

SEXUAL ABUSE INVESTIGATIONS

- AUTHORITY:** Administrative Directive
28 CFR Part 115, National Standards to Prevent, Detect, and Respond to Prison Rape
Sections 11165 through 11174, California Penal Code
Section 307.4 and Sections 628-736, Welfare and Institutions Code
Regulations of the California Attorney General
Memorandum of Understanding between Orange County Probation Department and Social Services Agency
County Counsel Opinion No. 87-1201, 2-3-87
California Code of Regulations, Title 15, Section 1453
- RESCINDS:** Procedural Manual Item 3-1-309, Dated 08/01/13 (Major Revision)
- FORMS:**
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| Report of Sexual Abuse/Harassment/Misconduct | F057-6317 |
| Special Incident Report (SIR) | F057-7018 |
| Suspected Child Abuse Report | (SS 8572) |
| Suspected Child Abuse Fax Report | (F063-04-69) |
| Child Abuse Investigative Report | (SS 8583) |
- PURPOSE:** To establish a uniform method of investigating allegations of sexual abuse or harassment involving youth inside an Orange County Probation juvenile facility.

I. GENERAL INFORMATION

- A. "Sexual abuse" in this procedure refers to sexual assault or sexual exploitation as defined in Section 11165.1 of the California Penal Code (CPC), subsections (a) and (b). Pursuant to Section 11166 of the CPC, any indications of potential child abuse must be reported in accordance with Procedural Manual Item (PMI) 3-1-112.
- B. "Sexual Harassment," as defined in the PREA Juvenile Facility Standards, includes:
1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed toward another;
 2. Repeated verbal comments or gestures of a sexual nature to a youth by a staff member, contractor, vendor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures
- C. When an incident of sexual abuse or harassment is reported to or discovered by staff, the staff shall immediately report the incident via the chain of command. "Staff" includes Probation facility staff, contractors, vendors, volunteers and collaborative partners.

1. If the staff who initially receives the allegation information is not a facility staff, they shall immediately report it to facility staff, a facility administrator, or the PREA Coordinator.
 2. The incident will be documented in a Special Incident Report (SIR) and the Report of Sexual Abuse / Harassment / Misconduct. If applicable, a Child Abuse Report (CAR) will be submitted to the Child Abuse Registry.
 3. An allegation that a youth was sexually abused while confined at another facility will also be reported via the chain of command.
- D. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. A referral to a Disciplinary Hearing Officer (DHO) may also be made.
- E. Youth and staff have the right to be free from retaliation for reporting an incident of sexual abuse or harassment, as well as for cooperating with an investigation of such allegations. Any suspected instance of such retaliation will be investigated and addressed administratively, submitted to court, or referred to the Professional Standards Division, as appropriate.

II. PROCEDURE

- A. Upon learning of an allegation of sexual abuse or harassment, DJCOs will initiate an investigation. The investigation should include the following steps and address the elements below:
1. Immediately notify the unit supervisor or Duty Officer (DO) of the allegation(s).
 2. Immediately initiate an investigation of the allegations.
 3. If the allegations involve staff, seek direction from the unit supervisor, Duty Officer, facility administrator, or the PREA Coordinator. Allegations involving staff, volunteers, contractors, vendors or collaborative staff will be investigated by the Professional Standards Division (PSD).
 4. Separate the alleged victim(s) and perpetrator(s), for both their safety and to facilitate the investigation process. Document all actions taken in this regard. Changes in housing of involved youth are to be determined case by case (refer to PMIs 3-2-005 and 3-1-046).
 5. Evidence
 - a. Safeguard the preservation of evidence and protection of the scene of the alleged abuse until appropriate steps can be taken to collect evidence.
 - b. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that both the alleged victim and perpetrator not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing

teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

- c. If the staff who initially receives the allegation information is not a facility staff (e.g., teacher, volunteer, CEGU, medical unit, etc.), they shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify facility staff.

6. Interviews

- a. Interview the alleged victim(s) and perpetrator(s) separately. Begin the interviews with a Miranda advisement, ensuring all procedural due process measures are taken. Remain mindful of the youths' emotional states of mind.

- b. The interviews should address the following basic elements:

- (1) Who was involved?

- (a) Include the victim, perpetrator, all witnesses, and the person who actually reported the incident.

- (b) Include the ages of the victim and perpetrator.

- (2) What was the specific behavior involved?

Include the duration of the incident, or an approximation thereof.

- (3) How did the incident occur?

- (a) For example, what were the circumstances surrounding the incident? Were injuries sustained? How were the witnesses involved? Were weapons or instruments used? Was bullying type behavior involved? Was there a history of behaviors that preceded the incident?

- (b) Address whether the behavior was received willingly, unwillingly, or if this is unknown.

- (c) What are the apparent emotional states of the victim and perpetrator?

- (d) This segment may take the bulk of the SIR.

- (4) When did the incident(s) occur?

Include the date and time, or the closest approximation thereof. Also include the activities that were taking place at the time (e.g., LME, school, line movement, etc.).

(5) Where did the incident occur?

Include the facility and unit, as well as the exact location within the facility (e.g., room, dayroom, field, SRA, classroom, walkway, etc.).

- c. Interview other youths and witnesses who may have seen or heard information related to the allegations, and collect their written statements and/or SIRs.

7. Documentation should include:

- a. Special Incident Report (SIR)
- b. Written Witness Statements
- c. Photographs (if applicable)
- d. Report of Sexual Abuse/Harassment/Misconduct

Ensure all the required information on the form is complete. The Report of Sexual Abuse/Harassment/Misconduct should be submitted with the accompanying SIR(s).

- e. Child Abuse Report (if applicable)
- f. Any other documentation relevant to the investigation

8. Notify the Medical Unit. Record the time the notification was made and the time the youths were actually seen. If a youth declines the referral, record that as well. Document all injuries sustained by the victim and perpetrator (visible and/or claimed).

9. Notify the Clinical Evaluation and Guidance Unit (CEGU). Record the time the notification was made and the time the youths were seen. If a youth declines the referral, record that as well.

10. Offer the victim of sexual abuse a referral for rape crisis counseling. Currently, the Department has an agreement with Waymakers to provide such support services. They can be reached at (949) 250-0488.

11. Offer the victim of sexual abuse a referral for a forensic medical examination by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE). If one cannot be made available, the examination can be performed by another qualified medical practitioner. This may be arranged in coordination with an investigator from the Orange County Sheriff's Department's Special Victims Detail.

- a. Document: 1) when the referral was made; 2) whether the victim accepted the referral; and 3) which staff accompanied them to the examination (for supervision and/or support).

9. Performing any necessary follow-up.
- C. After the initiation of an investigation of sexual abuse or harassment, the facility administrator responsibilities include:
1. Providing guidance to the SJCO or Duty Officer overseeing the investigation.
 2. Reviewing the investigation packet to ensure the documentation is complete and the reports submitted contain all the information needed.
 3. Providing the SJCO or Duty Officer with follow-up tasks, if necessary.
 4. Notifying the chain of command.
 5. Making notifications to interested parties (e.g., minor victim's parents/guardian, social worker, legal representative, etc). If the abuse occurred at another facility, the administrator will work with the PREA Coordinator to notify that facility of the allegations.
 6. Notifying the PREA Coordinator of allegations of sexual abuse and/or sexual harassment, including those reported to have occurred at another facility.
 7. If the allegation involves staff, facility administration shall refer allegations of sexual abuse or harassment that potentially involve criminal behavior by staff or youth to the Orange County Sheriff's Department and/or the Orange County District Attorney for investigation. Prior to doing so, the matter shall be referred to the PSD Division Director for guidance.

REFERENCES:

Procedures:	1-4-123	Prevention, Detection, Reporting and Response to Incidents of Sexual Abuse, Harassment and Misconduct in Juvenile Facilities (PREA)
	2-1-011	Victims Residing With Perpetrators of Abuse
	3-1-106	Deaths, Serious Suicide Attempts and other Serious Incidents Related to Youths in Custody
	3-1-112	Child Abuse Reporting and Investigation Responsibilities of Deputized Probation Staff
	3-1-303	Special Incident Reports
	3-2-014	Juvenile Hall Automated Logbooks / Institutional Management Systems (IMS) and Manual Logbooks
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophies and Principles
	B-1	Case Confidentiality – Client's Right to Privacy
	B-2	Inter-and Intra-Agency Confidentiality

C. Lopez

APPROVED BY: