



San Francisco Juvenile Probation Department

Juvenile Hall Policy and Procedures Manual

Chapter 5 - Youth Rights

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Policy Name:	Prison Rape Elimination Act (PREA)
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Related Policies and Procedures:	3.01 - Admission, Referral, Screening and Classification 3.05 - Orientation 3.06 - Screening for the Risk of Sexual Abuse
Related Forms:	5.07(a) – PREA Flow Chart
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I. POLICY

The San Francisco Juvenile Probation Department (JPD) is committed to providing a safe, humane, secure environment, free from sexual misconduct including sexual abuse and sexual harassment. This "zero tolerance" policy will be accomplished through education, prevention, detection, and the immediate and coordinated response and monitoring of any alleged misconduct. To accomplish this, the Department will designate a PREA Coordinator, make this policy publicly available on the Juvenile Probation Department website, and make the policy available to youth. [PREA Standards §115.311, 115.365, and 115.322]

All sexual misconduct is strictly prohibited and may result in administrative sanctions and/or a referral to local law enforcement and consideration by the District Attorney for criminal prosecution. This policy applies to residents, employees, volunteers, interns, and independent contractors.

II. PURPOSE

The Prison Rape Elimination Act of 2003 [PREA, 108-79] was enacted by Congress to address the problem of sexual abuse in all correctional facilities across the country including juvenile facilities. Specifically, the purpose of the Prison Rape Elimination Act is to:

- A. Make the prevention of prison rape a top priority in each prison system.
- B. Develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape.
- C. Increase the available data and information on the incidence of prison rape consequently improving the management and administration of correctional facilities.
- D. Standardize the definitions used for collecting data on the incidence of prison rape.
- E. Increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape.
- F. Protect the Eighth Amendment rights of federal, state, and local prisoners.
- G. Increase the efficiency and effectiveness of federal expenditures through grant programs such as those dealing with health care, disease prevention, crime prevention, investigation and prosecution, prison construction, maintenance and operation, race relations, poverty, unemployment, and homelessness.

- H. Reduce the costs that prison rape imposes on interstate commerce.

Similarly, the purpose of the California Sexual Abuse in Detention Elimination Act of 2005 is to:

- A. Protect all inmates and wards from sexual abuse.
- B. Make the prevention of sexual abuse a top priority.
- C. Ensure that data on sexual abuse is accurate and available to the public.
- D. Increase accountability for agencies to "prevent, reduce, and respond" to sexual abuse.
- E. Ensure compliance with PREA.

While the California Sexual Abuse in Detention Elimination Act is directed towards the Department of Corrections and Rehabilitation and does not specifically address city, county, or juvenile facilities, the San Francisco Juvenile Probation Department acknowledges the intent behind the legislation and will use it to further guide the implementation of the federal PREA Standards.

Definitions (PREA §115.5)

Compliance Manager	The facility head or designee responsible for ensuring that the facility is compliant with the PREA standards for Juvenile Facilities.
Contractor	A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
Employee	A person who works directly for the Juvenile Probation Department.
Exigent Circumstances	Any set of temporary and unforeseen circumstances that require immediate action to address an urgent health or safety concern or combat a threat to the security or institutional order of a facility.
Facility	A place, institution, building (or part thereof), set of buildings, structure, or area, whether or not enclosing a building or a set of buildings, that is used by an agency for the confinement of individuals. For our purposes, this will include Juvenile Hall.
Facility Head	The Director of Juvenile Hall, Acting Director, or principal official.

Full Compliance	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	A person whose appearance or manner does not conform to traditional societal gender expectations.
Intersex	A person who's 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	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	Any person under the age of 18 unless under adult court supervision and confined or detained in a prison or jail.
Juvenile Facility	A facility primarily used for the confinement of juveniles pursuant to the California Welfare and Institutions Code. This includes Juvenile Hall.
Medical Practitioner	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.
Mental Health Practitioner	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.
Pat Down Search	A running of the hands over the clothed body of a resident by an employee to determine whether the individual possesses contraband.
Resident	Any person confined or detained in a juvenile facility.

Secure Juvenile Facility	A juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. This applies to Juvenile Hall.
Security Staff	Employees who are primary responsible for the supervision and control of residents in housing units, recreational areas, dining areas, and other program areas of the facility.
Staff	Employees of the San Francisco Juvenile Probation Department.
Strip Search	A search that requires a person to remove or arrange some or all clothing to permit a visual inspection of the person's breast, buttocks, or genitalia.
Transgender	A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
Sexual Misconduct	Includes sexual abuse, voyeurism, and sexual harassment. See complete definitions of each of these terms below.
Substantiated Allegation	An allegation that was investigated and determined to have occurred.
Unfounded Allegation	An allegation that was investigated and determined not to have occurred.
Unsubstantiated Allegation	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	An individual who donates time and effort on a recurring basis to enhance the activities and programs of the Department.

Definitions Pertaining to Sexual Misconduct (PREA §115.6)

Sexual abuse of a resident by another resident includes any of the following acts, if the victim does not consent, is coerced into such an 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 a 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;
- 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 (A)-(E) 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 a resident, and;
- H. Voyeurism by a staff member, contractor, or volunteer.

Voyeurism means an invasion of privacy of a resident by a staff member, contractor, or volunteer for reasons unrelated to official duties such as peering at a resident who is using a toilet in his or her cell to perform bodily functions, requiring a resident to expose his or her buttocks, genitals, or breasts, or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

Sexual harassment includes:

- A. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another and/or
- B. Repeated verbal comments or gestures of a sexual nature to a resident by a staff member, contractor, or volunteer including demeaning references to gender, sexually suggestive, or derogatory comments about body or clothing, or obscene language or gestures.

III. PROCEDURES

A. Hiring and Promotions [PREA §115.317]

- i. The Juvenile Probation Department will not hire or promote anyone, or enlist the services of any contractor, who;
 - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
 - b. Has been convicted 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; or
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (A) (i) (b) of this section.
- ii. The Juvenile Probation Department will consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any

contractor, who may have contact with residents.

- iii. Before hiring new employees, who may have any contact with residents, Human Resources and/or the background investigator must:
 - a. Fingerprint applicants and utilize the California Department of Justice (DOJ) subsequent arrest notification system for all who are employed by the Department:
 - b. Perform a criminal background record check and;
 - c. Make its best efforts, consistent with Federal, State, and local law, to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse; and
 - d. Consult the Child Abuse Central Index (CACI) for full-time, peace officer candidates pursuant to California Penal Code section 11170(b)(8).
- iv. All applicants and employees who may have any contact with residents will be asked about previous misconduct described in paragraph (i) (a) of this section in written applications and/or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The Department will also impose upon employees a continuing affirmative duty to disclose any such misconduct.
- v. Material omissions regarding such misconduct, or the provision of materially false information, will be grounds for discipline up to and including termination.
- vi. Unless prohibited by law, it is the policy of the Department to provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

- vii. All peace officers are required to report any contact with other law enforcement agencies while on or off duty.
- viii. All contractors are required to conduct background checks on their employees.

B. Supervision and Monitoring [PREA §115.313]

i. Staffing Levels

The Director of Juvenile Hall will ensure the facility maintains staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which must be fully documented. Only Juvenile Hall staff will be included in these ratios.

ii. Cross Gender Viewing and Searcher (PREA §115.315)

- a. Juvenile Hall staff must not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- b. Juvenile Hall staff must not conduct cross-gender pat-down searches except in exigent circumstances.
- c. Juvenile Hall staff must document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.
- d. Juvenile Hall staff of the opposite gender must announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing except for situations where security and safety of residents requires no notice. This does not apply if a staff member of the opposite gender is already working in that area.

- e. Juvenile Hall staff must not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- f. The Department will train Juvenile Hall staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

iii. Compliance Manager and Facility Review

- a. The Director of Juvenile Hall or designee will be considered the PREA Compliance Manager and will work with the PREA Coordinator to ensure compliance with all relevant PREA Standards.
- b. Annually, the PREA Compliance Manager, in coordination with the PREA Coordinator, will assess the facility with documentation and determine whether adjustments are needed to:
 - 1. The staffing plan established pursuant to paragraph (a) of this section;
 - 2. Prevailing staffing patterns;
 - 3. The facility's deployment of video monitoring systems and other monitoring technologies; and
 - 4. The resources the facility has available to commit to ensure adherence to the staffing plan.

- c. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, it is the policy of the Department to consider the effect of the design, acquisition, expansion, or modification upon the Department's ability to protect residents from sexual abuse (PREA §115.318).
- d. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, it is the policy of the Department to consider how such technology may enhance the Department's ability to protect residents from sexual abuse (PREA §115.318).

iv. Unannounced Rounds

Juvenile Hall will implement a policy and practice of having a Senior Counselor, Officer of the Day (OD), or anyone acting as a supervisor, document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice will be implemented for the night shifts as well as day shifts. Juvenile Hall will have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

C. Training and Education

- i. Staff [PREA §115.331]
 - a. All staff who have direct contact with youth will receive PREA training during orientation. If unforeseen circumstances make it impractical to provide the PREA training before staff/employees begin working in the institution, it will be completed as soon as practicable. After the initial training, staff will take a refresher training every two years. In between trainings, any new information will be provided to staff/employees via email and/or printed handouts on an as-needed basis.

- b. All staff who have only incidental contact with youth, such as janitors, engineering, and administrative staff, will be given PREA training during orientation, barring unforeseen circumstances as described above.
 - c. All employees will be required to sign an Acknowledgement form indicating that they have read and understand the PREA Policy and Procedures.
 - ii. Volunteers, Interns, and Independent Contractors [PREA §115.332]
 - a. All volunteers, interns, and independent contractors (e.g., CBOs) must complete a PREA training course approved by the Department and present a written verification or certificate of completion in order to be admitted into Juvenile Hall. All volunteers, interns, and independent contractors (e.g., CBOs) will also be required to take a refresher training every 2 years or within 30 calendar days of the corresponding fiscal year. In between trainings, any new information will be provided to staff via email or printed handouts on an as-needed basis.
 - b. All volunteers, interns, and independent contractors (e.g., CBOs) will be required to sign an Acknowledgement form indicating that they have read and understand the PREA Policy. This will be kept in a file held by the PREA Coordinator.
 - iii. Youth In Custody [PREA §115.333]
 - a. All residents will receive documentation of their rights and responsibilities under PREA during intake and will sign a form acknowledging that they have received the information and know where to get further information. A copy of this form will be included in their file and the original will be kept in a file held by the PREA Coordinator. The document(s) will be in multiple languages for those who are not fluent in

English.

- b. Youth who are not fluent in English will be accommodated using multi-lingual texts, videos, and, if necessary, a translator and/or interpreter.
 - c. Within 10 calendar days of intake, youth will have a formal PREA training through a JPD PREA video followed by an opportunity to ask questions. The video will have both overdubbed translation and subtitles available to accommodate those not fluent in English and those who are visually or hearing impaired. In addition, a classroom curriculum will be given quarterly that integrates PREA into a broader talk about sexual health given in the Educational Center.
 - d. PREA posters will be placed in designated locations throughout the department including inside the Juvenile Hall.
 - e. Every effort will be made to accommodate youth with low literacy levels and/or other disabilities [PREA §115.316].
- iv. Specialized Training: Medical and Mental Health Staff (PREA v 115.335.1)
- a. The Department of Public Health, Special Programs for Youth (SPY) staff provide basic medical and behavioral health treatment for youth in Juvenile Hall. While they provide day to day care, they are not Sexual Assault Nurse Examiners (S.A.N.E.) or Sexual Assault Forensic Examiners (S.A.F.E.). All examinations, as a result of a sexual assault allegation, will be conducted by the Children's Advocacy Center of San Francisco (CAC) with the assistance of the San Francisco Police Department (SFPD) per the SFPD/CAC MOU. The CAC will ensure S.A.N.E.s or S.A.F.E.s are available for this purpose (per the CAC MOU signed May 14, 2014 and related protocols).

- b. The Department will maintain a relationship with the Department of Public Health's SPY staff to ensure that all medical and mental health care practitioners who work regularly in its facilities have been trained in:
 - 1. How to detect and assess signs of sexual abuse and sexual harassment;
 - 2. How to preserve physical evidence of sexual abuse;
 - 3. How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
 - 4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
- c. The Department will rely on SPY and CAC to maintain documentation that medical and mental health practitioners have received the training referenced in this standard.
- d. SPY staff will also receive the training mandated for employees under PREA §115.331 or for contractors and volunteers under PREA §115.332, depending upon the practitioner's status at the agency.

D. Intake, Screening and Classification

- i. Intake (PREA §115.333)

All youth in custody will receive documentation of their rights and responsibilities under PREA during intake and will sign the "PREA Information and Acknowledgement" form acknowledging that they have received the information and know where to get further information.

ii. Screening (PREA §115.341, §115.3811)

- a. Within 72 hours of the resident's arrival at the facility, the Department will obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident. This may be accomplished by the standard intake questionnaire, risk assessment, and medical screening. Additionally, staff will informally use any additional information gathered while the youth is in custody to update the original screening assessments.
- b. If the screening indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff must ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner (provided by SPY) within 14 calendar days of the intake screening.
- c. If the screening indicates that a resident has previously perpetrated sexual abuse or has a current or previous charge related to a sex crime, whether it occurred in an institutional setting or in the community, staff must ensure that the resident is offered a follow-up meeting with a mental health practitioner (provided by SPY) within 14 days of the intake screening.
- d. Any information related to sexual victimization or abusiveness that occurred in an institutional setting will be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
- e. As mandated reporters under California law, medical and mental health practitioners must report information about prior sexual victimization even if the alleged incident occurred outside of an institutional setting, unless the youth is over the

age of 18 years old, at which point informed consent from the youth must be obtained prior to such report.

iii. Classification (PREA §115.342)

- a. The Department will use all information obtained pursuant to §115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.
- b. Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, the Department will not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation will receive daily visits from a medical or mental health care clinician. Residents will also have access to other programs and work opportunities to the extent possible.
- c. It is the policy of the Department to ensure that lesbian, gay, bisexual, transgender, queer, or intersex residents will not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor will the Department consider lesbian, gay, bisexual, transgender, queer, or intersex identification or status as an indicator of likelihood of being sexually abusive.
- d. In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the Department will consider on a case-by-case basis whether a placement would enhance the youth's health and safety, and whether the placement would present management or security problems.

- e. Placement and programming assignments for each transgender or intersex resident will be reassessed at least twice each year to review any threats to safety experienced by the resident.
- f. Lesbian, gay, bisexual, transgender, queer, or intersex residents' own views with respect to his or her own safety and mental health must be given serious consideration. Changes to the standard showering, hygiene, and undergarment policies will be on a case-by-case basis.
- g. If a resident is isolated pursuant to paragraph (b) of this section, the Department will clearly document
 - 1. The basis for the Department's concern for the resident's safety; and
 - 2. The reason why no alternative means of separation can be arranged.
- h. Every 30 days, the Department will afford each resident described in paragraph (g) of this section a review to determine whether there is a continuing need for separation from the general population.

E. Reporting

All JPD employees, and all volunteers/contractors, are required to report any and all incidents of sexual misconduct or alleged sexual misconduct immediately to their supervisor or available manager. Any employee, upon receiving a written or oral complaint, allegation, or any notice whatsoever of conduct prohibited by this policy or of retaliation for reporting such conduct, including reports from a third party [PREA §115.354], will comply with the following protocol [PREA §115.361]:

- i. Staff First Responder Duties (PREA §115.3641)
 - a. Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report must separate the alleged victim and abuser;

- b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- c. Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating if the abuse occurred within a time period that still allows for the collection of physical evidence.
- d. Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating if the abuse occurred within a time period that still allows for the collection of physical evidence.
- e. If the first staff responder is not a Juvenile Hall staff member, the responder is required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify Juvenile Hall staff.

ii. Notice of Alleged Sexual Misconduct

Any sexual misconduct or alleged sexual misconduct will be immediately reported, verbally and in writing, using the JPD Complaint of Misconduct Form, to the reporting person's immediate supervisor. If the immediate supervisor is not available, the alleged act will immediately be reported to the next available supervisor or senior manager. An investigation will begin as soon as the complaint is received.

This includes any report made verbally, in writing, anonymously, and from third parties [PREA §115.351]. There is no time limit for grievances, reports, or complaints that include sexual abuse [PREA §115.352]. The investigation will be assigned to an investigator by the Chief Probation Officer, Assistant Chief Probation Officer, or the Director of Juvenile Hall.

iii. Failure to Report

Failure to make a report of an allegation or complaint of sexual misconduct may result in disciplinary action up to and including termination.

iv. Coordinated Response and Written Institutional Plan

The JPD will coordinate the investigation, services, and any follow up per the Written Institution Plan and the PREA Reporting Flow Chart (PREA Policy Appendix 2) [PREA §115.365].

v. Agency Protection Duties (PREA §115.362)

When the Department learns that a resident is subject to a substantial risk of imminent sexual abuse, it will take immediate action to protect the resident.

vi. Preservation of ability to protect residents from contact with abusers (PREA §115.3661)

- a. Neither the Department, nor any other governmental entity responsible for collective bargaining on the Department's behalf will enter into or renew any collective bargaining agreement or other agreement that limits the Department's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

vii. Resident Access to Outside Support Services and Legal Representation (PREA §115.353)

- a. The Department will provide residents with access to outside victim advocates for emotional support services related to sexual abuse by providing, posting, or otherwise making accessible mailing addresses and telephone numbers including toll free hotline numbers, where available, of local, State, or national victim advocacy or rape crisis organizations and for persons detained solely for civil immigration

purposes. The Department will enable reasonable communication between residents and these organizations and agencies in as confidential a manner as possible.

- b. It is the policy of the Department to inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- c. The Department will utilize the Department of Public Health and CBOs to provide residents with confidential emotional support services related to sexual abuse.
- d. The Department will also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

viii. Access to Emergency Medical and Mental Health Services
(PREA § 115.382)

- a. Resident victims of sexual abuse will receive timely unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
- b. Resident victims of sexual abuse while incarcerated will be offered timely information about, and timely access to, emergency contraception and sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
- c. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

- ix. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers (PREA §115.3831)
- a. The Department will offer medical and mental health evaluations and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
 - b. The evaluation and treatment of such victims will include, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
 - c. The Department will provide such victims with medical and mental health services consistent with the community level of care.
 - d. Resident victims of sexual abuse involving vaginal penetration while incarcerated will be offered pregnancy tests.
 - e. If pregnancy results from conduct specified in paragraph (d) of this section, such victims will receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.
 - f. Resident victims of sexual abuse while incarcerated will be offered tests for sexually transmitted infections, as medically appropriate.
 - g. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
 - h. The Department will attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health

practitioners.

x. Post-allegation Protective Custody (PREA §115.3681)

Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse will be subject to the requirements of PREA Standard 115.342.

xi. Retaliation [PREA §115.367]

Retaliatory measures against employees or residents who report incidents of sexual abuse will not be tolerated and will result in disciplinary action and/or criminal prosecution. Retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent an employee or resident from reporting the sexual abuse. It will be the responsibility of the PREA Coordinator to monitor and follow up with the victim(s) within 90 days to ensure no retaliation has occurred.

xii. Notification of Sexual Abuse to Parents or Guardian [PREA §125.362(e)]

- a. Upon receiving any allegation of sexual abuse, the facility head or his or her designee must promptly report the allegation to Child Protective Services and to the alleged victim's parents or legal guardians, unless the Department has official documentation showing the parents or legal guardians should not be notified.
- b. If the alleged victim, is under the guardianship of the child welfare system, the report will be made to the alleged victim's caseworker.

xiii. Exhaustion of Administrative Remedies (PREA §115.3523)

- a. The Department will not impose a time limit on when a resident may submit a grievance or complaint regarding an allegation of sexual abuse.

- b. The Department will not require a resident to use any informal grievance or complaint process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
- c. Nothing in this section shall restrict the Department's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.
- d. It is the policy of the Department that:
 - 1. A resident who alleges sexual abuse may submit a grievance or complaint, without submitting it to a staff member who is the subject of the complaint, and
 - 2. Such grievance or complaint is not referred to a staff member who is the subject of the complaint.
- e. Timeline for Decisions
 - 1. It is the policy of the Department to issue a final agency decision on the merits of any portion of a grievance or complaint alleging sexual abuse within 90 days of the initial filing of the grievance.
 - 2. Computation of the 90-day timeframe shall not include time consumed by residents in preparing any administrative appeal.
 - 3. The Department may claim an extension of time to respond of up to 70 days if the normal timeframe for a response is insufficient to make an appropriate decision. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.

- f. At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for a reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.
- g. Third Parties
 - 1. Third parties including fellow residents, staff members, family members, attorneys, and outside advocates are permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and are permitted to file such requests on behalf of the residents.
 - 2. If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the Department may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.
 - 3. If the resident declines to have the request processed on his or her behalf, the Department shall document the resident's decision.
 - 4. It is the policy of the Department to allow a parent or legal guardian of a juvenile to file a grievance or complaint regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance or complaint shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

h. Emergency Grievances

1. When there is a substantial risk of imminent sexual abuse, the Department will consider grievances to be "emergency" grievances such that immediate action will be taken to keep the resident safe including isolating the alleged perpetrator from the victim.
2. An Emergency Grievance will be forwarded to the Director of Juvenile Hall or designee.
3. It is the policy of the Department to provide an initial response to an Emergency Grievance within 48 hours and issue a final Agency decision within 5 calendar days. An administrative or criminal investigation may take additional time. However, the Department will provide a long term plan for a youth within the 5 days.
4. The agency may discipline a resident for filing a grievance or complaint related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

F. Investigations

- i. Once an incident is reported to JPD, a coordinated response will be activated per the PREA Reporting Flow Diagram and an administrative and/or criminal investigation will begin (PREA §115.365, §115.322(a)).
- ii. The Department will not terminate an investigation solely because the source of the allegation recants the allegation [PREA §115.371 (d)].
- iii. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be

determined by the person's status as resident or staff.
[PREA §115.371 (f)].

- iv. Administrative investigations will include an effort to determine whether staff actions or inactions contributed to the abuse and written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- v. The Department will retain all written reports for 5 years beyond the time the alleged abuser is incarcerated or ceases to be employed by the Department.
- vi. The departure of the alleged abuser or victim from the employment or control of the Department will not provide a basis for terminating an investigation.
- vii. SFPD will be the lead investigative agency for all criminal investigations at Juvenile Hall. The Department will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation (PREA §115.322(b)).
- viii. JPD reserves the right to conduct its own administrative investigation alongside any SFPD or other outside agency's criminal investigation.
- ix. If the incident reported was at another facility, the Department will contact the head of that facility as soon as reasonable, but no later than 72 hours after receiving the allegation, to inform them of the allegation. The Department will document that it has provided such notification (PREA §115.363).
- x. In the case of a sexual assault at Juvenile Hall, JPD will call SFPD and they will lead the investigation including coordination with CAC for emergency medical treatment and forensic medical examinations. JPD and/or SPY staff will accompany the youth to the CAC or San Francisco General Hospital (SFGH) as deemed appropriate in discussions with the CAC.
- xi. At the conclusion of any investigation, the complainant will be notified of the outcome of the investigation including the following [PREA §115.373]:

- a. If the accused is a staff member, the Department will advise the complainant:
 1. Whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
 2. Unless the Department has determined that the allegation is unfounded, the resident will be notified if/when the staff member is no longer posted within the resident's unit and/or no longer employed at the facility. In addition, if the department learns that the staff member has been indicted on a charge related to sexual abuse within the facility or has been convicted on a charge related to sexual abuse within the facility.
- b. If the accused is a resident, the Department will advise the complainant:
 1. Whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
 2. If the Department learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility or that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- c. If a staff member is the accused, the staff member will be informed of the outcome of the investigation once it has concluded.
- d. All notifications will be documented by the Department.

G. Sexual Assault Incident Review [PREA §115.386]

JPD will perform a Sexual Abuse Incident Review within 30 days of the conclusion of all PREA incidents to discuss the efficiency of the investigation,

learn from any mistakes, and review related policies and procedures to see if any changes are warranted. Membership for the review will include (at a minimum) the PREA Coordinator, the Director of Juvenile Hall, Juvenile Hall staff members, and Special Programs for Youth (Department of Public Health) staff. The Sexual Abuse Incident Review team will:

- i. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- ii. Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, queer, or intersex identification, status, or perceived status, or, gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility;
- iii. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- iv. Assess the adequacy of staffing levels in that area during different shifts;
- v. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- vi. Prepare a report of its findings including, but not necessarily limited to, determinations made pursuant to paragraphs (14)(a)-(14)(e) of this section, and any recommendations for improvement and submit such report to the Director of Juvenile Hall and PREA Compliance Manager.
- vii. The PREA Coordinator will be responsible for following through on recommendations or documenting why those recommendations were not implemented.
- viii. During Administrative Investigations, the Department will impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated [PREA §115.372].

H. Disciplinary Sanctions for Staff, Youth, Contractors and Volunteers

i. Disciplinary Sanctions for Staff (PREA §115.3763)

- a. Staff will be subject to disciplinary sanctions up to and including termination for violating the Department's sexual abuse or sexual harassment policies.
- b. Termination will be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- c. Disciplinary sanctions for violations of the Department's policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- d. All terminations for violations of the Department's sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

I. Disciplinary Sanctions and Interventions for Youth/Residents (PREA §115.378]

- i. A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
- ii. Any disciplinary sanctions will be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. In the event a disciplinary sanction results in the isolation of a resident, the Department will not deny the

resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation will receive daily visits from a medical or mental health care clinician. Residents will also have access to other programs and work opportunities to the extent possible.

- iii. The disciplinary process will consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
 - iv. If the Department offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the Department will consider whether to offer the offending resident participation in such interventions. The Department may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access general programming or education.
 - v. The Department may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
 - vi. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
 - vii. The Department prohibits all sexual activity between residents and may discipline residents for such activity. The Department will not, however, deem such activity to constitute sexual abuse if the activity is not determined to be coerced.
- J. Disciplinary Sanctions for Contractors and Volunteers (PREA §115.3771)

Any contractor or volunteer who engages in sexual abuse will be prohibited from contact with residents and will be reported to law enforcement agencies, and relevant licensing bodies, as required by law.

K. Data Collection and Retention

i. Data Collection (PREA §115.387)

- a. The Department will collect accurate uniform data for every allegation of sexual abuse at facilities under its direct control using the JPD Complaint of Misconduct Form. A copy of this form will be given to the PREA Coordinator to be placed in the PREA file.
- b. The Department will produce an annual report that aggregates data from the previous calendar year that will be made publicly available.
- c. Upon request, the Department will provide all such data from the previous calendar year to the DOJ no later than June 30.

ii. Data Review of Corrective Action [PREA §115.388]

- a. The Department will review data collected and aggregated pursuant to §115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
 1. Identifying problem areas;
 2. Taking corrective action on an ongoing basis; and
 3. Preparing an annual report of its findings and corrective actions for each facility, as well as the Department as a whole.
- b. Such report will include a comparison of the current year's data and corrective actions with those from prior years and will provide an assessment of the Department's progress in addressing sexual abuse.

- c. The Department's report will be approved by the Chief Probation Officer and made readily available to the public through the JPD's website.
 - d. The Department may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but will indicate the nature of the material redacted.
 - iii. Data Storage, Publication, and Destruction [PREA §115.3851:
 - a. The PREA Coordinator will keep a file on all reported incidents of sexual abuse/harassment. The PREA file will be secured and available only to the Chief and Division Directors.
 - b. The PREA coordinator will be responsible for preparing an aggregated PREA report for each calendar year. At a minimum, the report will contain aggregated information on PREA related incidents and will be posted on the JPD website for the public to review.
 - c. The PREA files will be kept a minimum of 10 years.

L. Audits

- i. Agency Responsibilities (PREA §115.393, §115.401, §115.4021)
 - a. The PREA Coordinator will be responsible for ensuring Juvenile Hall is audited once every three years. This includes finding a PREA auditor who meets the guidelines set forth in PREA §115.402 and has no conflict of interest working with the Department [115.403(a)]. The PREA Coordinator will work with the JPD Business and Finance division to select a qualified auditor using standard City procurement processes.

PREA Policy APPENDIX 1

JUVENILE HALL STAFF RESPONSE TO A PREA ALLEGATION

i. Counselors

a. Incident occurred less than 72 hours prior to report

1. Separate the victim and the accuser
2. Notify a senior counselor or Director of Juvenile Hall as soon as practical
3. Notify Medical and Behavioral Health Staff
4. Do not let the victim shower or brush their teeth
5. Secure any clothing that has been discarded
6. Secure the area where the alleged incident occurred
7. Get basic information such as who, what, when, where, and how but DO NOT interview or interrogate the victim or suspect

b. Incident occurred greater than 72 hours prior to report

1. Document statement from the alleged victim
2. Report the allegation to a senior counselor or the Director of Juvenile Hall
3. Notify Medical and Behavioral Health Staff
4. DO NOT interview or interrogate the victim or suspect

ii. Juvenile Hall Administration

- a. Notify the parents or legal guardians of the alleged victim
- b. Notify SFPD if/when appropriate
- c. Conduct an internal investigation of the incident. Collect all Incident Reports, Room Assignment Forms,

15 Minute Room Check Forms/data and any other pertinent information. Submit information and reports to the Chief Probation Officer, Assistant Chief Probation Officer, and the Director of Probation Services.

- d. Coordinate additional outside support/counseling services as needed.
- e. Debrief all staff involved.

iii. SPY Staff

a. Nurse / Medical

- 1. Medically assess the alleged victim for urgent medical needs without damaging possible forensic evidence
- 2. Notify the Director of SPY
- 3. Follow-up on any medical needs identified if the youth goes to the hospital or to CASARC

b. Behavioral Health

- 1. Provide crisis intervention to the victim
- 2. Notify the Medical Director
- 3. Coordinate with RN

INDEX OF PREA STANDARDS:

- 115.5 General definitions. Pg. 3-5
- 115.6 Definitions related to sexual abuse. Pgs. 5-6
- 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator. Pg. 1
- 115.312 Contracting with other entities for the confinement of residents. N/A - Does not Apply
- 115.313 Supervision and monitoring. Pg. 8-9
- 115.315 Limits to cross-gender viewing and searches. Pg. 8
- 115.316 Residents with disabilities and residents who are limited English proficient. Pg. 10
- 115.317 Hiring and promotion decisions. Pg. 7-8
- 115.318 Upgrades to facilities and technologies. Pg. 9
- 115.321 Evidence protocol and forensic medical examinations. Pg. 19
- 115.322 Policies to ensure referrals of allegations for investigations. Pgs. 1, 19
- 115.331 Employee training. Pgs. 9-11
- 115.332 Volunteer and contractor training. Pgs. 10
- 115.333 Resident education. Pgs. 10
- 115.334 Specialized training: Investigations. N/A - Does not Apply
- 115.335 Specialized training: Medical and mental health care. Pg. 11
- 115.341 Obtaining information from residents. Pg. 12
- 115.342 Placement of residents. Pgs. 12, 13, 16
- 115.351 Resident reporting. Pgs. 13-14
- 115.352 Exhaustion of administrative remedies. Pgs. 14, 17, 18
- 115.353 Resident access to outside support services and legal representation. Pg. 15
- 115.354 Third-party reporting. Pg. 13
- 115.361 Staff and agency reporting duties. Pgs. 13, 17
- 115.362 Agency protection duties. Pg. 14
- 115.363 Reporting to other confinement facilities. Pg. 19
- 115.364 Staff first responder duties. Pg. 13-14
- 115.365 Coordinated response. Pgs. 1, 14, 19
- 115.366 Preservation of ability to protect residents from contact with abusers. Pg. 15
- 115.367 Agency protection against retaliation. Pg. 16
- 115.368 Post-allegation protective custody. Pg. 16
- 115.371 Criminal and administrative agency investigations. Pgs. 19
- 115.372 Evidentiary standard for administrative investigations. Pgs. 21
- 115.373 Reporting to residents. Pg. 19-20
 - 115.376 Disciplinary sanctions for staff. Pg. 21
 - 115.377 Corrective action for contractors and volunteers. Pg. 22
 - 115.378 Interventions and disciplinary sanctions for residents. Pg. 21-22
- 115.381 Medical and mental health screenings; history of sexual abuse. Pg. 12
- 115.382 Access to emergency medical and mental health services. Pg. 15
- 115.383 Ongoing medical and mental health care for sexual abuse victims and abusers. Pg. 16
- 115.386 Sexual abuse incident reviews. Pg. 20
- 115.387 Data collection. Pg. 22
- 115.388 Data review for corrective action. Pg. 23
- 115.389 Data storage, publication, and destruction. Pg. 23
- 115.393 Audits of standards. Pg. 23
- 115.401 Frequency and scope of audits. Pg. 23
- 115.402 Auditor qualifications. Pg. 23
- 115.404 Audit corrective action plan. Pg. 24
- 115.405 Audit appeals. Pg. 24