

**Imperial County Sheriff's Office
Corrections Bureau Policy and Procedures**

Title: PREA	Date 7-18-19	Number 1711
Subject: INMATE SEXUAL ABUSE/HARASSMENT PREVENTION AND RESPONSE		
Reference: 28 CFR § 115 – Prison Rape Elimination Act National Standards		

I. POLICY:

It is the policy of the Imperial County Sheriff's Office (ICSO) to comply with the provisions set forth in the Prison Rape Elimination Act (PREA). ICSO has established a "Zero Tolerance" policy for sexual misconduct for incidents involving inmate-on-inmate sexual violence and staff misconduct/harassment towards inmates, regardless of whether the alleged acts are consensual in nature. ICSO considers any form of sexual misconduct by staff an abuse of power. This Departmental Standard Operating Procedure (SOP) addresses the prevention, intervention, treatment, investigation, tracking and reporting of inmate sexual abuse or harassment. ICSO shall make every effort to provide all inmates with a safe, humane and secure environment, free from the threat of sexual abuse or harassment. As part of the intake and orientation process, inmates shall be provided information regarding ICSO Zero Tolerance policy regarding sexual abuse or harassment. In addition, all persons having access to inmates in ICSO custody shall receive training and education as required by PREA standards to include staff, such as inmate medical providers, mental health staff, and investigators, and non-staff such as contractors, vendors, and volunteers to ensure a coordinated response to all incidents of sexual abuse or harassment. ICSO shall adapt any future PREA regulations as they become mandated.

II. DEFINITIONS:

- (1) "Inmate" means any person incarcerated or detained in the jail; also referred to herein as "Detainee" or "Resident";
- (2) "Staff" or "Staff Member" means an agency employee;
- (3) "Contractor" means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency; and
- (4) "Volunteer" means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
- (5) "Consent" refers to cooperation in act or attitude pursuant to an exercise of free will and with full understanding of the nature of the act. Within the

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meaning of this policy, inmates, detainees, or residents cannot consent to sexual contact with staff members, volunteers or contractors.

(6) "Sexual Abuse" is defined as and includes:

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident 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.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

(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;

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(c) 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;

(d) 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;

(e) 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;

(f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(h) Voyeurism by a staff member, contractor, or volunteer.

(7) "Sexual Harassment" is defined as and includes:

Sexual harassment of an inmate, detainee, or resident by another inmate, detainee, or resident; and

Sexual harassment of an inmate by a staff member, contractor, or volunteer.

Sexual harassment of an inmate, detainee, or resident by another inmate, detainee, or resident includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an inmate, detainee,

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or resident directed toward another inmate, detainee, or resident.

Sexual harassment of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene sexually suggestive language or gestures.

- (8) "Voyeurism" is defined as and includes when a staff member, contractor, or volunteer invades the privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

- (9) "Prison Rape Elimination Act (PREA)"

The Prison Rape Elimination Act (PREA) was enacted in congress in 2003 to address the problem of sexual abuse of persons in the custody of the United States Correctional Facilities. PREA applies to all public and private institutions that house adult or juvenile inmates and is also relevant to community based agencies. The major provisions of PREA are:

The development of standards for detections, preventions, reduction and punishment of prison rape.

The collection and dissemination of information on incidents of prison rape

The awarding of grant funds to help state and local governments implement the purpose of PREA.

- (10) "PREA Compliance Manager"

Each facility will designate a PREA Compliance Manager assigned to serve as a point person for all PREA related matters within the respective

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facility.

(11) "PREA Coordinator"

Each agency shall employ or designate an upper-level agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

(12) "Zero Tolerance"

Operational and philosophical standard that focuses on establishing a culture of intolerance of sexual misconduct against inmates by either inmates or staff, contractors, or volunteers.

III. PREVENTION/INTERVENTION:

A. TRAINING

1. Staff Training Requirements:

- a. ICSO Zero Tolerance Policy
- b. Staff's responsibilities to prevent, detect, report, and respond to sexual abuse and sexual harassment.
- c. Confidentiality of reports, including the obligation to not reveal information other than to the extent necessary as specified in agency policy to make treatment, investigation, and other security and management decisions.
- d. The inmates' right to be free from sexual abuse or sexual harassment.
- e. The dynamics of sexual violence in a confinement setting.
- f. Recognizing and responding to the physical, behavioral and emotional signs of sexual abuse or sexual harassment.
- g. How to avoid inappropriate relationships with inmates.
- h. Familiarization with the ICSO strip search policy as it applies to

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- transgender individuals and victims of sexual violence.
 - i. Disciplinary sanctions / criminal prosecution.
 - j. Staff ethics.
 - k. Applicable federal, state and local laws.
2. Medical and Mental Health Staff Training Requirements:
- a. ICSO Zero Tolerance Policy
 - b. Assessing signs of sexual abuse
 - c. How to respond to victims of sexual abuse.
 - d. How to report and mandatory reporting of all incidents of sexual abuse or sexual harassment.
3. Volunteer and Contractors Training Requirements:
- a. ICSO Zero Tolerance Policy.
 - b. Recognizing and responding to the physical, behavioral and emotional signs of sexual abuse or sexual harassment.
 - c. How to report and mandatory reporting of all incidents of sexual abuse or sexual harassment.
4. Inmate Training Requirements:
- a. ICSO Zero Tolerance Policy.
 - b. How to report sexual abuse and sexual harassment.
 - c. Consequences for failing to report or false reporting.

B. INITIAL INMATE ASSESSMENT

An initial assessment shall be conducted as a part of the intake process to determine if the newly arrested inmate is a victim or potential victim of sexual abuse or at risk of committing sexual abuse. The assessment shall include the following:

1. Completion of an initial medical / mental health screening by the Search and Escort Officer.

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2. Completion of a medical / mental health screening interview by contract medical staff.
3. Review any information indicating the potential vulnerability or tendencies of disruptive behavior. These include:
 - a. History of Incarceration or lack thereof
 - b. Physical size or characteristics
 - c. Gang affiliation
 - d. Demeanor (openly showing fear or aggressiveness)
 - e. Whether the inmate has a mental, physical, or developmental disability
 - f. Age
 - g. Prior criminal history
 - h. Whether the inmate is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming
 - i. Prior history of sexual victimization
 - j. The inmates own perception of vulnerability

If it is determined that the inmate is at risk, interviewing staff shall complete the necessary documentation in the jail management system and house the inmate in appropriate housing. In addition, the Facility Commander and the PREA Compliance Manager shall be notified if the inmate was a victim of, or committed sexual abuse inside the Imperial County Jail.

C. CLASSIFICATION ASSESSMENT

Classification staff shall consider:

1. Inmate's current charges which may reflect sexually abusive behavior.
2. Inmate history which may reflect that the inmate has a history of sexual abusive behavior and/or has been a sexual abuse victim.

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3. Self-reporting by the inmate that they are a victim of sexual abuse.

Inmate(s) identified as sexual offender(s) while in custody may be placed into Restrictive Housing pending classification and administrative review, if other housing is not feasible.

The alleged victim(s) and offender(s) may be reclassified into protective custody from the general population or placed into direct supervision housing. Inmates reclassified for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible.

D. INMATE ORIENTATION

Upon intake, all inmates will be educated on ICSO's Zero Tolerance policy. The ICSO Inmate Handbook and ICSO Sexual Assault Awareness pamphlet contain information regarding sexual abuse and sexual harassment. This information shall be provided during the inmate classification interview process. The ICSO Inmate Handbook and Sexual Assault Awareness pamphlet shall include, but not limited to:

1. Methods and self-protection techniques to reduce the likelihood of being victimized by sexual offenders
2. Procedures for reporting attempted sexual abuse or sexual harassment by another inmate or staff to include:
 - a. Reporting the attack to ICSO staff immediately
 - b. Requesting to see the Facility / Bureau Commander or designee via an inmate request.
 - c. Calling the Rape Crisis or Sure Helpline Crisis Center Hotline phone number that is posted in all holding areas, housing areas, inmate tablets, and informational pamphlets given at the time of booking. Inmates can contact either number toll free from any inmate telephone.

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3. Consequences for the inmate who commits sexual abuse or harassment against another inmate(s), including criminal prosecution and administrative disciplinary proceedings.
4. Available support services (e.g. counseling, medical/mental health services, etc.)
5. ICSO Disciplinary rules of conduct for all inmates.

Prior to being housed all inmates will view an orientation video that will explain their rights to be free from sexual abuse or harassment and to be free from retaliation for reporting such incidents.

IV. RESPONSE TO SEXUAL ABUSE ALLEGATIONS:

When ICSO staff, volunteers, or contractual staff become aware of a possible incident involving sexual abuse, discover a sexual abuse in progress, or observe physical evidence of sexual abuse they shall immediately notify the respective Watch Commander or designee. All incidents of sexual abuse shall be reported immediately and investigated thoroughly.

The Watch Commander shall ensure that the following protocols are adhered to and is completed:

- A. The alleged victim(s) shall be immediately separated from the alleged offender(s).
- B. The alleged victim(s) shall be immediately escorted to a secure and non-hostile environment. To ensure the preservation of evidence, the victim(s) shall be asked not to eat, drink, change clothes, shower, brush their teeth, or use the restroom until they have been examined by qualified medical staff. If using the restroom is absolutely necessary, the victim should be asked to wipe with a sanitary cloth to collect evidence before using the restroom.
- C. ICSO and designated ICSO staff shall be notified in accordance with Major

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Incident Reporting Procedure.

- D. The alleged offender(s) shall be immediately escorted to a holding area that does not have bathroom facilities. They shall remain in the holding area until the trace evidence can be collected or clearance has been given by the responding Imperial County Sheriff's investigator(s)
- E. ICSO Investigations Unit personnel will make the determination if a Sexual Assault Nurse's Examination is needed and will arrange transportation to the appropriate facilities. In accordance with ICSO Policy 602 *Sexual Assault Investigations*.
- F. The alleged victim(s) and inmate(s) shall be separately escorted to the medical ward for medical assessment / treatment. Medical staff shall complete an evaluation to document that the alleged victim(s) and offender(s) were examined.
- G. Medical staff shall refer the alleged victim(s) and offender(s) for mental health follow up.
- H. The suspected crime scene shall be secured and preserved until given clearance by the responding ICSO Investigations Unit personnel in accordance with ICSO Policy 802 *Property and Evidence*.
- I. The Administrative Investigations Unit shall be notified if the allegation(s) involve inmate sexual abuse by staff. The Administrative Investigations Unit shall refer such incidents to the State Attorney's Office, if appropriate.
- J. The PREA Coordinator shall be notified.
- K. The victim shall be given an opportunity to contact the Sure Helpline Crisis Center in an area that would provide them with confidentiality to contact an advocate.
- L. All of the events and chain of custody involving suspected evidence shall be maintained until it is turned over to ICSO Investigations Unit personnel, if applicable.

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- M. The following information shall be provided to the investigator that is assigned to the case:
1. A copy of the Daily Inmate Population Report of the area where the alleged incident occurred.
 2. A copy of the housing cards of the victim(s) and alleged offender(s).
 3. Digital video recording disc (if applicable)

The PREA Coordinator shall ensure that an incident review is conducted within 30 days of the conclusion of every sexual abuse investigation, unless the allegation was unfounded.

V. RESPONSE TO SEXUAL HARASSMENT ALLEGATIONS:

When ICSO staff, volunteers, or contractual staff become aware of a possible incident involving inmate sexual harassment, discover inmate sexual harassment of in progress, or observe evidence of inmate sexual harassment, they shall immediately notify the respective Watch Commander or designee. All incidents of sexual harassment shall be reported immediately and investigated thoroughly.

The Watch Commander shall ensure that the following protocols are adhered to and is completed

- A. The alleged victim(s) shall be immediately separated from the alleged offender(s).
- B. The alleged victim(s) shall be immediately escorted to a secure and non-hostile environment.
- C. The responding Corrections personnel shall take an initial statement from the alleged victim(s).
- D. Classification personnel should be advised of the allegations and should make the necessary accommodations to keep the victim(s) and the

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offender(s) separate until an investigation is completed.

- E. The Administrative Investigations Unit shall be notified if the allegation(s) involve inmate sexual harassment by staff.
- F. The PREA Coordinator shall be notified and given the findings of the initial investigation. The PREA Coordinator shall designate an investigator from the PREA Team to investigate the allegation further.
- G. The victim shall be given an opportunity to contact the Sure Helpline Crisis Center in an area that would provide them with confidentiality to contact an advocate.
- H. All of the events and chain of custody involving suspected evidence shall be maintained, if applicable.

VI. STAFF SEXUAL ABUSE / HARASSMENT:

Sexual acts or sexual contact between staff and an inmate, even if the inmate consents, initiates, or pursues the contact is always prohibited and illegal. There is no consensual sex in the custodial or supervisory relationship.

Any staff member who commits sexual abuse against an inmate supervised by ICSO is subject to criminal prosecution and/or disciplinary action up to and including termination. Further, staff who engage in sexual harassment of an inmate without committing the crime of sexual abuse may be subject to criminal prosecution. Failure to report an incident of staff sexual abuse or sexual harassment shall result in corrective and/or disciplinary action up to and including termination and criminal prosecution. Intimidation of a witness or retaliation against an inmate who refuses to submit to sexual activity is prohibited.

All incidents of ICSO staff sexual abuse or harassment shall be referred to the Administrative Investigations Unit and if appropriate, will refer such incidents to the Imperial County District Attorney's Office for prosecution. All sustained incidents of staff sexual abuse or harassment shall result in corrective and/or disciplinary actions, up to and including termination and criminal prosecution.

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Sustained allegations shall be forwarded to the Imperial County District Attorney's Office.

VII. RETALIATION:

ICSO staff is prohibited in any form of retaliation against an individual because of involvement in the reporting or investigation of sexual abuse or harassment. Staff shall refrain from talking openly about such issues.

The PREA coordinator shall, for at least 90 days following a report of sexual abuse, monitor all inmates and staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. This monitoring shall review any inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. This monitoring shall continue beyond the 90 days if the initial monitoring indicates a continuing need. In the case of inmates, the monitoring shall include periodic status checks. This monitoring for retaliation will discontinue if the allegation is deemed unfounded.

VIII. INMATE SANCTIONS:

A. Criminal Prosecution

An inmate who commits a criminal act of sexual abuse shall be subject to criminal prosecution as governed federal, state, and local laws.

All inmates who have been designated as sexual predators by the court's written findings shall be registered as such prior to their release from departmental custody.

B. Disciplinary Actions

Inmates shall be subject to disciplinary action following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

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Disciplinary action may include, but not be limited to:

1. Disciplinary confinement
2. Loss of good time / work time
3. Loss of privileges
4. Change in classification or custody level

An inmate may only be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

An inmate that reports sexual abuse 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.

Consensual, non-coerced, sexual activity between inmates shall result in disciplinary action; it shall not however constitute sexual abuse pursuant to this policy.

IX. DOCUMENTATION:

All case records associated with sexual abuse allegations e.g. ICSO Incident Reports, investigative reports, case dispositions, offender / victim information, medical / mental health findings, counseling evaluation findings, and recommendations for post release treatment, etc. shall be retained in accordance with the HIPPA of 1996 and legal requirements of the jurisdiction. (In addition, ICSO staff with access to an inmate's medical records and information shall adhere to the confidentiality requirements in order to maintain the privacy of the inmate.)

In order to comply with the United States Department of Justice, Bureau of Justice Statistics (USDOJ/BJS), reporting requirements, ICSO shall collect and maintain sexual abuse and sexual harassment data.

The Facility Commander or designee shall review all cases of alleged inmate

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sexual abuse and sexual harassment for their respective entity to ensure the incidents are accurately tracked in accordance with the definitions set forth by PREA and mandated by the USDOJ.

A. Bureau of Justice Statistics Reporting Criteria

The investigative findings of all sexual abuse or sexual harassment towards inmates shall be reported to BJS as follows:

1. Substantiated – the incident was investigated and determined to have occurred.
2. Unsubstantiated – the incident was investigated and the evidence was insufficient to make a final determination that the incident occurred.
3. Unfounded – the incident was investigated and the incident was determined not to have occurred.
4. Ongoing – the incident is being investigated and a final determination has not been made as to whether the incident occurred.

The PREA Coordinator shall review all data collected/aggregated in order to assess and improve reporting process and data dissemination.

B. Audits

The USDOJ requires audits to verify compliance every three (3) years. Only individuals certified under guidelines established by the USDOJ can conduct an audit for PREA compliance

The PREA Team shall conduct periodic spot inspections to ensure compliance with PREA standards at all ICSO facilities/entities. In addition, ICSO shall adopt future PREA regulations as they become mandated.

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C. Background Checks/Notifications:

The Imperial County Sheriff's Office has made every attempt to maintain policies and procedures to guide our staff, volunteers and contractors with regard to incidents of sexual abuse and harassment. It is the policy of the Imperial County Sheriff's Office to conduct a warrant and criminal history background checks every (5) years by our Administrative Investigations Unit.

All case records associated with sexual abuse allegations, e.g. Incident Reports, investigative reports, case dispositions, offender/victim information, medical/mental health findings

X. EFFECTIVE DATE:

This order becomes effective as of this date and supersedes all prior orders.

XI. BY DIRECTION OF THE CORRECTIONS BUREAU COMMANDER:

Procedures shall be used as a training tool and an operations guideline in order to provide consistency in job performance. However, procedures cannot anticipate every incident or situation. Employees must be prudent, use sound judgment, tact, and pay strict attention to detail in performing their duties, whether or not the duties are addressed in policies and procedures. All officers are completely responsible for the security of their assigned posts during their shift, and should be vigilant and alert to any potential security weaknesses they may observe throughout the jail complex.