

SEXUAL ABUSE INVESTIGATIONS

- AUTHORITY:** Administrative Directive
 California Code of Regulations, Title 15 – Minimum Standards for Juvenile Facilities, Section 1453
 National Standards to Prevent, Detect, and Respond to Prison Rape, Section, 28 CFR Part 115,
 California Penal Code, Sections 11165 – 11174
 Welfare and Institutions Code, Section 307.4 and 628-736
 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
- RESCINDS:** Procedural Manual Item 3-1-309, dated 07/09/19
- 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) **3-3-008**.
- B. “Sexual Harassment,” as defined in the **Prison Rape Elimination Act (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. **Should an incident of sexual abuse occur, local law enforcement will be contacted to conduct a criminal investigation unless the allegation does not involve potential criminal behavior.**
- F. **For matters regarding sexual harassment, Probation Professional Standards Division (PSD) will investigate the incident. If the incident involves a crime, local law enforcement will be contacted. Probation will ensure that investigations are completed for all allegations of sexual harassment.**
- G. 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.
- H. **The evidentiary examination and initial treatment of victims of sexual assault shall be conducted at a health facility that is separate from the custodial facility and is properly equipped and staffed with personnel trained and experienced in such procedures.**

II. PROCEDURE

- A. Upon learning of an allegation of sexual abuse or harassment, **the** Deputy Juvenile Correctional Officers (DJCOs) **responsibilities will include.**
1. Immediately notify the unit supervisor or Duty Officer (DO) of the allegation(s).
 2. Immediately **assess the incident, request medical aid if necessary, and obtain all preliminary facts of the incident. If needed request the support of additional DJCO staff to promptly accomplish all tasks. Share all pertinent information with the unit supervisor or Duty Officer (DO) for investigation.**

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 **PMI 3-5-005**).
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, **ensure** 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.
 - d. **Document the information in a Serious Incident Report (SIR) and submit it to the DO or unit SJCO prior to the conclusion of the shift.**

B. DO or Unit SJCO responsibilities:

1. **Immediately respond to the scene and assess the victim(s)**
2. **Ensure the victim(s) is separated from the alleged perpetrator(s). Isolate the alleged perpetrator(s) or place the alleged perpetrator(s) in a room without a sink or toilet to help preserve evidence.**
3. **Determine if the elements of a sexual abuse or harassment are present. Contact the AIC or facility DD and provide a detailed assessment of the situation.**
4. **At the direction of the AIC or facility DD, contact the local law enforcement agency of jurisdiction to initiate a criminal investigation. Probation will ensure that criminal investigations are completed for all allegations of sexual abuse or sexual harassment by local law enforcement unless the allegation does not involve potential criminal behavior.**

5. Interviews

- a. **Prior to interviewing the alleged victim(s) and perpetrator(s) regarding a potential PREA incident, that does not involve clear criminal conduct the investigating Supervising Juvenile Correctional Officer (SJCO), shall advise their attorneys of the situation.**
- b. 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.
- c. 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.).

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

6. 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

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

8. 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.

9. 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.

10. 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).

- b. At the victim's request, a victim advocate, Probation staff, or qualified community-based organization staff member may accompany them to the forensic medical examination to provide emotional support.
11. Document any known history of sexual abuse suffered and/or perpetrated by the victim and perpetrator.
 12. SIRs
 - a. Ensure SIRs are thorough and accurate; proofread them for proper spelling and grammar.
 - b. SIRs should not contain the writer's opinion about the intent or motivation behind the perpetrator's act; they should only state the facts.
 - c. Submit the completed SIR and accompanying documents to the unit supervisor or Duty Officer within 24 hours.
- C. After the initiation of an investigation of sexual abuse or harassment, the SJCO responsibilities include:
1. Notification of the facility administrator of the allegation(s) and investigation.
 2. Conferring with the investigating staff as to which of the aforementioned steps in Section II A have been taken and/or still need to be taken (e.g., interviews, evidence preservation, separation of youth, mental health and medical referrals, CAR, etc.).
 3. Providing direction and support throughout the investigation.
 4. Seeking guidance from facility administration and the PREA Coordinator, as appropriate; keeping facility administration informed of the progress of the investigation.
 5. Reviewing the investigation packet to ensure the documentation is complete and that the reports are written accurately, with proper spelling and grammar, etc.
 6. **Complete the PREA form and attach it to the investigation packet.**
 7. Notifying the assigned deputy probation officer (DPO).
 8. Staffing the incident with the facility administrator and the assigned DPO if the perpetrator is a youth to determine appropriate next steps (e.g., referral to a Disciplinary Hearing Officer [DHO] and/or submission of an Application for Petition). If appropriate, contact the Orange County Sheriff's Department's (OCSD) Special Victims Detail to initiate a criminal investigation.

9. Immediately seeking guidance from PSD if the allegation involves staff. If appropriate, PSD will contact the Orange County Sheriff's Department's (OCSD) Special Victims Detail to initiate a criminal investigation.
 10. Performing any necessary follow-up.
- D. 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., youth 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 Response to Incidents of Sexual Abuse, Harassment and Misconduct in Juvenile Facilities (PREA)
	2-1-011	Victims Residing with Perpetrators of Abuse
	3-3-003	Death and Other Serious Incidents Related to Youth in Custody
	3-3-008	Child Abuse Reporting and Investigation Responsibilities of Deputized Probation Staff
	3-5-005	Juvenile Facility Assessment
	3-11-002	Integrated Case Management System (ICMS) – Automated and Manual Logbooks
	3-15-001	Special Incident Reports / Routing SIR and DHO Paperwork
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

PREA Juvenile Facility Standards

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APPROVED BY: