

## PREA

### 2900.1 GENERAL/DEFINITIONS

The Prison Rape Elimination Act (PREA) of 2003 is a federal law that provides guidelines to detect, prevent, identify, and deter incidents of sexual abuse and sexual assault in detention facilities. The law was enacted to establish a zero-tolerance standard for incidents of sexual assault/rape in correctional facilities and establishes national standards for the detection, prevention, reduction, and punishment of sexual assault/rape in a custodial setting.

The Orange County Sheriff's Department has zero tolerance for all forms of sexual abuse, conduct, and assault. This includes sexual harassment between staff, volunteers, contractors, visitors, and inmates. All allegations of sexual conduct will be investigated. The Department will impose appropriate disciplinary sanctions and initiate criminal charges against individuals committing sexual assault/rape.

#### **Definitions:**

**Abusive Sexual Contact:** Sexual contact of any person without their consent, or of a person who is unable to consent or refuse; AND intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person (excluding incidents in which the contact was incidental to a physical altercation).

**Gender Non-Conforming:** gender characteristics and/or behaviors that do not conform to those typically associated with a person's biological sex.

**Gender "Norms":** the expectations associated with "masculine" or "feminine" conduct, based on how society commonly believes males and females should behave.

**Intersex:** Refers to people who are born with variations in chromosomes, genitals, or reproductive organs that do not align with typical definitions of female or male.

**Medical Practitioner/Mental Health Practitioner:** a medical practitioner or mental health practitioner is a professional who, by virtue of education, credentials, and experience is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A qualified medical practitioner or qualified mental health practitioner refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

**Need to Know:** a criterion for limiting access of certain sensitive information to individuals who require the information to make decisions or take action with regard to an inmate's safety or treatment or to the investigative process.

**Non-Consensual Sexual Acts:** Sexual contact of any person without their consent, or of a person who is unable to consent or refuse; AND contact between the penis and the vulva or the penis and the anus including penetration, however slight; OR contact between the mouth and the penis, vulva, or anus; OR penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.

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**Sexual Harassment by Another Inmate:** Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another.

**Staff Sexual Misconduct:** Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, contractor, official visitor or other agency representative (excluding family, friends or other visitors). Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual or nonconsensual sexual acts include: Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire; OR completed, attempted, threatened, or requested sexual acts; OR occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.

**Staff Sexual Harassment:** Repeated verbal comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (excluding family, friends, or other visitors). Including but not limited to: Demeaning references to gender; or sexually suggestive or derogatory comments about body or clothing; OR repeated profane or obscene language or gestures.

**Transgender:** Is an umbrella term for persons whose gender identity, gender expression or behavior does not conform to that typically associated with the sex to which they were assigned at birth. For example, a person who was assigned male at birth, but is female, may describe herself as a transgender woman, a trans woman, or a woman. This terminology includes individuals who are nonbinary, genderqueer or agender, among other identities.

**Victim Advocate:** an individual, who may or may not be affiliated with the Department that provides victims a range of services during the forensic exam and investigatory process. These services may include emotional support, crisis intervention, information and referrals and advocacy to ensure that victim's interests are represented, their wishes respected, and their rights upheld.

**Volunteer:** an individual who donates his or her time and effort on a recurring basis to enhance the activities and programs of the department.

For additional definitions refer to CCOM Section 7300 – LGBTQI Inmates.

#### 2900.2 PREA COORDINATOR AND PREA COMPLIANCE MANAGER

- (a) Per PREA Standard 115.11 (b), the Orange County Sheriff's Department Custody Operations Assistant Sheriff shall designate a PREA Coordinator to oversee department compliance efforts. The person selected for this position shall have the knowledge and skills necessary to evaluate and implement PREA compliance policies and protocols.
- (b) The duties of the PREA Coordinator shall include:

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1. Development and revision of existing policy and training to better prevent, detect, and respond to incidents of sexual abuse.
  2. Assembling a team of subject matter experts to ensure all Department entities are represented to maintain overall compliance.
  3. Oversee all PREA training, tracking, and documentation of all staff.
  4. Review all complaints, grievances, and reports related to incidents of sexual abuse.
  5. Monitor the treatment of any staff member and inmate who has reported an allegation of sexual abuse or sexual harassment or who cooperated with a sexual abuse/harassment investigation for 90 days following the allegation. If the allegation is determined to be unfounded the monitoring shall cease. The monitoring will include interviewing the staff member and inmate to review their perception of retaliation for the allegation or cooperation in the investigation. This interview will be documented. The PREA Coordinator will also monitor any inmate disciplinary reports, housing, or program changes. If retaliation is detected, immediate corrective action will be taken and documented. Corrective action may include (but is not limited to) any of the following: facility transfer, housing unit change, removal of alleged staff or inmate abuser from contact with the victim, and /or emotional support services.
  6. Ensure all relevant data is collected, recorded, and submitted for the annual DOJ Survey of Sexual Violence and PREA survey.
  7. Serve as the chairperson of the PREA Review Team. Ensure review and report of findings and corrective actions are completed following each incident.
  8. Ensure all inmates are informed of department policy and are afforded multiple avenues for reporting incidents of sexual harassment and abuse.
  9. Work with auditing entity and provide necessary information.
- (c) PREA Compliance Manager
1. Per PREA Standard 115.11 (c), Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. The member selected for each of these positions shall be trained on PREA and will work directly with the Department's PREA Coordinator with regard to PREA audits, and compliance protocols and policies.

### 2900.3 PREVENTION PLANNING

- (a) The following pro-active measures and operations have been implemented, with the intent of preventing and establishing methods to prevent sexual abuse:
1. When staff learns that an inmate is subject to a substantial risk of imminent sexual abuse, immediate action will be taken to protect the inmate.
  2. Utilize a staffing plan that provides for adequate staffing and video monitoring to protect inmates against sexual abuse.

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3. Shall not conduct any cross-gender search or observation unless in accordance with CCOM Section 1710.4 – Body Searches of Inmates and CCOM Section 1720 – Cross Gender Supervision.
4. Enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite biological sex viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Except in circumstances where there would be an impact to safety and security, modesty screens shall be placed strategically in areas that prevent incidental viewing. In order to minimize cross gender exposure, staff of the opposite biological sex shall announce their presence when entering the housing unit. This announcement is required at the beginning of each shift and/or when the status quo within the housing unit changes. This will allow the inmate to take into consideration that staff of the opposite gender may be present when performing bodily and bathing functions.
5. Ensure inmates with physical, intellectual, or psychiatric disabilities have an equal opportunity to participate in, or benefit from all aspects of prevention, detection, and response to sexual abuse and harassment.
6. Conduct extensive criminal background and records checks to prevent hiring, promoting and/or enlisting the services of anyone who may have contact with inmates and who has engaged in sexual abuse in an institutional setting; or has been convicted of, or has been civilly or administratively adjudicated to have engaged or attempted to engage in sexual activity in the community facilitated by force or coercion or if the victim did not consent or was unable to consent. A psychological evaluation will also be conducted prior to the hiring of any new employees.
7. Upon design planning, modification, or expansion of a new or existing lockup, consider the effect of the design, modification, or expansion upon the Department's ability to protect inmates from sexual abuse. Consideration will be given to staffing levels, placement of video monitoring systems, and assignment of staff in areas where they may be monitoring inmates of the opposite gender.
8. Watch Commanders or their designee (rank of Sergeant or above) shall conduct and document unannounced checks to identify and deter staff sexual abuse and harassment.
  - i. Such practices shall be implemented for night shifts as well as day shifts.
  - ii. Alerting other staff members that these supervisor rounds are occurring, shall be prohibited, unless such announcement is related to the legitimate operational functions of the facility.
  - iii. A log entry will be made in the Watch Commanders/Supervisors Log that the inspections were conducted.

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#### **2900.4 RESPONSIVE PLANNING**

- (a) An administrative and/or criminal investigation will be conducted for all allegations of sexual abuse and sexual harassment. The Department shall employ multiple protection measures, such as housing changes or facility transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims and emotional support services for staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations.

#### **2900.5 TRAINING OF EMPLOYEES, VOLUNTEERS AND CONTRACTORS**

- (a) All employees, volunteers and contractors who may have contact with inmates, will be trained on the Department's zero-tolerance policy regarding sexual abuse and sexual harassment. All Sheriff's employees, volunteers and contractors who may have contact with inmates will receive PREA training, upon new hire/contract, and refresher training every two years.
- (b) PREA Standard 115.31 requires all employees who may have contact with inmates, to be trained on the below topics. PREA training will be included in the Jail Academy curriculum and employee orientation, as well as through briefing training, and training bulletins. Additional PREA resources can be found on the Department's PREA page on MY18.
- (c) Staff training shall consist of and include the following:
  - 1. The Department's zero tolerance policy for sexual abuse and sexual harassment;
  - 2. How to fulfill their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;
  - 3. Inmates' right to be free from sexual abuse and sexual harassment;
  - 4. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
  - 5. The dynamics of sexual abuse and sexual harassment in confinement;
  - 6. The common reactions of sexual abuse and sexual harassment victims;
  - 7. How to detect and respond to signs of threatened and actual sexual abuse;
  - 8. How to avoid inappropriate relationships with inmates;
  - 9. How to communicate effectively and professionally with inmates, including LGBTQI, or gender non-conforming inmates; and
  - 10. How to comply with relevant laws related to mandatory reporting of sexual abuse.
- (d) Per PREA Standard 115.34, Special Victims Investigators shall receive specialized training in techniques for interviewing sexual abuse victims, proper Miranda and Garity warnings, sexual abuse evidence collection in confinement settings and the criteria and evidence required to substantiate a case for administrative action or prosecution

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referral. This training can be obtained through the PREA Resource Center (PRC) @ [PREAResourcecenter.org](http://PREAResourcecenter.org).

- (e) Training shall be documented through employee signature that they understand the training they received.
- (f) Volunteers and contractors who have contact with inmates will be trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers and contractors will be based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates will be notified of the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. Training shall be documented through volunteer and contractor signature that they understand the training they have received.

#### **2900.6 INMATE EDUCATION**

- (a) Inmates shall receive education about PREA which will consist of and include the following:
  - 1. During the intake process, inmates will be informed of the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Inmates will also be informed of their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and how the Department responds to such incidents. The information will be provided to the inmates via the inmate orientation video, posted signage, and orientation pamphlets. Information will be provided in English, Spanish, and Vietnamese. Videos are closed captioned for hearing impaired inmates. For visually impaired inmates, contact the ADA Deputy for accommodations. Signage will also be posted in inmate housing, as well as conspicuous areas throughout the facility.
  - 2. The Department will maintain documentation of inmate participation in this PREA education.

#### **2900.7 SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS AND USE OF SCREENING INFORMATION**

- (a) All inmates will be screened to assess their risk of being sexually abused by other inmates or sexually abusive towards other inmates. The Department will use information from the screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
  - 1. The screening will be completed within 72 hours of the inmate's arrival utilizing an objective screening instrument.
  - 2. Classification and Correctional Health Services (CHS)/HCA will share information obtained, on a need-to-know basis, to ensure inmates are assessed and identified appropriately, in order to ensure their safety and initiate any

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necessary support services. CHS/HCA has developed their own protocol for operational procedures and response.

3. Prior to placing inmates together in a holding cell, staff shall consider whether, based on the information before them, an inmate may be at a high risk of being sexually abused and, when appropriate, take necessary steps to mitigate any such danger to the inmate.
4. The classification screening will consider, at a minimum, the inmate's physical characteristics (build and appearance), age, whether the inmate has a mental, physical or development disability, previous assignment in specialized housing, alleged offense and criminal history, whether the inmate is perceived to be LGBTQI or gender non-conforming, whether the inmate has previously experienced sexual victimization, the inmate's own perception of vulnerability, or concerns expressed by the inmate. A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.
5. Inmates may not be disciplined for refusing to answer or failing to provide information in response to screening questions.
6. Within 30 days from their arrival, all inmates will be interviewed by a PREA Deputy to reassess the inmate's risk of victimization or abusiveness.
  - i. Reassessments will be documented on the PREA dashboard within the Jail Management System using the reassessment page.
7. Lesbian, Gay, Bisexual, Transgender, Queer or Intersex (LGBTQI) inmates will have housing and programming assigned by individual assessment on a case-by-case basis after consideration of whether the placement will ensure the inmate's health and safety and whether the placement would present management or security problems.
8. Inmates at high risk of sexual victimization shall not be placed in involuntary segregated housing unless a review of all available housing alternatives has shown that there are no other means of protecting the inmate. If an involuntary segregated housing assignment is made, the Deputy conducting the classification screening shall clearly document the basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged. A review will be conducted every 30 days to determine if ongoing involuntary segregated housing is needed.
9. If segregated housing is used, the inmate shall have access to programs, privileges, education and work opportunities for which they are otherwise eligible. If the Classification Deputy restricts access to programs, privileges, education, or work opportunities the Classification Deputy shall document the limitations imposed, the duration of the limitations, and the reasons for the limitations.
10. Housing and programming for Transgender and Intersex inmates will be reassessed every 6 months on an individual basis to review any threats to safety experienced by the inmates.

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11. Intersex or transgender inmates will not be searched or physically examined for the sole purpose of determining their genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by medical staff reviewing medical records, or if necessary, by a broader medical examination conducted in private by a medical practitioner.

#### **2900.8 INMATE REPORTING**

- (a) Inmates can privately report sexual harassment and sexual abuse, retaliation by other inmates or staff for reporting sexual harassment and sexual abuse and staff neglect or violation of responsibilities that may have contributed to such incidents.
- (b) Inmates may report sexual abuse or sexual harassment verbally or in writing to any staff member. There is no time limit on when an inmate may report or submit a grievance regarding such incident. Inmates are not required to use the grievance process or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. Inmates who allege sexual abuse are not required to submit a grievance to a staff member who is the subject of the complaint, and such grievance will not be referred to a staff member who is the subject of the complaint.
- (c) Inmates will have at least one way to report harassment or abuse to a public or private entity or office that is not part of the Department and is able to receive and immediately forward inmate reports of sexual harassment and sexual abuse to department officials, allowing the detainee to remain anonymous upon request. A designated District Attorney Investigator will be assigned as a third party for independent reporting. The number to the independent party can be accessed by [REDACTED] from any inmate phone. This reporting option will be posted in the inmate housing locations.
- (d) Each Facility will maintain a 24-hour message line (PREA Hotline) for anonymously reporting PREA incidents.
  1. Each facility will designate a Sergeant or Watch Commander to check the message line at least once per shift.
  2. Checks of messages on the PREA hotline will be documented on the Custody Operations Supervisor's Log noting the time the check was made, the name of the personnel who checked, and the number of messages received.
  3. Any information left on the PREA hotline will be immediately investigated to the fullest extent possible. When a new PREA allegation is received on the PREA hotline, protocols in CCOM 2900.9 shall be followed.
- (e) Inmate with disabilities or limited in English proficiency, have equal opportunity to participate in or benefit from all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment. Interpreters will be provided to ensure effective communication. Inmates will receive information verbally, through the inmate orientation video, housing posted signs and upon individual request made to staff.

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#### **2900.9 STAFF REPORTING AND RESPONSE TO INCIDENTS OF SEXUAL ABUSE AND SEXUAL HARASSMENT**

- (a) All staff is required to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility or program providing services to inmates under the jurisdiction of the Department; instances of retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- (b) Staff shall report all incidents or allegations to their Sergeant or supervisor. If non-sworn, the supervisor shall report the incident to a sworn staff member. Apart from reporting to designated Department members, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified, to make treatment, investigation, and other security and management decisions.
- (c) Staff shall accept reports made verbally, in writing, anonymously and/or from third parties, and promptly document any of these verbal reports.
- (d) When an incident is reported or suspected, staff shall follow the procedures outlined below:
  - 1. Separate the alleged victim and abuser.
  - 2. Notify a Sergeant or supervisor.
  - 3. An initial investigation will be conducted by the responding Deputy, or the Deputy designated by the supervisor, to determine if an inmate alleges sexual assault or harassment.
    - i. If both inmates state the incident was consensual and there is no information that one of the inmates may be unable to consent, may not have consented or may have been coerced, the Deputy shall draw a DR and document the incident on an Information Report. A JI will also be pulled and both inmates will be written up for a Major Rule Violation for Unauthorized Contact. Staff will notify Classification to re-evaluate both inmates for appropriate housing.
    - ii. If an inmate alleges sexual abuse or harassment or if there is information that one of inmates may be unable to consent, may not have consented or may have been coerced when both inmates had stated it was a consensual encounter, follow the steps outlined below.
  - 4. When Investigations response is warranted, the Sergeant will contact the Department Commander, and the Department Commander will make notifications to Investigations.
  - 5. If the alleged sexual assault is reported or discovered prior to 72 hours after the incident, secure and preserve any crime scene until appropriate steps can be taken to collect any evidence. In addition, the victim should be asked if they retained any evidence of the assault (e.g., soiled bedding, clothing, etc.).

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6. To preserve any potential physical evidence, request that the alleged victim, and ensure that the alleged abuser, refrain from actions that could destroy physical evidence, including, as appropriate: washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
  7. Staff conducting the investigation shall immediately offer victim services. If requested by the victim, a victim advocate shall accompany and support the victim through the forensic medical examination process and investigatory interviews.
  8. Notify facility medical staff to coordinate necessary medical and social services. If the abuse occurred within 120 hours, the alleged victim shall be taken to an appropriate medical facility for a Sexual Assault Response Team (SART) examination.
    - i. When it is determined conclusively that no abuse has occurred, as defined in CCOM 2900.1, and that no evidence of forensic value would be obtained (e.g., the alleged victim inmate stated that sex was consensual), the Investigations Sergeant may determine that a SART exam is not necessary and will not be performed.
  9. Inmates involved will have their classification re-evaluated to determine appropriate housing.
  10. The initial handling Deputy will document the incident in a DR report to supplement the Special Victims Detail Investigation, who will be the primary investigators assigned to the case. Refer to CCOM Section 2900.11 – Investigations.
    - i. PREA (Sexual Abuse and Sexual Harassment) reports are considered priority reports and shall be completed by end of watch.
- (e) Upon receiving an allegation that an inmate was sexually abused while confined in a facility or program not under the jurisdiction of the Orange County Sheriff's Department, staff who received the allegation shall notify the Facility Commander. The Facility Commander will notify in writing the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such notification shall be provided as soon as possible but no later than 72 hours after receiving the allegation.
- (f) Retaliation against employees or inmates who report incidents of sexual abuse or sexual harassment as well as retaliation against those who cooperate with investigations will not be tolerated and will result in disciplinary action and/or criminal prosecution. Retaliation includes, but is not limited to, coercion, threats of punishment, or any other activity intended to discourage or prevent an employee or inmate from reporting the incident or cooperating with the investigation of an incident.
- (g) Watch Commanders
1. Upon discovery of an incident which falls under this policy, the facility Watch Commander will notify the PREA Coordinator of the incident via electronic mail and/or telephone.

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- i. Each incident will be classified by the facility Watch Commander into one of the following categories:
  - A. NON-CONSENSUAL SEXUAL ACTS:
    - (a) Sexual contact of any person without their consent, or of a person who is unable to consent or refuse; AND contact between the penis and the vulva or the penis and the anus including penetration, however slight; OR contact between the mouth and the penis, vulva, or anus; OR penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
  - B. ABUSIVE SEXUAL CONTACT:
    - (a) Sexual contact of any person without their consent, or of a person who is unable to consent or refuse; AND intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person (excluding incidents in which the contact was incidental to a physical altercation).
  - C. SEXUAL HARASSMENT BY ANOTHER INMATE:
    - (a) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another.
  - D. STAFF SEXUAL MISCONDUCT:
    - (a) Any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, contractor, official visitor or other agency representative (excluding family, friends or other visitors). Sexual relationships of a romantic nature between staff and inmates are included in this definition. Consensual or nonconsensual sexual acts include: Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire; OR completed, attempted, threatened, or requested sexual acts; OR occurrences of indecent exposure, invasion of privacy, or staff voyeurism for reasons unrelated to official duties or for sexual gratification.
  - E. STAFF SEXUAL HARASSMENT:
    - (a) Repeated verbal comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor, or other agency representative (excluding family, friends, or other visitors). Including but not limited to: Demeaning references to gender; or sexually suggestive or

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derogatory comments about body or clothing; OR repeated profane or obscene language or gestures.

- (h) For further information, refer to the Orange County Sheriff's Department (PREA) Sexual Abuse Response Team Protocol found on MY18.

#### **2900.10 MEDICAL AND MENTAL HEALTH CARE**

- (a) Victims of sexual abuse while incarcerated shall receive timely, unimpeded access to emergency medical and mental health treatment. Victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate. Victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
- (b) Victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the sexually abusive conduct, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- (c) Treatment services shall be 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.

#### **2900.11 INVESTIGATIONS**

- (a) All allegations of sexual abuse and harassment will be investigated promptly, thoroughly and objectively, including third-party and anonymous reports.
  - 1. The Special Victims Detail will investigate and conduct criminal investigations conducted within jail facilities.
  - 2. Any responding investigator will have completed specialized training in conducting sexual abuse investigations.
  - 3. Internal Affairs will conduct administrative investigations.
- (b) If a criminal investigation is warranted, investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- (c) When the quality of evidence appears to support criminal prosecution, the investigator shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (d) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as a detainee or staff.
- (e) No inmate who alleges sexual abuse will be required to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation.

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- (f) Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. They shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative facts and findings. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. The departure of an alleged abuser or victim from the employment or control of the department shall not provide basis for terminating an investigation.

### 2900.12 NOTIFICATION TO INMATES

- (a) Following an investigation into an inmate's allegation of sexual abuse, the inmate shall be notified as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- (b) If the Department did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.
- (c) Following an inmate's allegation that they have been sexually abused by another inmate, the Department shall subsequently inform the alleged victim whenever:
  - 1. The Department learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.
- (d) Unless unfounded, following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the Department shall inform the inmate of the following:
  - 1. Whether or not the staff member is assigned to the inmate's housing area.
  - 2. Whether or not the staff member is assigned to that facility.
  - 3. The Department learns that the staff member has been indicted on a charge related to sexual abuse within the facility.
  - 4. The Department learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- (e) All such notifications or attempted notifications under this section shall be documented.
- (f) The Department's obligation to notify the inmate shall terminate if the inmate is released from custody.

### 2900.13 DISCIPLINE

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

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- (c) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and be reported, unless the activity was clearly not criminal.
- (d) For the purpose of disciplinary action, a report of sexual abuse by an inmate or staff 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.

#### **2900.14 REVIEW**

- (a) A review will be conducted by the PREA Review Team upon conclusion of every sexual abuse investigation or as directed by the PREA Coordinator. This is to include allegations which have not been sustained, unless the allegation has been determined to be unfounded. Reviews shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials, with input from line supervisors and investigators.
- (b) The PREA Review Team is comprised of the PREA Coordinator, PREA Deputies, Division Commanders, and representatives from the Health Care Agency and Special Victims Detail.
- (c) The review shall:
  - 1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
  - 2. Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, LGBTQI status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility.
  - 3. Examine the area where the incident allegedly occurred to assess whether physical barriers in the area enabled abuse.
  - 4. Assess the adequacy of staffing levels in that area during different shifts.
  - 5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
  - 6. Prepare a report of findings.
  - 7. Provide the report to the Department PREA Coordinator, and the respective Division Commander and PREA Manager where the incident occurred. The recipient Division Commander shall implement recommendations for improvement or shall document reasons for not doing so.

#### **2900.15 DATA COLLECTION**

- (a) Data will be collected by the PREA Coordinator for every allegation of sexual abuse under the direct control of the department and shall be aggregated at least annually. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed and designated for jails.

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- (b) The PREA Coordinator shall maintain, review and collect data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews. The Department shall obtain incident-base and aggregate data from any private agency with which it contracts for confinement of its detainees. Upon request, the Department shall provide all such data from the previous calendar year to the Department of Justice not later than June 30.
- (c) Data collected will be reviewed by the PREA Review Team in order to improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training including:
  - 1. Identifying problem areas.
  - 2. Taking corrective action on an ongoing basis.
  - 3. Preparing an annual report of its finding and corrective actions for each facility, relevant operational area, as well as the Department as a whole. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
  - 4. The final report shall be reviewed by the Assistant Sheriff of Custody Operations and approved by the Sheriff and be made available to the public via the public website. Specific material may be redacted from the report when publication would present a clear and specific threat to the safety and security of a facility, but the nature of the material redacted must be indicated. Aggregated sexual abuse data from Department facilities will also be made available to the public at least annually via the public website. All personal identifiers will be removed from any aggregated sexual abuse data made publicly available.
- (d) The Department shall ensure all data collected is securely retained.
- (e) All Administrative PREA Investigations and Criminal PREA Investigation reports written shall be maintained for as long as the alleged abuser is incarcerated or employed by the Department, plus five years at a minimum.

#### **2900.16 AUDITING AND CORRECTIVE ACTION**

- (a) Audits shall be conducted pursuant to PREA Prison and Jail Standards 115.401 – 115.405.
- (b) Annual audits shall cover at least one-third of OCSD correctional facilities pursuant to PREA Prison and Jail Standards 115.401 - 115.405.
- (c) A complete audit of all OCSD correctional facilities shall be conducted every three years pursuant to PREA Prison and Jail Standards 115.401 - 115.405.

For further information, refer to OCSD Department Manual/Custody and Courts Operations Manual sections:

- (a) OCSD Policy Manual (Lexipol) Section 328 - Policy Against Unlawful Harassment and Discrimination
- (b) OCSD Policy Manual (Lexipol) Section 375 - Transgender Policy

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- (c) OCSD Policy Manual (Lexipol) Section 402 - Bias Free Policing
- (d) CCOM Section 1710.4 - Body Searches of Inmates
- (e) CCOM Section 1720 - Cross Gender Supervision
- (f) CCOM Section 7300 – LGBTQI Inmates