

3-04/025.00 Prison Rape Elimination Act of 2003 (PREA)-Background and Definitions

Background

The Prison Rape Elimination Act (PREA) of 2003 is a Federal law established to prevent, detect, respond, and monitor incidents of sexual abuse and sexual harassment in detention facilities. PREA applies to all federal, state, and local prisons, jails, police lock-ups, private facilities, and community settings such as residential facilities.

Definitions

Agency means the Los Angeles County Sheriff's Department.

Agency head means the Los Angeles County Sheriff.

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee means any person detained in a lockup, regardless of adjudication status.

Direct custody personnel supervision means that security custody personnel are in the same room with, and within reasonable hearing distance of, the resident or inmate.

Employee means a person who works directly for the agency or facility.

Exigent circumstances means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility head means the principal official of a facility.

Full compliance means compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming means a person whose appearance or manner does not conform to traditional

societal gender expectations.

Inmate means any person incarcerated or detained in a prison or jail.

Intersex means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail means a confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Lawenforcement custody personnel means employees responsible for the supervision and control of detainees in lockups.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- Under the control of a law enforcement, court, or custodial officer; and
- Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner means a health 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” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner means a mental health 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 mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Prison means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility means one that is primarily used for the confinement of juveniles or if the majority of the facility's residents are under the age of 18.

Security custody personnel means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Sexual abuse includes sexual abuse of an inmate, detainee, or resident by another inmate, detainee, resident, custody personnel 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:
 - Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
 - Contact between the mouth and the penis, vulva, or anus.
 - Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other 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, excluding contact incidental to a physical altercation.
- Sexual abuse of an inmate, detainee, or resident by a custody personnel member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:
 - Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
 - Contact between the mouth and the penis, vulva, or anus.
 - Contact between the mouth and any body part where the custody personnel member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
 - 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 custody personnel member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
 - 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 custody personnel member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
 - Any attempt, threat, or request by a custody personnel member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section.
 - Any display by a custody personnel member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident.
- Voyeurism (for sexual gratification) by a custody personnel member, contractor, or volunteer means, an invasion of privacy of an inmate, detainee, or resident by custody personnel 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.

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 by one inmate, detainee, or resident directed toward another;
- Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a custody personnel member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures; and
- The knowing, intentional refusal to address a transgender or intersex inmate by their gender identity, including the use of proper pronouns associated with their gender identity.

Custody personnel means employees.

Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

Unfounded allegation means an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Youthful inmate means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Youthful detainee means any person under the age of 18 who is under adult court supervision and detained in a lockup.

Zero Tolerance

Sexual abuse and sexual harassment shall not be tolerated at any custody facility operated by the Sheriff. Sexual abuse and sexual harassment by an employee, vendor, contractor, volunteer, inmate, or other non-Department member with a business association with the Department, shall be prohibited. No individual, no matter their title or position has the authority to commit or allow sexual abuse or sexual harassment of inmates. Under PREA and California law, inmates can never consent to sexual activity with custody personnel, vendors, contractors, or volunteers.

All allegations of sexual abuse and sexual harassment regardless of the source will be investigated promptly, thoroughly, and objectively.

In accordance with California Penal Code Section 673, Department personnel are required to care for and protect inmates remanded to the custody of the Sheriff. Violation of Penal Code 673 is a misdemeanor.

PREA Coordinator

The Department shall designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee the Department's efforts to comply with the PREA standards in all of its facilities within Custody Division.

PREA Compliance Managers

Each facility shall designate a supervisor, with the minimum rank of sergeant, with the collateral duty of PREA compliance manager. The PREA compliance manager will have sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards.

Data Collection and Review

In accordance with PREA standard 115.87, the Department shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control and 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 United States Department of Justice. This data is collected and stored in the LASD PREA Allegation Alert Database, which is managed by the Office of PREA Compliance.

Annually, the Department shall prepare a report, readily available on its public website, with an assessment of the effectiveness of the Department's sexual abuse prevention, detection, and response policies, practices, and training. This report shall also include findings and corrective actions for each facility as well as the Department as a whole.

Department's Approach to Prevention, Detection, and Response

The following pro-active measures have been implemented with the intent of establishing methods to prevent sexual abuse and sexual harassment. The following is a non-exhaustive outline of procedures. Personnel shall refer to applicable policies for full and complete procedures.

Sexual Abuse and Sexual Harassment Prevention

- When personnel learn an inmate is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the inmate
- In order to safely house inmates, they shall be pre-screened to assess their risk of being sexually abused and/or being sexually abusive towards other inmates
- Utilize a staffing plan that provides for adequate levels of staffing and video monitoring. Special consideration shall be given in areas where personnel may be monitoring inmates of the opposite

gender

- Establish separate holding areas for juveniles within station jails to prevent them from coming into contact with adult inmates
- Limit cross-gender viewing and searches
- 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 sexual harassment
- All facility and/or video monitoring system modifications may only be done after consulting with the Department's PREA coordinator to ensure such modifications comply with PREA standards.

Sexual Abuse and Sexual Harassment Detection

- All inmates shall be pre-screened to assess their risk of being sexually abused and/or being sexually abusive towards other inmates
- Inmates may report violations of this policy to any staff member verbally or in writing, through CrimeStoppers, the ACLU, the Office of the Inspector General, or through a third party
- LASD personnel have a responsibility to protect the inmates in their custody

Sexual Abuse and Sexual Harassment Response

- All sexual abuse and sexual harassment allegations are investigated promptly, thoroughly, and objectively
 - Personnel shall treat all persons in custody, including perpetrators, with respect and dignity.
 - Personnel shall immediately report any knowledge, suspicion, instances of retaliation, staff neglect or violation of responsibilities, or information regarding an incident of sexual abuse or sexual harassment that occurred in a jail or custody facility
 - Prevent further contact between victim and perpetrator by conducting housing changes or facility transfers.
 - Provide emotional support services to victims and/or personnel that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations
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