

Training Bulletin

The Prison Rape Elimination Act (PREA) Professional Staff's Role June 2020

What is PREA?

The Federal Prison Rape Elimination Act (PREA) of 2003 provides guidelines to detect, prevent, identify and deter incidents of sexual misconduct of persons in custody. The law was enacted to establish a zero tolerance standard for incidents of sexual misconduct in prisons, jails, lockups and other confinement facilities.

How does this effect the Department?

The San Diego Sheriff's Department has a zero tolerance for all forms of sexual misconduct. Sexual misconduct includes but is not limited to sexual abuse and sexual harassment between detainees/inmates, volunteers, contractors, Sheriff's employees or any outside source. The zero tolerance on sexual misconduct applies to all facilities and programs providing services to clients under the jurisdiction of the San Diego Sheriff's Department. All allegations of sexual misconduct will be investigated. The department will impose appropriate disciplinary sanctions and initiate criminal charges against individuals who violate this policy.

Staff must be aware of relevant laws regarding reporting, the laws regarding sexual misconduct, and the consequences thereof. This training bulletin was established to ensure all professional staff, working in custody operations, to be in compliance with PREA.

Definitions

Sexual Misconduct: Any behavior or act of sexual nature, directed toward a detainee/inmate under the care, custody or supervision of the Department/collateral contract, by a detainee/inmate, volunteer, contractor, Sheriff's employee or any outside source. Sexual misconduct includes but is not limited to sexual abuse and sexual harassment.

Sexual Abuse:

Sexual abuse of an inmate by another inmate 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:

- Contact between the penis and the vulva or the penis and the anus.
- Contact between the mouth and the penis, vulva, or anus.
- Penetration of the anal or genital opening of another person by a hand, finger, object, or another instrument.
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person.

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

- Contact between the penis and the vulva or the penis and the anus.
- Contact between the mouth and the penis, vulva, or anus.
- Contact between the mouth and any body part where the staff member has the intent to abuse, arouse, or gratify sexual desire.
- Penetration of the anal or genital opening of another person by a hand, finger, object, or another instrument, that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire.

Training Bulletin

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- Any other intentional contact, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire.
- Any attempt, threat, or request by a staff member to engage in the above mentioned activities.
- Any display by a staff member their uncovered genitalia, buttock, or breast in the presence of an inmate.
- An invasion of privacy of an inmate by staff for reasons unrelated to official duties (voyeurism). This may include peering at an inmate who is using the toilet, requiring an inmate to expose their buttocks, genitals, or breasts, or taking images of all or part of an inmate's naked body or performing bodily functions.

Sexual Harassment: Includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature from one inmate directed toward another or by a staff member, contractor, or volunteer to an inmate. This includes demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

LGBTQ+: Acronym for a group of sexual minorities including those who identify as lesbian, gay, bisexual, transgender, questioning and the "+" includes all others within the spectrum.

How does this affect me?

As always, you will be required to display professionalism in the performance of your duties, be knowledgeable and resourceful, be diligent in your observations, and take actions to prevent and detect instances of sexual misconduct. Knowing what to do and following through on required actions is imperative. Knowing what to do before an incident happens will assist in maintaining the credibility of not only yourself, but that of your colleagues and the department.

Red Flags

Potential "Red Flags" that may indicate an inmate has been a victim, or at risk of, sexual misconduct from another inmate:

1. Self-isolation and avoiding staff members.
2. Attempting to spend more time around staff members if they are being threatened.
3. Trying to hide physical injuries.
4. Asking for repeated cell changes or refusing to cell up with other inmates.
5. Inmates pairing up that do not appear to belong together.
6. Inmates who have commissary or money could be victims of extortion in lieu of sexual favors.

Potential "Red Flags" that may indicate an inmate has been a victim of sexual misconduct by a staff member:

1. Drastic changes in the behavior of an inmate or staff member.
2. Staff member discusses too much personal information with an inmate.
3. Inmate spends too much time with a particular staff member.
4. An inmate uses a staff member's first name.
5. An inmate stands too close to a staff member while having a conversation.
6. Horseplay or over familiarity between a staff member and an inmate.
7. Too much personal knowledge of a staff member or their habits.
8. Rumors about a particular inmate and staff member.

Training Bulletin

The Prison Rape Elimination Act (PREA) Professional Staff's Role June 2020

9. Ignoring violations or being blind to a particular inmate's actions.
10. Receiving special favors from a staff member or inmate.
11. Possession of unusual contraband.
12. Staff member constantly frequents an area of a particular inmate.

Reporting Procedures

All staff members are required to immediately report any knowledge, suspicion, or information regarding an incident of sexual misconduct that occurred in a facility. In the event of a complaint of sexual misconduct, remain objective, take any allegation seriously and report the allegation to your supervisor immediately.

If a professional staff member, contractor, or volunteer witness or is told about sexual misconduct, they should immediately contact a sworn staff member. If the first responder is not a sworn staff member, the responder will be required to request the alleged victim not to take any actions that could destroy physical evidence, then notify sworn staff.

Both PREA and Department Policy have measures to ensure the rights of employees and inmates to be free of retaliation for reporting sexual misconduct.

Staff shall not reveal any information related to a sexual misconduct report to anyone other than to the extent necessary, as specified to make treatment and investigative decisions.

Sworn Response to Allegation of Sexual Misconduct

1. Separate the alleged victim and abuser.
2. Establish and secure crime scene perimeter.
3. Conduct a preliminary victim interview to obtain the elements of the crime.
4. Notify the Detentions Investigation Unit (DIU) to investigate and conduct criminal investigations.
5. Notify the Division of Inspection Services (DIS).

Administrative investigations will be handled by the Internal Affairs Division unless designated to be handled by the employees command. Administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse.

Staff could be subject to disciplinary sanctions up to and including termination for violating Department sexual misconduct policies. Termination will be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

Professionalism

As employees of the Sheriff's Department, we are expected to exude professionalism and respect in the course of our duties. Staff shall treat all inmates with respect and maintain professional positive interactions and effective communication with inmates. Deviation from equitable treatment can lead to criminal and civil liability as well as disciplinary action.

Remain professional and objective when communicating with LGBTQ+ inmates. Do not use derogatory language. Avoid stereotyping. Be aware of pronoun usage. Ask how they would like to be addressed. If you are uncomfortable or unsure of what pronoun to use, address by last name.

Training Bulletin

The Prison Rape Elimination Act (PREA) Professional Staff's Role June 2020

For more information on PREA, please review [Department P & P 6.127 Prison Rape Elimination Act \(PREA\)](#).

***** By clicking "Yes" on the next page, you acknowledge: I have reviewed the LMS presentation on the Prison Rape Elimination Act (PREA) enacted in 2003, which encompasses the subject of Sexual Abuse/Assault/Misconduct Prevention and Intervention Protocol. I understand that I am responsible for complying with these policies and procedures. Should I have any questions about this protocol, I will discuss them with my supervisor or the department PREA coordinator.**

This training bulletin was prepared by the Detention In-Service Training Unit (DTU) and the Division of Inspectional Services (DIS), with input from the Professional Staff Training Unit.