

3-04/025.45 Disciplinary Measures for Violating PREA Standards

During criminal and administrative investigations, investigators shall impose no standard higher than a preponderance of the evidence, or the greater weight of the evidence, in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Department employees, contractors, and volunteers who have been found to have substantiated allegations of sexual abuse of an inmate shall be investigated and reported to the appropriate law enforcement agency and to relevant licensing bodies (e.g., Commission on Peace Officers Standards and Training, State Bar of California, Contractor's State License Board, etc.), unless the incident was not criminal.

Department Employees

Department personnel shall be subject to disciplinary sanctions, up to and including termination, for violating the Department's sexual abuse and/or sexual harassment policies under the Prison Rape Elimination Act of 2003 (PREA). Disciplinary sanctions relating to sexual abuse or sexual harassment, other than engaging in sexual abuse, shall be commensurate with the nature and circumstances of the acts committed, the personnel's disciplinary history, and the sanctions imposed for comparable offenses by previous personnel with similar histories. Termination shall be the presumptive disciplinary sanction for Department personnel who have been found to have substantiated allegations of sexual abuse of an inmate. Refer to Manual of Policy and Procedures (MPP) sections [3-04/010.25](#), "Personnel Complaints," [3-04/020.05](#), "Initiation of Administrative Investigations," and [3-04/020.10](#), "Employee Relieved of Duty for Disciplinary Reasons."

Department personnel have a continuing affirmative duty to disclose any off-duty incidents where Department personnel have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; have been convicted, or have been civilly/administratively adjudicated of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. Refer to MPP section 3-01/050.30, "Off-Duty Incidents."

NOTE: Nothing in this policy is intended to limit a Department member's rights under the law.

Contractors and Volunteers

Any contractor or volunteer who is found to have engaged in sexual abuse or sexual harassment of an inmate shall be prohibited from any further contact with inmates.

Inmates

An inmate who is found to have engaged in inmate-on-inmate sexual abuse or sexual harassment shall be subjected to disciplinary procedures as outlined in CDM sections [5-09/010.00](#), "Inmate Discipline," through [5-09/070.00](#), "Inmate Discipline Schedule," and/or criminal charges based on the severity of the crime.

The degree of punitive actions taken shall be directly related to the severity of the violation, the inmate's disciplinary history, the inmate's mental health, as well as the punitive actions taken for comparable violations by other inmates with similar histories.

Inmates may be disciplined for filing a grievance related to alleged sexual abuse where the Department demonstrates that the inmate filed the grievance in bad faith, pursuant to CDM section [5-09/010.00](#), "Inmate Discipline." Inmates shall not be disciplined for making a report or reporting sexual abuse in good faith based upon a reasonable belief that the alleged incident occurred.
