an inmate, offender or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using the toilet in his or her room to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breast; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Exclusions: The terms and conditions described in the paragraphs above shall not apply to Medical staff that engages in legitimate medical treatment, unless medical staff is found to be engaging in abusive behaviors.

Any incidents of abuse occurring within the compounds of the facility's medical facility shall be referred immediately to the Watch Commander/Supervisor who will notify the facility Division Chief. The Division Chief will, via the chain of command, notify the Ombudsman, Medical Services Program Manager, Quality Assurance Specialist, DCPO, Assistant Chief Probation Officer and the Chief Probation Officer for possible referral to local law enforcement.

Regardless of who the alleged perpetrator(s), collection of forensic evidence for the purpose of prosecution shall be performed by qualified and appropriately trained medical personnel who are not affiliated with the current Probation medical provider. In addition, the victim will be transported to the nearest local hospital that shall perform a thorough medical evaluation.

800.3 POLICY (§ 115.311)

The purpose of this policy is to establish a zero tolerance toward sexual abuse and sexual harassment and to ensure compliance with the Prison Rape Elimination Act of 2003 (PREA) standards that includes but is not limited to procedures regarding prevention, detection and reporting of sexual misconduct.

800.4 COORDINATOR AND COMPLIANCE MANAGER (§ 115.311)

The Chief Probation Officer has appointed a full time Supervising Probation Officer as the PREA coordinator (Ombudsman) to oversee the implementation of this policy and Probation's effort to comply with the PREA standards.

The duties of the Coordinator/Ombudsman include:

- (a) Oversee the training of all staff;
- (b) Ensure all offenders are provided education regarding sexual abuse/harassment;
- (c) Ensure that the department has a program for the evaluation, treatment and counseling for victims and sexual predators;
- (d) Assist in the identification and utilization of community resources available for the provision or development of counseling and treatment services for offenders;
- (e) Reviews all departmental generated Sexual Incident Reports, both allegations and substantiated incidents;

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- (f) Identifies any policy, training, or other issues related to sexual misconduct that indicate a need for change to better prevent, detect, and or respond to an incident of abuse;
- (g) Serves as Chairperson of the facility's Sexual Incident Review Committee;
- (h) Ensures all data is collected, recorded, and is submitted to the Chief Probation Officer for the Annual Report and Department of Justice;
- (i) Works with an independent auditing entity and provides any information as needed;
- (j) Responds and or reviews all reported sexual related incidents i.e., grievances, sick call slips and verbal reports;
- (k) Conducts fact finding on alleged sexual abuse or sexual harassment; and
- (l) Oversees the compliance managers in each of the juvenile facilities

The Division Chief of each facility designates a Supervising Probation Officer as a compliance manager whose collateral duties include coordinating the facility's efforts to comply with the PREA standards.

The duties of the PREA Compliance Manager include:

- (a) Ensure all offenders are provided education regarding sexual abuse/harassment;
- (b) Ensure that the facility has a program for the evaluation, treatment and counseling for victims and sexual predators;
- (c) Assist in the identification and utilization of community resources available for the provision or development of counseling and treatment services for offenders;
- (d) Reviews all departmental generated Sexual Incident Reports, both allegations and substantiated incidents;
- (e) Identifies any policy, training, or other issues related to sexual misconduct that indicate a need for change to better prevent, detect, and or respond to an incident of abuse;
- (f) Ensures all data is collected, recorded, and is submitted to the PREA Coordinator for the Annual Report and Department of Justice;
- (g) Works with an independent auditing entity and provides any information as needed;
- (h) Responds and or reviews all reported sexual related incidents i.e., grievances, sick call slips and verbal reports; and
- (i) Conducts fact finding on alleged sexual abuse or sexual harassment.

800.5 CONTRACTING WITH OTHER ENTITIES FOR THE CONFINEMENT OF RESIDENTS (§ 115.312)

Any Probation contract for the confinement of offenders or inmates with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards. Probation will ensure contract monitoring will include ensuring that the contractor is complying with the PREA standards.

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800.6 SUPERVISION AND MONITORING (§ 115.313)

Probation ensures that each juvenile facility it operates has developed, implemented, and documented a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, each facility shall take into consideration:

- (a) Generally accepted juvenile detention and correctional/secure detention practices;
- (b) Any judicial findings of inadequacy;
- (c) Any findings of inadequacy from Federal investigative agencies;
- (d) Any findings of inadequacy from internal or external oversight bodies;
- (e) All components of the facility's physical plant (including "blind spots" or areas where staff or offenders may be isolated);
- (f) The composition of the offender population;
- (g) The number and placement of supervisory staff;
- (h) Facility programs occurring on a particular shift;
- (i) Any applicable State or local laws, regulations, or standards;
- (j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (k) Any other relevant factors.

The facility shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.

Current staffing ratios are 1:10 during offender waking hours and 1:30 during sleeping hours in the detention facilities. The ratios are 1:15 during waking hours and 1:30 during sleeping hours in all the camp facilities. By October 1, 2017 each juvenile facility will maintain staff ratios of a minimum of 1:8 during offender waking hours and 1:16 during offender sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios.

Whenever necessary, but no less frequently than once each year, for each facility, in consultation with the PREA coordinator shall assess, determine, and document whether adjustments are needed to:

- (a) The staffing plan established pursuant to paragraph (a) of this section;
- (b) Prevailing staffing patterns;
- (c) The facility's deployment of video monitoring systems and other monitoring technologies;
- (d) The resources the facility has available to commit to ensure adherence to the staffing plan.

Review of the staffing plan will be completed by January 30 of each year.

The Watch Commander or back up watch commander will conduct a minimum of one unannounced rounds each shift to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure

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facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

800.7 LIMITS TO CROSS-GENDER VIEWING AND SEARCHES (§ 115.315)

- (a) Probation staff shall not conduct opposite sex pat-downs or opposite sex strip searches except in exigent circumstances. Body cavity searches (meaning a search of the anal or genital opening) are strictly prohibited by Probation staff;
- (b) The facility shall document and justify all cross-gender pat down and cross-gender strip searches. Strip searches require written supervisor approval prior to conducting the search;
- (c) Offenders will be allowed an opportunity to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite sex viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks. Staff of the opposite sex shall announce their presence at the beginning of each shift;
- (d) Facility staff shall not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth's genital status. If the youth's genital status is unknown, it may be determined during conversations with the youth, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner; and
- (e) Probation staff are trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex youth, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

800.8 OFFENDERS WITH DISABILITIES AND YOUTH WHO ARE LIMITED ENGLISH PROFICIENT (§ 115.316)

It is the policy of the San Diego County Probation Department that offenders with disabilities (i.e. offenders who are deaf or hard of hearing, blind or have low vision, or have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. To ensure effective communication with offenders who are deaf or hard of hearing an interpreter will be provided by those who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Probation will ensure written materials are provided in formats or through methods that ensure effective communication with offenders with disabilities, including youth who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

For those offenders who are limited English proficient Probation staff shall provide qualified interpreters to ensure meaningful access to all aspects of Probation's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

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Probation does not rely on other offenders to interpret 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.

800.9 HIRING AND PROMOTION DECISION (§ 115.317)

An extensive background investigation to include criminal background check, Computer Voice Stress Analyzer, Child Protective Services, and psychological evaluations are conducted prior to the hiring of any new employees.

Probation does not hire or promote anyone, or enlist the services of any contractor who may have contact with youth who:

- (a) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
- (b) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- (c) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a) (2) of this section.

In determining whether to hire or promote anyone or enlist the services of any contractor Probation considers any incidents of sexual harassment prior to hiring or promoting the candidate.

Prior to hiring any new employee the Probation Department, as part of the hiring process performs:

- (a) A criminal background records check;
- (b) Consults the child abuse registry maintained by the State of California; and
- (c) Makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse within Federal, State and Local mandates.

Probation staff is required to self-report law enforcement contacts. The Department of Justice notifies the Probation Department of any arrest of probation staff as well as local law enforcement agencies contact the department when arresting a Probation staff.

Included in the background check all applicants are asked about previous misconduct in written applications or interviews for hiring. When considering promotions employees are asked about previous misconduct and the questions include:

- (a) Have you ever been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?
- (b) Have you ever been civilly or administratively adjudicated to have engaged in or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?

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Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

The Probation Department conforms to all employment laws and regulations when disclosing information about its current and former employees. Upon receiving a request from an institutional employer for whom such employee has applied to work information will be disclosed according to governing laws.

800.10 UPGRADES TO FACILITIES AND TECHNOLOGIES (§ 115.318)

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, Probation shall consider the effect of the design, acquisition, expansion, or modification upon the Probation's ability to protect youth from sexual abuse.

When installing or updating a video monitoring system, electronic surveillance system or other monitoring technology, Probation shall consider how such technology may enhance the Probation's ability to protect offenders from sexual abuse.

800.11 RESPONSIVE PLANNING

800.11.1 EVIDENCE PROTOCOL AND FORENSIC MEDICAL EXAMINATIONS (§ 115.321)

When an allegation of sexual abuse is witnessed by staff or reported to Probation, Probation staff will contact local law enforcement. Staff shall adhere to the following protocol to maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions:

- (a) Separate the Victim(s) and the Suspect(s) into isolated rooms;
- (b) Secure the area where the crime occurred and do not let anyone in the area;
- (c) Contact Chain of Command;
- (d) Remove victim from the area(s) in which the crime occurred;
- (e) Notify the Ombudsman via chain of command;
- (f) Contact local law enforcement agency;
- (g) If it is necessary to have staff access the area, document their name, time of entry and exit and the purpose of entering the area;
- (h) Document any items brought in or removed from the area;
- (i) Victim(s) and Suspect(s) should be discouraged from using the bathroom, washing their hands, changing their clothing or drinking water until after an interview by local law enforcement;
- (j) Keep Victim(s) and Suspect(s) isolated from all other staff and clients until interviewed by local law enforcement;
- (k) Seek appropriate medical treatment for victim;
- (l) Refer Victim(s) and Suspect(s) to mental health services; and

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- (m) Complete a CWS referral.

When a crime is reported in an untimely fashion, preservations of the crime scene may not be necessary. Follow the reporting procedures and assist the investigating local law enforcement agency.

The Probation Department does not conduct criminal investigations. However, the Probation Department will request and document the request of:

- (a) The victim has access to a forensic medical examination, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. All incidents are documented via an incident report. The report shall contain efforts made to obtain a forensic medical examination if available from local law enforcement.
- (b) The victim has access to a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, ensure services are made available by a qualified staff member from a community-based organization or a qualified agency staff member.
- (c) As requested by the victim, the victim advocate or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

For the purposes of this standard, a qualified agency staff member or a qualified community based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

800.11.2 POLICIES TO ENSURE REFERRALS OF ALLEGATIONS FOR INVESTIGATIONS (§ 115.322)

The Probation Ombudsman (PREA Coordinator) shall ensure:

- (a) An administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment;
- (b) Allegations of sexual abuse are referred to local law enforcement for investigation;
- (c) Allegations are documented on grievances, documented on an incident report, Internal Affairs report or a special findings report.
- (d) Yearly data is posted on the probation website regarding the number of administrative or criminal investigation completed for all allegations of sexual abuse and sexual harassment as well as data on how many referrals were made and accepted by local law enforcement agencies for investigation.

800.12 TRAINING AND EDUCATION

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800.12.1 EMPLOYEE TRAINING (§ 115.331)

All staff who may have contact with offenders receives training regarding:

- (a) The Probation Department's zero-tolerance policy for sexual abuse and sexual harassment;
- (b) How to fulfill their responsibilities under Probation Department's policies and procedures on prevention, detection, reporting and response to sexual abuse and sexual harassment prevention;
- (c) Offender's rights to be free from sexual abuse and sexual harassment;
- (d) The right of offender's and staff to be free from retaliation for reporting sexual abuse and sexual harassment;
- (e) The dynamics of sexual abuse and sexual harassment in juvenile facilities;
- (f) Common reactions of juvenile victims of sexual abuse and sexual harassment;
- (g) How to detect and respond to sexual abuse, distinguish between consensual sexual contact and sexual abuse between offenders and signs of threats;
- (h) How to avoid inappropriate relationships with offenders;
- (i) How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming youth;
- (j) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and
- (k) Relevant laws regarding the applicable age of consent.

The training developed is tailored to the unique needs attributes and sex of the offenders. As all staff work shifts at various facilities the training is formatted to educate staff in all areas.

Staff receives training related to the PREA Standards within 90 days of working in the facilities. Refresher training will be conducted every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, staff are provided refresher information on current sexual abuse and sexual harassment policies.

All training is documented through staff signature or electronic verification.

800.12.2 VOLUNTEER AND CONTRACTOR TRAINING (§ 115.332)

All contract and volunteer staff receive training on the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

All educational staff receives training regarding prevention, detection, and reporting in line with Probation policies through the County Office of Education and/or Probation.

Documentation is maintained confirming that volunteers and contractors understand the training they received.

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800.12.3 YOUTH EDUCATION (§ 115.333)

During the intake process, offenders receive a brochure explaining the Probation Department's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Thereafter through weekly programs offenders receive a comprehensive age- appropriate education that includes areas such as their rights to be free from sexual abuse and sexual harassment, to be free from retaliation for reporting such incidents, policies and procedures for responding to such incidents and any other relevant information to assist in preventing, detecting and reporting sexual abuse and sexual harassment as well reading the sexual harassment/sexual misconduct statement.

Education is provided verbally, and/or in writing and with an interpreter if necessary for all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.

The Probation Department maintains documentation of offender participation in these education sessions.

In addition to providing educational programs each youth receives a brochure and rule book that includes information on their rights to be free from sexual abuse and sexual harassment, how to report and community resources available to them. In facility lobbies signs are displayed informing all who enter the facility the Probation Department's zero tolerance to sexual abuse and sexual harassment as well as posters in each unit/dorm.

800.12.4 SPECIALIZED TRAINING: INVESTIGATIONS (§ 115.334)

Although the Probation Department does not conduct criminal investigations Division Chiefs and Supervisors assigned to Institutions and Internal Affairs have received specialized training to ensure the integrity of local law enforcement criminal investigations and how to interview victims of sexual abuse. Training records are maintained by the Probation Department Training Unit.

The specialized training includes techniques for interviewing juvenile sexual abuse/sexual harassment victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

800.12.5 SPECIALIZED TRAINING: MEDICAL AND MENTAL HEALTH CARE (§ 115.335)

All medical and mental health staff assigned to a juvenile Probation facility receives training in the following areas:

- (a) How to detect and assess signs of sexual abuse and sexual harassment;
- (b) How to respond effectively and professional to juvenile victims of sexual abuse and sexual harassment; and
- (c) How and whom to report allegations or suspicions of sexual abuse and sexual harassment.

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The training is documented by signature on training rosters maintained by the Training Unit/Ombudsman.

800.13 SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS

800.13.1 OBTAINING INFORMATION FROM OFFENDERS (§ 115.341)

Upon intake and prior to assignment to a living unit and periodically throughout an offender's confinement, staff obtain and use information about each offender's personal history and behavior to reduce the risk of sexual abuse by or upon an offender.

The assessments are conducted using an objective screening instrument. Information obtained during the assessment includes:

- (a) Prior sexual victimization or abusiveness;
- (b) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the offender may therefore be vulnerable to sexual abuse;
- (c) Current charges and offense history;
- (d) Age;
- (e) Level of emotional and cognitive development;
- (f) Physical size and stature;
- (g) Mental illness or mental disabilities;
- (h) Intellectual or developmental disabilities;
- (i) Physical disabilities;
- (j) Offender's own perception of vulnerability; and
- (k) Any other specific information about individual offenders that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other youth.

The information is ascertained through conversations with the offender during the intake process and medical/mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the offender files. Any information collected will be disseminated on a right and need to know basis in order to ensure that sensitive information is not exploited to the offender's detriment by staff or other youth.

800.13.2 PLACEMENT OF YOUTH IN HOUSING BED, PROGRAM, EDUCATION AND WORK ASSIGNMENTS (§ 115.342)

All screening for risk of sexual victimization and abusiveness is used in determining housing, bed, program, education, and work assignments for offenders with the goal of keeping all offenders safe and free from sexual abuse.

Offenders may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other offenders safe, and then only until an alternative means of keeping all safe can be arranged. During any period of isolation, offenders shall not be denied

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Title 15 requirements, including but not limited to daily large-muscle exercise, work opportunities, programs, free-time, correspondence, and legally required educational programming/special education services. If isolated the offender shall receive daily visits from a medical or mental health care clinician. If a youth is isolated, staff shall clearly document in the Probation Case Management System:

- (a) The basis for concern for the offender's safety; and
- (b) The reason why no alternative means of separation can be arranged.

Each week the Division Chief will review the offender's segregation file to determine whether there is a continuing need for separation from the general population.

Lesbian, gay, bisexual, transgender, or intersex offenders are not placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor does staff consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.

In deciding whether to assign a transgender or intersex offender to a male or female unit/dorm, and in making other housing and programming assignments, staff shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. Serious consideration will be taken regarding the offender's own view with respect to his/her own safety.

Placement and programming assignments for each transgender or intersex offender is reassessed during their confinement at least twice each year to review any threats to safety experienced by the offender.

Transgender and intersex youth shall be given the opportunity to shower and use bathroom facilities separately from other youth.

800.14 REPORTING

800.14.1 YOUTH REPORTING (§ 115.351)

Offenders have access to written or verbal communication within the community and facilities in order to easily, privately, and securely report any sexual abuse, retaliation or staff neglect that may have contributed to an incident of sexual abuse (Grievance, sick call slips, youth request forms, citizen complaints, and outside agencies). Offenders or their family members can report sexual abuse to any entity within the Probation Department or outside public entity. Staff accepts reports made verbally, in writing, anonymously and from third parties. Staff will document any report of sexual abuse/harassment.

Offenders have a variety of ways to report abuse and harassment, including reporting to outside agencies not a part of the Probation Department. Phone numbers and addresses to outside agencies are provided to offenders during the intake process. The agencies provided are able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, allowing the offenders to remain anonymous upon request. Federal hold

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offenders are provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.

Staff accepts reports made verbally, in writing, anonymously, and from third parties and are required to promptly relay the report to Watch Commander and document any such verbal reports.

Offenders are provided pencil and paper in each unit/dorm. Each unit/dorm has grievances in a place where offenders can access them without asking. Offenders can privately report sexual abuse and sexual harassment through the locked grievance, sick call and Chaplain boxes. They may also request to speak to any staff privately to make such a report.

800.14.2 EXHAUSTION OF ADMINISTRATIVE REMEDIES (§ 115.352)

The Probation Department does not put a time limit on when an offender may submit a grievance regarding any allegations of misconduct including sexual abuse.

Generally offenders are encouraged to resolve matters at the lowest possible level. However the Probation Department does not require an offender to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Offenders may submit a grievance to any staff member in the unit or by placing the grievance in the locked grievance box located in each unit/dorm. All grievances placed in the locked grievance box will be collected by the late night Watch Commander when conducting late night rounds. The Watch Commander will follow the grievance protocol as referenced in Institutional Services facility manual section 7.4 and will not refer the grievance to the staff member who is the subject of the complaint.

A final departmental decision will be made within 90 days of the initial filing of a grievance. The department may claim an extension of up to 70 days to make a final decision. The victim will be notified in writing of any extension and will be provided with a date by which a decision will be made. If a victim requests the grievance not be processed, the department shall document that request. The department may require the alleged victim to personally pursue additional steps in the administrative remedy process. The department shall allow the parent(s) or legal guardian(s) to file a grievance.

Computation of the 90-day time period shall not include time consumed by youth in preparing any administrative appeal.

At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level.

Offenders are allowed assistance from third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, in filing requests for administrative remedies relating to allegations of sexual abuse, and are also permitted to file such requests on behalf of offenders.

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If a third party, other than a parent or legal guardian, files such a request on behalf of an offender, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. However if the offender declines to have the request processed on his or her behalf, the offender's decision shall be documented in the Probation Case Management System by the PREA Compliance Manager or PREA Coordinator/Ombudsman.

A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance is not conditioned upon the juvenile agreeing to have the request filed on his/her behalf.

Any person or offenders are allowed to file an emergency grievance if an offender feels they are a subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the staff shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to the watch commander for immediate action. The watch commander shall provide an initial response within 24 hours, and shall issue a final decision within 5 calendar days. The initial response and final decision shall be documented as to the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

Staff may discipline an offender for filing a grievance related to alleged sexual abuse only when Probation demonstrates the grievance was filed in bad faith.

800.14.3 YOUTH ACCESS TO OUTSIDE SUPPORT SERVICES AND LEGAL REPRESENTATION (§ 115.353)

Offenders are provided access to outside victim advocates for emotional support services related to sexual abuse. Offenders are provided a brochure at intake with information regarding mailing addresses and telephone numbers, including toll free hotline numbers where available victim advocacy and rape crisis organization. Non United States Residents are provided an opportunity to contact their consulate. The Probation Department provides an opportunity for reasonable communication between youth and their consulate, in as confidential a manner as possible. Staff informs offenders, prior to giving them access, of the extent to which such communications are monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide offenders with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

All offenders have reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

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800.14.4 THIRD-PARTY REPORTING (§ 115.354)

Third-party reports of sexual abuse and sexual harassment can be submitted verbally or in writing on behalf of an offender:

- (a) To any staff member in the facility;
- (b) To the case work probation officer;
- (c) To the Ombudsman (PREA Coordinator);
- (d) Compliance Manager;
- (e) To the Chief Probation Officer;
- (f) On the Probation Department website; or
- (g) On the County Ethics hotline

800.15 OFFICIAL RESPONSE FOLLOWING A YOUTH REPORT

800.15.1 STAFF AND AGENCY REPORTING DUTIES (§ 115.361)

All staff are required to report immediately to the facility Watch Commander, Supervisor, Division Chief or compliance manager any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual-harassment that occurred in a facility, retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Probation Officers, medical and mental health personnel and teaching staff are mandated reporters by California law. All staff must comply with mandatory child abuse reporting laws. All staff are also required to immediately report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual-harassment that occurred in a facility; retaliation against youth or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, those having a right and need to know as specified in policy, to make treatment, investigation, and other security and management decisions.

Medical and mental health practitioners must report sexual abuse to the facility Division Chief as well as to Child Protective Services as required by mandated reporting laws. Such practitioners are required to inform offenders at the initiation of services of their duty to report and the limitations of confidentiality.

Upon receiving any allegation (including third-party) of sexual abuse, the Division Chief or his/her designee shall promptly report the allegation as appropriate to:

- (a) Child Protective Services;
- (b) Local law enforcement;
- (c) Deputy Chief of Institutional Services;

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- (d) Probation Department Ombudsman;
- (e) Casework Probation Officer;
- (f) Social Worker;
- (g) Victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified;
- (h) Juvenile Justice Commission;
- (i) Juvenile Court Presiding Judge; and
- (j) Attorney or legal representative of record.

Notification to legal representatives must be completed within 14 days of receiving the allegation.

800.15.2 AGENCY PROTECTION DUTIES (§ 115.362)

When the Probation Department learns that an offender is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the offender.

800.15.3 REPORTING TO OTHER CONFINEMENT FACILITIES (§ 115.363)

Upon receiving an allegation that an offender was sexually abused while confined at another facility, the Division Chief shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.

Such notification shall be provided no later than 72 hours after receiving the allegation and shall document the notification in the offender's Probation Case Management System file

800.15.4 STAFF FIRST RESPONDER DUTIES (§ 115.364)

Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the report shall be required to:

- (a) Separate the alleged victim and abuser;
- (b) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and
- (e) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify Sworn Probation staff.

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800.15.5 COORDINATED RESPONSE (§ 115.365)

The Probation Department has policies and procedures in place for preserving the crime scene on any alleged sexual abuse. This includes calling local law enforcement to begin an investigation. Included in the response planning is a referral to a victim advocate. The department shall coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and the Ombudsman.

When an alleged act of a sexual nature has occurred, the following steps shall be followed to preserve the crime scene and chain of evidence (In accordance with the Institutional Manuals in Section 4). Notify the Ombudsman via chain of command. The following actions shall be implemented:

- (a) Remove victim from the area(s) in which the crime occurred and separate the Victim(s) and the Suspect(s) into isolated rooms to await local law enforcement. Disturb as little as possible in the area where the crime occurred and have as little contact with the victim as possible.
- (b) Secure the area where the crime occurred and do not let anyone enter in order to preserve the crime scene. Limit all access to the area. If it is necessary to have staff access the area, document their name, time of entry and exit, and the purpose of entering the area. Also document any items brought in or removed from the area.
- (c) The area where the crime took place is not to be released for regular use until released by the local law enforcement.
- (d) Victim(s) and Suspect(s) should be discouraged from using the bathroom, washing their hands, changing their clothing or drinking water until after an interview by local law enforcement.
- (e) Keep Victim(s) and Suspect(s) isolated from all other staff and offenders until interviewed by local law enforcement.
- (f) Seek appropriate medical treatment for victim.
- (g) Victim(s) and Suspect(s) shall be referred for psychological evaluation.

When the crime is revealed/discovered in an untimely fashion, preservations of the crime scene is not necessary. Follow the reporting procedures and assist the investigating local law enforcement agency.

The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

800.15.6 PRESERVATION OF ABILITY TO PROTECT YOUTH FROM CONTACT WITH ABUSERS (§ 115.366)

The Probation Department has not entered into an agreement with any collective bargaining unit that limits Probation's ability to remove alleged staff sexual abusers from contact with youth pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

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All staff on youth investigations are maintained by the Internal Affairs' unit and are limited to review. If a no-contact assignment was imposed it may be included in the file following a determination that the allegation of sexual abuse is not substantiated.

800.15.7 AGENCY PROTECTION AGAINST RETALIATION (§ 115.367)

All youth and staff who report sexual abuse or harassment or cooperate with sexual abuse or sexual harassment investigation are protected from retaliation by other youth or staff. The Division Chief, Supervisor and/or PREA Compliance Manager of the facility will be designated with monitoring offenders and the Probation Department Human Resource Manager will monitor staff to ensure there is no retaliation.

In order to protect youth and staff the facility manager will employ protection measures, including determining the need for housing, transfers, imposing no-contact orders, offering emotional support services for youth or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Probation Department will monitor the conduct and treatment of offenders and staff who reported the sexual abuse and of offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by youth or staff, and shall act promptly to remedy any such retaliation for at least 90 days following a report of sexual abuse. Items monitored include status of the offender, offender disciplinary reports, housing, program changes, or negative performance reviews or reassignments of staff. The Probation Department will continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

If any individual who cooperates with an investigation expresses a fear of retaliation, the Probation Department will take appropriate measures to protect that individual against retaliation.

The Probation Department's obligation to monitor shall terminate if the Probation Department determines that the allegation is unfounded.

800.15.8 POST-ALLEGATION PROTECTIVE CUSTODY (§ 115.368)

If the Division Chief of the facility determines a need to use segregated housing to protect an offender who is alleged to have suffered sexual abuse the Division Chief shall ensure the offender is isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other offenders safe, and then only until an alternative means of keeping all offenders safe can be arranged. During any period of isolation, offenders shall not be denied Title 15 requirements, including but not limited to daily large-muscle exercise, work opportunities, programs, free-time, correspondence, and legally required educational programming/special education services. If isolated the offender shall receive daily visits from a medical or mental health care clinician.

800.16 INVESTIGATIONS

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800.16.1 CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATION (§ 115.371)

The Probation Department does not conduct criminal investigations. When reports of suspected sexual abuse occurs local law enforcement are contacted for possible investigation. If local law enforcement determine no crime occurred an administrative fact-finding will be completed to determine if there is a referral to the department's internal affairs unit. All fact findings and investigations are completed promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. All staff must cooperate with the investigative process.

Local law enforcement gathers and preserves direct and circumstantial evidence. Including any available physical and DNA evidence and any available electronic monitoring data: interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

The Probation Department does not terminate an investigation solely because the source of the allegation recants the allegation.

The credibility of an alleged victim, suspect, or witness is assessed on an individual basis and is not be determined by the person's status as offender or staff. The Probation Department does not require an offender who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

800.16.2 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse and are documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

All written reports are retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile offender and applicable law requires a shorter period of retention.

The departure of the alleged abuser or victim from the employment or control of the facility or agency does not provide a basis for terminating an investigation.

When outside agencies investigate sexual abuse, staff is required to cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

800.16.3 EVIDENTIARY STANDARD FOR ADMINISTRATIVE INVESTIGATIONS (§ 115.372)

For administrative findings the Probation Department uses a preponderance of evidence standard in determining whether allegations of sexual abuse or sexual harassment are substantiated.

800.16.4 REPORTING TO YOUTH (§ 115.373)

Following an investigation into allegation(s) of sexual abuse suffered in a Probation facility, the Probation Department informs the offender(s) as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

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For criminal investigations by local law enforcement the Probation Department will request the relevant information from the investigative agency in order to inform the offender.

Following an offender's allegation that a staff member has committed sexual abuse against the offender, the Probation Department subsequently informs the offender (unless the Probation Department has determined the allegation is unfounded) whenever:

- (a) The staff member is no longer posted within the offender's unit;
- (b) The staff member is no longer employed at the facility;
- (c) The Probation Department learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- (d) The Probation Department learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following an offender's allegation that he or she has been sexually abused by another offender, the Probation Department informs the alleged victim whenever:

- (a) The Probation Department learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- (b) The Probation Department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

All such notifications or attempted notifications are documented in the offender's Probation Case Management record.

The Probation Department's obligation to report under this standard terminates if the offender is released from the custody.

800.17 DISCIPLINE

800.17.1 DISCIPLINARY SANCTIONS FOR STAFF (§ 115.376)

Staff are subject to disciplinary sanctions up to and including termination for violating sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse. Disciplinary sanctions for violations of policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

800.17.2 CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS (§ 115.377)

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to law enforcement agencies and shall be denied access to

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any probation facility. Any contractor or volunteer who engages in sexual harassment may be prohibited from contact with offenders and denied access to any probation facility.

800.17.3 INTERVENTIONS AND DISCIPLINARY SANCTIONS FOR OFFENDERS (§ 115.378)

Once there is an administrative finding that an offender engaged in offender on offender sexual abuse or following a true finding for offender on offender sexual abuse an offender may be subject to disciplinary sanctions only pursuant to a formal disciplinary process.

Disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories. In the event a disciplinary sanction results in the isolation of an offender, staff shall not deny the offender daily large-muscle exercise or access to any legally required educational programming or special education services. Offenders in isolation shall receive daily visits from a medical or mental health care clinician. Offenders shall also have access to other programs and work opportunities to the extent possible.

The disciplinary process shall consider whether an offender's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

The Division Chief or designee shall consider whether to offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse to the offender. The Division Chief or designee may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

The Division Chief or designee may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Sexual activity is prohibited in the Probation department facilities. The Division Chief or designee may discipline offenders for such activity. However, such activity does not constitute sexual abuse if it is determined the activity is not coerced.

800.18 MEDICAL AND MENTAL HEALTH CARE

800.18.1 MEDICAL AND MENTAL HEALTH SCREENINGS; HISTORY OF SEXUAL ABUSE (§ 115.381)

If the screening pursuant to § 115.341 indicates that an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure

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that the offender is offered a follow-up meeting a medical or mental health practitioner within 14 days of the intake screening.

If the screening pursuant to § 115.341 indicates that an offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the youth is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans, security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

Medical and mental health practitioners shall obtain informed consent from youth before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the youth under the age of 18.

800.18.2 ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES (§ 115.382)

Offenders who are victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.

Offenders who are victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

800.18.3 ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS (§ 115.383)

- (a) The facility offers medical and mental health evaluations and treatment to all youth who have been victimized by sexual abuse as appropriate.
- (b) The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- (c) All medical and mental health services provided are consistent with the community level of care.

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- (d) Offenders who are victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
- (e) If pregnancy results from conduct specified in paragraph d of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.
- (f) Offenders who are victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.
- (g) Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- (h) The facility attempts to conduct a mental health evaluation of all known offender on offender abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

800.19 DATA COLLECTION AND REVIEW

800.19.1 SEXUAL ABUSE INCIDENT REVIEWS (§ 115.386)

The Probation Department conducts a review of all sexual abuse incidents 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.

The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include the Ombudsman, the Deputy Chief Probation Officer, facility Division Chief, a Supervisor, an Internal Affairs Probation Officer, the medical program manager/assistant manager and a mental health provider.

The review team shall:

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- (b) 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;
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- (d) Assess the adequacy of staffing levels in that area during different shifts;
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- (f) Prepare a report of its findings and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.
- (g) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

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800.19.2 DATA COLLECTION (§ 115.387)

The Probation Department collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The Probation Department aggregates the incident-based sexual abuse data at least annually.

The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

The Probation Department maintains, reviews, and collects data as needed from all available incidents based documents, including reports, grievances, investigation files, and sexual abuse incident reviews.

The Probation Department obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its youth.

Data collected includes:

- Nonconsensual Sexual Acts on Youth by Youth
- Substantiated Nonconsensual Sexual Acts on Youth by Youth
- Unsubstantiated Nonconsensual Sexual Acts on Youth by Youth
- Unfounded Nonconsensual Sexual Acts on Youth by Youth
- Investigation Ongoing Nonconsensual Sexual Acts on Youth by Youth
- Attempted Nonconsensual Sexual Acts on Youth by Youth
- Abusive Sexual Contacts on Youth by Youth
- Substantiated Abusive Sexual Contacts on Youth by Youth
- Unsubstantiated Abusive Sexual Contacts on Youth by Youth
- Unfounded Abusive Sexual Contacts on Youth by Youth
- Investigation Ongoing Abusive Sexual Contacts on Youth by Youth
- Staff/Collaborative Staff Sexual Misconduct on Youth
- Substantiated Staff/Collaborative Staff Sexual Misconduct on Youth
- Unsubstantiated Staff/Collaborative Staff Sexual Misconduct on Youth
- Unfounded Staff/Collaborative Staff Sexual Misconduct on Youth
- Investigation Ongoing Staff/Collaborative Staff Sexual Misconduct on Youth
- Staff/Collaborative Staff Sexual Harassment on Youth
- Substantiated Staff/Collaborative Staff Sexual Harassment on Youth
- Unsubstantiated Staff/Collaborative Staff Sexual Harassment on Youth
- Unfounded Staff/Collaborative Staff Sexual Harassment on Youth

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- Investigation Ongoing Staff/Collaborative Staff Sexual Harassment on Youth

Upon request the Probation Department shall provide all such data from the previous calendar year to the Department of Justice no later than June 30 of each year.

800.19.3 DATA REVIEW FOR CORRECTIVE ACTION (§ 115.388)

All data collected and aggregated, pursuant to §115.387, by the Probation Department is reviewed in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- (a) Identifying problem areas;
- (b) Taking corrective action on an ongoing basis; and
- (c) Preparing an annual report of its findings and corrective actions.
 1. Such report includes a comparison of the current year's data and corrective actions with those from prior years and an assessment of the Probation Department's progress in addressing sexual abuse.
 2. The Probation Department's report is approved by the Chief Probation Officer and made readily available to the public through its website.
 3. Information may be redacted from reports when publication would present a clear and specific threat to the safety of the facility, but must indicate the nature of the material redacted.

800.19.4 DATA STORAGE, PUBLICATION AND DESTRUCTION (§ 115.389)

All data collected is securely maintained by the Probation Department. All aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, is published annually on the Probation Department. All aggregated sexual abuse data made publicly available has all personal identifiers removed. All sexual abuse data collected pursuant to § 115.387 is available for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

800.20 AUDITING AND CORRECTIVE ACTION

800.20.1 SCOPE OF AUDITS (§ 115.401)

An audit will be conducted on each custodial juvenile facility operated by the Probation Department once every three years. However if the Department of Justice has reason to believe that a particular facility may be experiencing problems relating to sexual abuse it may send a recommendation to the Probation Department for an expedited audit. The recommendation may also include referrals to resources that may assist the facility with PREA-related issues.

It is the responsibility of the Probation Department to demonstrate compliance with the standards.

The audit will consist of a review of all relevant Probation Department policies, procedures, reports, internal and external audits, and accreditations for each facility. The audits shall review at a minimum a sampling of relevant documents and other records and information for the most recent one-year period.

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The Probation Department shall ensure the auditor has access to all areas of the audited facilities. The Probation Department will provide the auditor copies of any relevant documents (including electronically stored information including video), access to offenders, staff, supervisors, and administrators for interviews. The Probation Department will provide private rooms to the auditors to conduct interviews.

Offenders are permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

800.20.2 AUDITOR QUALIFICATIONS (§ 115.402)

An audit shall be conducted by:

- (a) A certified auditing entity;
- (b) The Probation Department shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the Probation Department retention of the auditor, with the exception of contracting for subsequent PREA audits.

800.20.3 AUDIT CONTENTS AND FINDINGS (§ 115.403)

The audit will include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct the Probation Department.

The audit report shall state whether the Probation Department policies and procedures comply with relevant PREA standards. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level. Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.

All auditors are required to redact any personally identifiable offender and staff information from their reports.

The final report is published on the Probation Department website within 90 days of receipt.

800.20.4 AUDIT CORRECTIVE ACTION PLAN (§ 115.404)

- (a) The Probation Department will identify a corrective action plan jointly with the auditor and collect all "Does Not Meet Standard" findings within 180 days of notification of findings.
- (b) The auditor shall verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
- (c) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.

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- (d) If the Probation Department does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

800.20.5 AUDIT APPEALS (§ 115.405)

Should the Probation Department disagree with the audit finding the Probation Department may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal will be lodged within 90 days of the auditor's final determination.

If the Department of Justice determines that Probation has stated good cause for a re-evaluation, the Probation Department may commission a re-audit by an auditor mutually agreed upon by the Department of Justice and the Probation Department and the agency. The Probation Department shall bear the costs of this re-audit.

The findings of the re-audit shall be considered final.

800.21 STATE COMPLIANCE

800.21.1 STATE DETERMINATION AND CERTIFICATION OF FULL COMPLIANCE (§ 115.501)

In determining pursuant to 42 U.S.C. 15607(c) (2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits.

The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch. Kearny Mesa Juvenile Detention Facility is the only facility in the San Diego County Probation Department that falls under this certification due to the contract for services with the United States Marshal.