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Implemented: 10/14  
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\_\_\_\_\_ PRISON RAPE ELIMINATION ACT COMPLIANCE \_\_\_\_\_

I. PURPOSE

- A. The purpose of this policy is to provide a program of education, prevention, detection, and investigation, in order to protect the inmate population from inmate or staff sexual assault and abuse, sexual misconduct, and sexual harassment.

II. POLICY

- A. It is the policy of the Mendocino County Sheriff's Office to maintain a zero-tolerance for inmate on inmate sexual assault and abuse, and staff sexual abuse, sexual misconduct, and sexual harassment toward inmates.
  - 1. This policy applies to all inmates and all persons employed by the Mendocino County Sheriff's Office, including volunteers and independent contractors.
- B. It is the policy of the Mendocino County Sheriff's Office to thoroughly investigate all inmate allegations of sexual abuse, and when warranted by evidence, to implement sanctions.
- C. It is the policy of the Mendocino County Sheriff's Office to maintain zero-tolerance for retaliatory actions against employees or inmates who report incidents of sexual abuse or misconduct. Retaliatory actions include, but are not limited to, threats of punishment, coercion, harassment, or any activity intended to discourage or prevent an inmate or employee from reporting the sexual abuse.
  - 1. Retaliation against individuals because of their involvement in the reporting or investigation of sexual abuse, sexual misconduct, or sexual harassment is prohibited.
- D. Any sexual activity between employees and inmates is in violation of Penal Code sections 262(5) and 289.6, and inconsistent with the

professional ethical standards and policies of the Mendocino County Sheriff's Office. All such allegations will be formally investigated by the Mendocino County Sheriff's Office Detective Bureau.

- E. All cases involving inmate sexual abuse, sexual misconduct, or sexual harassment shall be referred to the appropriate investigative unit, and if appropriate, such cases will be referred to the District Attorney for possible prosecution.
- F. Staff shall retain a professional demeanor and respect the dignity of alleged victims of sexual abuse and shall not discriminate in their response to inmates who are homosexual, bisexual, or transgender who report they have experienced sexual abuse.
- G. The Mendocino County Sheriff's Office shall post publicly on the departmental website and in the facility housing units and holding cells, the policy of documenting all referrals of allegations of sexual abuse or sexual harassment and referring them to an investigative unit to determine whether a crime has been committed.

### III. DEFINITIONS

- A. For clarity, the terms provided are in accordance with published PREA guidelines:
  - 1. Gender Identity - A person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.
  - 2. Gender Nonconforming – A person whose gender identity and/or expression do not conform to gender stereotypes generally associated with his or her birth sex.
  - 3. Intersex - A condition usually present at birth that involves reproductive, genetic, or sexual anatomy that does not seem to fit the typical definitions of male or female.
  - 4. PREA – Prison Rape Elimination Act
  - 5. Sexual Abuse – Encompasses inmate on inmate sexual abuse, inmate on inmate sexual harassment, staff on inmate sexual abuse, and staff on inmate sexual harassment
  - 6. Inmate on Inmate sexual abuse: Encompasses all incidents of inmate on inmate sexually abusive contact and inmate on inmate sexual penetration.
  - 7. Inmate on inmate sexually abusive contact: Non penetrating touching (either directly or through clothing) of the genitalia, anus,

groin, breast, inner thigh, or buttocks without penetration by an inmate of another inmate without the latter's consent, or of an inmate who is coerced into sexual contact by threats of violence, or of an inmate who is unable to consent or refuse.

- a) Inmate on inmate sexually abusive penetration: Penetration by an inmate of another inmate without consent, or of an inmate who is coerced into sexually abusive penetration by threats of violence, or an inmate who is unable to consent or refuse. The acts included are: Contact between the penis and the vagina or the anus
  - b) Contact between the mouth and the penis, vagina, or anus
  - c) Penetration of the anal or genital opening of another inmate by a hand, finger, or other object
8. Inmate on inmate sexual harassment: Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, or gestures or actions of a derogatory or offensive sexual nature by one inmate directed at another inmate.
9. Staff on inmate sexual abuse: All occurrences of staff on inmate sexually abusive contact, staff on inmate sexually abusive penetration, staff on inmate indecent exposure, and staff on inmate voyeurism. A staff solicitation of inmates to engage in sexual contact or penetration constitutes attempted staff on inmate sexual abuse.
10. Staff on inmate sexually abusive contact: Non-penetrative touching (either directly or through clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks by a staff member of an inmate with or without consent that is unrelated to official duties.
11. Staff on inmate sexually abusive penetration: Penetration by a staff member of an inmate with or without consent. The acts included are:
- a) Contact between the penis and the vagina or anus
  - b) Contact between the mouth and the vagina, penis, or anus;  
or
  - c) Penetration of the anal or genital opening of another person by a hand, finger, or other object.

12. Staff on inmate indecent exposure: The display by a staff member of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate.
13. Staff on inmate voyeurism: An invasion of an inmate's privacy by staff for reasons unrelated to official duties or when otherwise not necessary for safety and security reasons, such as peering at an inmate who is using a toilet in his or her cell; 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 and distributing or publishing them.
14. Staff on inmate sexual harassment: Repeated verbal comments or gestures of a sexual nature to an inmate by a staff member. Such statements include demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
15. Transgender - A term describing persons whose gender identity and/or expression do not conform to the gender roles assigned to them at birth

#### IV. STAFF TRAINING

- A. All employees who may have contact with inmates shall be trained on the Sheriff's Office zero tolerance policy for inmate sexual abuse and sexual harassment, to include instruction related to prevention, detection, response, and investigation.
- B. This training will be conducted during new employee orientation and refresher training.
- C. All contractors or volunteers who have contact with inmates shall be notified of the zero tolerance policy regarding inmate sexual abuse and sexual harassment and trained on their responsibilities regarding prevention, detection, and reporting.
- D. Mandatory initial training and refresher training will occur every two years and shall include the following subject matter:
  1. The Sheriff Office's zero-tolerance policy for sexual abuse and sexual harassment.
  2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response procedures and policies
  3. Inmates' right to be free from sexual abuse and harassment

4. The right of inmates and staff members to be free from retaliation for reporting sexual abuse or sexual harassment.
  5. The dynamics of sexual abuse and sexual harassment during confinement.
  6. The common reactions of sexual abuse or sexual harassment victims.
  7. How to react and respond to signs of threatened and actual sexual abuse.
  8. How to avoid inappropriate relationships with inmates.
  9. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates.
  10. How to comply with relevant laws related to the mandatory reporting of sexual abuse to outside authorities.
- E. Sheriff's Office training staff shall maintain documentation, verified by employee signature that each employee has received, and understands the training received as related to this policy.
- F. The Mendocino County Sheriff's Office shall ensure all volunteers and contractors who have contact with inmates receive documented training on their responsibilities under the department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
1. All volunteers and contractors who have contact with inmates shall be notified of the Sheriff's zero-tolerance policy regarding sexual abuse and sexual harassment and shall receive instruction on how to report such possible incidents.
  2. The Sheriff's Office shall retain documentation confirming that volunteers and contractors understand the training they receive.

## V. INMATE EDUCATION

- A. All inmates will be provided information explaining the zero tolerance policy regarding inmate sexual abuse and sexual harassment, and reporting procedure for instances or suspicions of sexual abuse or harassment through the Inmate Orientation Handbook and/or video.
- B. Appropriate provisions shall be made to ensure effective education for inmates who are not fluent in English, are deaf, visually impaired, or otherwise disabled, and inmates with limited reading skills.

- C. Signs with essential information and telephone numbers to anonymously report instances of sexual abuse shall be posted in designated locations throughout the facility.
- D. Comprehensive education shall be supplied to inmates during the physical examination provided by medical staff to inmates at approximately their fifteenth day in custody.
  - 1. As part of the physical examination, jail medical staff will interview inmates about previous abuse issues. (*See CFMG policy*).
- E. The Mendocino County Sheriff's Office shall ensure that inmates with disabilities or inmates with limited English proficiency have an equal opportunity to be free from sexual harassment and abuse. Qualified non-inmate interpreters shall be used to accurately communicate with inmates.
  - 1. In limited instances in which extended delay in obtaining an effective interpreter could compromise an inmate's safety, first responder duties, or investigation, an inmate interpreter can be used.

## VI. REPORTING

- A. All Mendocino County Sheriff's Office employees or any person having contact with inmates are responsible for confidentially reporting to the on-duty supervisor, any information that indicates an inmate is being, or has been sexually assaulted, or is a victim of retaliation for reporting abuse.
  - 1. Employees shall accept reports made verbally, in writing, anonymously, and from third parties.
    - a) All verbal reports shall be promptly documented.
    - b) Submitted written claims of sexual abuse shall immediately be provided to the on-duty supervisor.
- B. All allegations of inmate sexual abuse or harassment shall be treated with discretion and kept confidential to the extent possible. Apart from initial reporting to a supervisor, staff shall not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in this policy, to make treatment, investigative, or other security or management decisions.
  - 1. Corrections staff not comfortable with reporting incidents or violations of this policy to their immediate supervisor may bypass the chain of command, and report the allegation to any supervisor.

- C. Inmates may privately report sexual abuse, sexual misconduct, and sexual harassment; retaliation by other inmates or staff for reporting sexual abuse and sexual harassment; and staff neglect that may have contributed to an incident of sexual abuse to any employee, volunteer, or contractor. Additionally, inmates may report sexual abuse, harassment, or retaliation by writing to the Sheriff's Office Professional Standards Bureau.
  - 1. Inmates may leave an anonymous report by calling the Sheriff's Office Tip Line at (707) 234-2100.
  - 2. Inmates wishing to make a report of abuse to an agency other than the Sheriff's Office may call Project Sanctuary at (707) 462-9196 or the Mendocino County Crisis Line at (707) 463-HELP (4357).
    - a) The reporting information contained in sections 1 and 2 above, shall be posted in all facility housing units and holding cells, and listed in the Inmate Handbook.
- D. If an inmate reports having been sexually abused at another facility, the Corrections Division Commander shall notify the head of that agency in writing.
- E. If, after investigation it is determined that an inmate's allegations are false, the inmate may be subject to disciplinary action.

## VII. PROCEDURE

- A. The Facility Supervisor and/or Classification staff shall be immediately notified in the following circumstances:
  - 1. If an employee has a significant concern that, an inmate may be subject to sexual victimization.
  - 2. If an inmate displays predatory behavior.
  - 3. In either case, the staff member shall document the circumstances.
- B. All incoming arrestees shall be screened during the intake process and during the initial classification process to assess their history of having been sexually abused, the risk of being sexually abused by other inmates, and likelihood of being sexually abusive toward others.
  - 1. The Intake Classification Questionnaire shall be utilized to assess risk of sexual assault.
  - 2. If the incoming arrestee is unable or unwilling to provide responsive answers to questions at time of intake, the questions

shall be repeated and the form completed during the classification process prior to housing.

- a) As a part of the classification interview, the form shall be reviewed with the inmate for accuracy.
3. If an inmate discloses prior sexual victimization, whether in an institutional setting or in the community, a referral shall be made to the medical or mental health staff for follow up interview. If the abuse occurred in-custody, the inmate shall be segregated from other inmates pending booking.
    - a) Follow up classification review and documentation shall be completed by Classification staff within 48 hours. See Classification Policy 501.
    - b) All information will be forwarded to the PREA Coordinator for review and tracking.
  4. Inmates will be housed in accordance with the classification tree.
    - a) Inmates with a history of prior sexual victimization shall be initially classified as a victim potential and housed accordingly, pending thorough interview by classification staff.

## VIII. INVESTIGATION

- A. Immediately upon receiving a complaint of possible sexual abuse, sexual harassment, or retaliation, the shift supervisor shall conduct an interview with the victim to evaluate the validity of the complaint and determine the immediate protection needs of the inmate.
- B. The supervisor shall assure that all staff members interacting with the alleged victim display sensitivity to the emotional impact of the situation. Staff members will be advised that all incident specific information shall be treated as confidential and disclosure of the situation to other staff members shall be on a need to know basis as determined by the supervisor.
- C. If it is suspected that the abuse occurred within, a period of 18-24 hours, which still allows for the collection of physical evidence, corrections staff shall:
  1. Separate the alleged victim and abuser, if known.
  2. Seal and preserve the crime scene.

3. Direct the victim not to take any actions that could destroy physical evidence to the extent possible, including:
  - a) Showering or washing,
  - b) Brushing teeth,
  - c) Changing or removing clothes,
  - d) Using restroom facilities, or
  - e) Drinking or eating
- D. Corrections staff shall attempt to obtain the identity of the suspect and any possible witnesses, without overly interviewing the victim.
- E. Possible suspects shall not be interrogated unless unique circumstances make it unavoidable.
- F. The facility supervisor shall ensure that the victim is informed that his/her name will become a matter of public record, unless the victim specifically requests that it not become a matter of public record in accordance with PC 293(a).
  1. The advisement and victim's response shall be documented in the incident report;
  2. Or, if the victim chooses to have their name remain confidential, that information shall be clearly stated in all reports regarding the incident.
- G. Housing options, medical care, or investigation shall not be contingent on the victim's willingness to seek prosecution of the suspect.
- H. The shift supervisor shall immediately notify the on-duty patrol watch commander with the request for the Detectives Unit to assume responsibility for the sexual assault report.
  1. The shift supervisor, as soon as practical, shall notify the Jail Commander of the situation.
  2. The on-duty supervisor will coordinate the direction of corrections staff in cooperation with the investigative needs.
  3. The Sheriff's Detectives Unit or designated unit shall have the responsibility to:
    - a) Gather and preserve evidence.

- b) Notify the rape crisis center, if required.
  - c) Assure forensic medical examinations are offered/completed.
  - d) Assure the victim is accompanied by a victim advocate at all times.
  - e) Interview alleged victims, suspects, and witnesses.
  - f) Review suspect history.
  - g) Assess victim, witness, and suspect credibility.
  - h) Document related information, facts and findings.
  - i) Refer allegations to the District Attorney as appropriate.
  - j) Advise Corrections administration of the status of proceedings.
- I. Detective Unit personnel shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution.
  - J. Investigators shall conduct complete and thorough investigations, using all evidence, interviews with victims, suspects, and witnesses, as well as review prior complaints and reports of sexual abuse involving the suspect.
  - K. Administrative investigations shall include any determination as to whether staff actions or inactions contributed to the reported issue.
  - L. The assault / abuse victim shall receive timely, unimpeded access to emergency and follow up medical treatment, at no cost, regardless of his/her willingness to cooperate with investigative efforts.
    - 1. Victims of sexual abuse have the right to a victim advocate and victim support person, who will have access the victim at all reasonable hours as determined by the Jail Commander.
      - a) The advocate or support person shall be allowed to accompany the victim during any examinations and interviews as requested by the victim.
  - M. The Sheriff's Office shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control.
    - 1. Information on each incident will be collected using form SSV-IA, *Survey of Sexual Victimization* incident form.

2. Information collected shall be forwarded to the agency PREA coordinator. This data shall be securely retained.
3. Information from all inmate-involved sexual abuse or harassment incidents in the prior calendar year will be compiled into an annual report using form SSV-3, *Survey of Sexual Victimization, 2013*. The completed form will be submitted to the Sheriff for review.
  - a) Upon approval by the Sheriff, the report shall be readily available to the public upon request.
4. All documents pertaining to investigations shall be securely retained by Sheriff's Records for at least ten years.

## IX. REVIEWS

- A. The Corrections Division shall conduct an incident review following every sexual abuse incident involving persons in its custody. This review shall take place within 30 days of the conclusion of the investigation. The review team, composed of the PREA coordinator, Classification staff, medical and mental health staff, and a member of the public designated by the Sheriff, shall:
  1. Consider whether a change to policy or practice is necessary to better prevent, detect, or respond to sexual abuse.
  2. Consider if the event was motivated by race, ethnicity, gender identity, status or perceived status, gang affiliation, or was motivated by other group dynamics at the facility.
  3. Examine the area where the incident occurred to assess whether physical barriers helped enable the suspect.
  4. Assess the staffing levels in the area during different shifts.
  5. Assess whether video should be deployed or augmented in the area.
  6. Assess any changes in procedure or practices since the incident was first reported
  7. Prepare a report of its findings, including minimally, the team's findings in the specified areas of review and any recommendations for improvement. The report shall be submitted to the jail commander and forwarded to the agency PREA Coordinator.

## X. AUDITS

- A. The Mendocino County Jail shall be audited annually by the Agency PREA Coordinator to ensure the facility is maintaining compliance with PREA standards.
  - 1. The annual report will be compiled on the US Department of Justice form SSV-3, *Survey of Sexual Victimization, 2013*.
  - 2. The results of the audits will be documented via memorandum to the Sheriff via the chain of command.
- B. The jail facility shall be audited by an outside auditor who has been certified by the Department Of Justice, once every three years.
  - 1. During the audit, auditors shall have access to all areas of the facility, and be supplied any relevant documentation requested.
  - 2. The auditors shall have access to inmates, staff, and administrators. Staff will be expected to cooperate fully during the audit.

## XI. OTHER STAFF RESPONSIBILITIES

- A. PREA Coordinator
  - 1. Mendocino County Sheriff's Office shall have an assigned agency-wide PREA coordinator to develop, implement, and oversee agency compliance with PREA standards.
    - a) Unless designated otherwise, this responsibility is assigned to the Corrections Division Classification Supervisor.
    - b) At least once a year, or more often if needed, the Mendocino County Sheriff's Office administration, in consultation with the PREA coordinator, shall review, assess, and evaluate the effectiveness of the staffing plan, use of video and other monitoring device, and availability of resources to facilitate the staffing plan.
- B. Facility Supervisors
  - 1. Facility supervisors on all shifts shall make unannounced rounds through the facility to identify and deter staff sexual abuse and sexual harassment. Staff is prohibited from alerting other staff members that such rounds are occurring.
    - a) Correctional staff shall not perform cross gender strip searches or cross gender body cavity searches.

C. Correctional Staff

1. Correctional staff shall not perform cross gender strip searches or cross gender body cavity searches.
2. Correctional staff shall not observe inmates of the opposite gender in the act of showering, performing bodily functions, or changing clothes, except in exigent circumstances, or when such observation is incidental to routine cell checks.
3. Correctional staff shall not purposely observe or view the breasts, buttocks, or genitalia of inmates of the opposite gender except in exigent circumstances when incidental to routine cell checks.
4. Whenever any person enters a housing area of inmates of the opposite gender, such presence shall be announced to the inmate population in a manner to be heard throughout that entire housing unit.
5. Correctional staff shall not search or physically examine a transgender or intersex inmate for purpose of determining the inmate's genital status. A broader medical examination conducted in private by a medical practitioner may be utilized if conversations with the inmate or research of medical records are unsuccessful in determining such status.
6. Correctional staff shall receive training in the proper manner of conducting cross gender pat-down searches, and searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

XII. BACKGROUND CLEARANCES FOR STAFF AND VOLUNTEERS

- A. The Mendocino County Sheriff's Office shall not hire or promote any person who may have contact with inmates, nor shall it enlist the services of any contractor who, may have contact with inmates, who:
1. Has been adjudicated civilly or administratively of sexual abuse or harassment in any prison, jail, lockup, community confinement facility, juvenile facility, or other institution.
  2. 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.

- B. The Mendocino County Sheriff's Office shall consider any substantiated incidents of sexual harassment or sexual abuse in determining whether to hire or promote any person, or to enlist the services of any contractor or volunteer who may have contact with inmates.
1. As a part of any background investigation completed prior to hiring any new employee who may have contact with inmates, or enlisting the services of any contractor who may contact with inmates, the Mendocino County Sheriff's Office shall perform a criminal background records check and previous and current employer reference check
  2. The Mendocino County Sheriff's Office will make a good faith effort to contact all previous employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
  3. The Mendocino County Sheriff's Office shall either conduct criminal background checks of current employees and contractors who have contact with inmates at least every five years, or have in place a system for otherwise capturing such information.
  4. The Mendocino County Sheriff's Office shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in this policy, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as a part of reviews of current employees. Employees and applicants are required to disclose any such misconduct.
    - a) Material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination. Unless prohibited by law, the Mendocino County Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from any employer for whom such employee has applied to work.

### XIII. OTHER CONSIDERATIONS

- A. When designing or acquiring any new facility, and in planning any substantial expansion or modification of existing facilities, the Mendocino County Sheriff's Office shall consider the effect of the design, acquisition, expansion, or modification upon its ability to protect inmates and staff from sexual abuse.

1. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Mendocino County Sheriff's Office will consider how such technology may enhance its ability to protect inmates and staff from sexual abuse.
- B. Any contract with any other agency or facility for the purpose of confinement of inmates considered to be in legal custody of the Mendocino County Sheriff's Office shall contain the obligation of the entity to adopt and comply with PREA standards.
1. Contracts with other agencies shall contain the provision allowing the Mendocino County Sheriff's Office to monitor the entity's compliance with PREA standards.
- C. The Mendocino County Sheriff's Office shall maintain housing staffing levels in accordance with the departmental staffing plan, combined with video monitoring, to protect inmates from sexual abuse. The development, application, and documentation of efforts shall be contained in a written facility-staffing plan.