SUBJECT: PRISON RAPE ELIMINATION ACT -PREA

PURPOSE: The purpose of this policy is to provide guidelines (1) to assist in preventing, identifying, monitoring, and tracking all forms of sexual abuse in the juvenile facilities; (2) to ensure that staff, contractors, volunteers or persons providing services in Santa Clara County Probation juvenile facilities are trained to recognize such behaviors and take appropriate action; and (3) to ensure juvenile residents receive orientation and have a mechanism for reporting abuses.

POLICY: The Santa Clara County Probation Department is committed to providing healthy, safe and secure custodial care for its juvenile residents to include a zero tolerance standard towards all forms of sexual abuse, sexual harassment and staff sexual misconduct within its facilities and contracted programs in compliance with the Prison Rape Elimination Act of 2003.

This policy prohibits sexual contact, sexual harassment and acts of sexually abusive behavior among residents and/or between residents and staff, volunteers, contractors, interns or official guests/visitors, regardless of consensual status. The Department will immediately respond to allegations, fully investigate reported incidents, pursue disciplinary action, and refer for investigation and prosecution those who perpetrate such conduct.

PROCEDURAL GUIDELINES

GENERAL OVERVIEW
A. The Santa Clara County Probation Department will respond to, investigate the merits of all allegations, provide appropriate medical and mental health treatment, protect alleged victims and other residents from retaliation and future abuse, and support the prosecution of sexual abuse within its facilities.

B. The Department’s response to allegations of sexual abuse shall be guided by the following goals:
1. Protection of victims from further abuse, retaliation, or intimidation; Ensuring victims have immediate access to medical, mental and advocacy services;
2. Protection of staff against false accusations of abuse through fair, thorough, accurate and impartial investigations;
3. Support for victims so that reporting of sexual abuse is not deterred;
4. Preservation of the integrity of criminal and personnel investigations; and
5. A fair and just resolution of allegations

C. Through continual education of staff and clients/residents, the Department will increase awareness of safe reporting mechanisms and available services to victims, thereby creating an institutional culture that discourages sexual abuse.

D. It shall be the policy of the Probation Department to maintain and promote facilities that provide the highest quality of services to victims of sexual abuse regardless of their actual or perceived sexual orientation or gender identity. LGBTI youth confined at both facilities shall receive fair and equitable treatment, without bias and in a professional and confidential manner based on principles of sound professional practices.

E. The Department will provide multiple internal mechanisms for residents to report easily, privately and securely sexual abuse, sexual harassment, staff sexual misconduct, neglect, retaliation or violation of responsibilities that may have contributed to an incident of sexual abuse.

F. All Department institution staff must understand their responsibility in the prevention, detection and reporting of all incidents of sexual abuse, sexual harassment and staff sexual misconduct. Trained staff will help prevent incidents of sexual abuse by following policy, procedures and guidelines during the performance of their duties; ensure the timely reporting of incidents when they occur, and assist in providing immediate treatment for victims, including those who are deaf, hard of hearing, blind, visually impaired, as well as, those who have intellectual, psychiatric or speech disabilities.

G. Through objective screening, assessment and classification, the Department will identify opportunities for placement of residents in housing, programming education, and work assignments by separating and carefully monitoring both sexually aggressive and vulnerable clients/residents to reduce the incidence of sexual abuse.

H. The Department requires that all residential programs contracting with this department are committed to the elimination of sexual abuse in their programs by adopting policies and procedures consistent with this department policy and PREA.

I. To ensure continuous quality improvement in policies, procedures and practices toward a zero tolerance standard, the Department will collect data, review all sexual abuse incidents, facilitate identification of causal factors and pursue corrective action.

PREA POLICY DEFINITIONS

A. **Body Cavity** - shall be defined in accordance with California Penal Code Section 4030, and as stipulated under Juvenile Hall Policy and Procedures Manual, Part 09, Section 09.05
B. **Searches** - and Ranch Policy and Procedures Manual, Part 04, Section 04.04 - Search Policy

C. **Contractor** - A person who provides services pursuant to a contractual agreement with the Department

D. **Department** - Refers to the Santa Clara Probation Department

E. **Direct Care Staff** - Any employee primarily responsible for the supervision and control of residents in housing units, recreational areas, dining areas, and other program areas of the facility. This includes Probation and Group Counselor series positions.

F. **Discrimination** - Means any practice that penalizes or disadvantages youth based on their sexual orientation or gender identity.

G. **Facility** - A place, institution, building (or part thereof) set of buildings, structure or area that is used by the Department for the confinement of juveniles.

H. **Garrity Warning** - Informs staff that their answers to questions during internal affairs investigation will not be used against them in a criminal prosecution (Garrity v. New Jersey).

I. **Gender identity** - A person’s internal, deeply felt sense of being male or female, regardless of the person’s sex at birth.

J. **Gender nonconforming individual** - A person whose appearance or manner does not conform to traditional societal gender expectations.

K. **Harassment** - Includes name-calling, slurs, disrespectful gestures, being joked about, being picked on, being touched or stared at, being labeled abnormal, sinful or sick, being approached for sex and being told one can or should choose to not be LGBT. Attempting to change a youth’s sexual orientation or gender identity is a form of harassment.

L. **Institution Staff** - Any paid employee of the Department who works directly for juvenile facilities.

M. **Isolation** - Shall be defined in accordance with the definition as noted in Juvenile Hall Policy and Procedures Manual, Part 4, Section 4.04 - Isolation.

N. **Intersex** - A condition usually present at birth that involves reproductive, genetic, or sexual anatomy that does not seem to fit the typical definitions of a male or female.
O. **LGBTI** - Means youth who have identified themselves as lesbian, gay, bisexual, transgender or intersex it is unacceptable to use a slur in referring to a young person’s sexual orientation because of his/her appearance even when it is acknowledged that the youth is not LGBTI.

P. **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. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Q. **Over-familiarity** - Means Staff /Contractor / Vendor /Volunteer / Intern etc. engaging in or attempting to engage in conduct, likely to result in intimacy or a close personal relationship with a resident/youth. Examples include Flirting with each other; exchanging personal letters or gifts; requests or granting of special favors; discussing personal matters with residents/youth; horseplay etc.

R. **Pat-down Searches** - Shall be defined in accordance with California Penal Code Section 4030, and as stipulated under Juvenile Hall Policy and Procedures Manual, Part 09, Section .9.05; and Ranch Policy and Procedures Manual, Part 05, Section 05.08.

S. **Physical Body Cavity Search** - Shall be defined in accordance with Section 4030 of the California Penal Code, and as stipulated under Juvenile Hall Policy and Procedures Manual, Part 09, Section 09.05, and Ranch Policy and Procedures Manual, Part 05, Section 05.08.

T. **PREA Compliance Manager** - A facility designee with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards. The PREA compliance manager need not be “upper-level,” but should have access to facility staff, managers, and supervisors in order to guide implementation within the facility.

U. **PREA Program Coordinator** - Senior level position that reports directly to the Deputy Chief of Probation for Institutions. The PREA coordinator’s responsibilities include developing, implementing and overseeing the Department’s plan to comply with the PREA standards.

V. **PREA Standards** - Guidelines established by the U.S. Department of Justice to ensure the compliance of the prevention, detection, response, monitoring, and eradication of sexual abuse and harassment in institutions.

W. **Prison Rape Elimination Act (PREA)** - Federal legislation enacted in 2003 that supports the elimination, reduction and prevention of sexual assault and rape within corrections systems. It applies to all federal, state, and local prisons, juvenile facilities, police lock-ups, private facilities and community settings such as residential facilities.

X. **Probability For Sexual Aggression/Susceptibility to Sexual Victimization (PSA/SSV)** - An objective screening that aims to identify individuals during the intake process who are at risk of sexual victimization or abusiveness.
Y. **Resident** - Any person booked into a juvenile facility, or committed by the juvenile court and confined or detained in a juvenile facility.

Z. **Service Providers** - This term includes contracted persons, volunteers, interns, or other vendors providing service in the Department's juvenile facilities.

AA. **Sexual Abuse** - Includes incest, sexual molestation, exhibitionism, and other acts of sexual exploitation carried out toward a child or adult against that person's will. Such abuse may be non-physical. Sexual abuse encompasses (1) resident on resident sexual abuse (2) resident on resident sexual harassment (3) staff on resident sexual abuse (4) staff on resident sexual harassment.

BB. **Sexual Assault Response Team (S.A.R.T.)** - A team that is responsible for coordinating responses and follow-up to special incidents of youth sexual abuse. Team is also responsible for providing sexual abuse sensitivity training to staff.

CC. **Sexual Abuse of a resident by another 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:

DD. **Sexual Contact** - Shall include, but not limited to carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling or molestation of a person (doesn't matter whether or not it's against their will), rape or otherwise sexually exploiting another person. Sexual contact between residents is prohibited and is deemed to be non-consensual and, therefore, deemed sexual misconduct.

EE. **Sexualized conversations** - Verbal and non-verbal communications and demeanor which can take place between people, and which can include sexual jokes, innuendos, sexual references, and/or banter in which sexual topics are openly discussed.

FF. **Sexual Harassment** - Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, or gestures of actions of a derogatory or offensive sexual nature by a staff, contractor, volunteer, intern or official guest/visitor to a resident or by one resident toward another resident. Such statements include demeaning references to gender, sexually suggestive or derogatory comments about clothing, or profane or obscene language or gesture.

GG. **Supervision Staff** - Means employee primarily responsible for the supervision and control of residents in housing units, recreational areas, dining areas, and other program areas of the facility. This includes Probation and Group Counselor series.

HH. **Staff/Employee** - Any paid worker of the Department.
II. **Staff Sexual Misconduct** - Any behavior or act of sexual nature, either consensual or non-consensual, directed toward a juvenile resident by an employee/staff, volunteer, official visitor, or intern. Such acts include intentional touching of the genitalia, groin, anus, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire, and occurrences of indecent exposure, invasion of privacy, or voyeurism for sexual gratification. Completed, attempted, threatened, or requested sexual acts are included.

JJ. **Strip Search** - Shall be defined in accordance with Section 4030 of the California Penal Code, and as stipulated under Juvenile Hall Policy and Procedures Manual, Part 09, Section 09.05 - Searches, and Ranch Policy and Procedures Manual, Part 05, Section 05.07 - Search Policy.

KK. **Substantiated Allegation** - An allegation that was investigated and determined to have occurred.

LL. **Terms** - Terms that are defined in Juvenile Hall and Ranch Policy and Procedures Manual, “Definitions” shall have the meanings assigned to them in that policy, unless a contrary meaning is clearly intended.

MM. **Transgender** - A term describing persons whose gender identity and/or expression do not conform to the gender roles assigned to them at birth.

NN. **Unfounded Allegation** - An allegation that was investigated and determined NOT to have occurred.

OO. **Unsubstantiated Allegation** - An allegation that was investigated and there was insufficient evidence to make a determination as to whether or not the event occurred.

PP. **Victim Advocate** - An individual, who may or may not be affiliated with the Department, who provides victims with a range of services during the forensic exams and investigatory process. Services may include emotional support, crisis intervention, information and referrals, and advocacy to ensure victims’ interests are represented, their wishes respected, and their rights upheld.

QQ. **Visual Body Cavity Search** - Shall be defined in accordance with Section 4030 of the California Penal Code, and as stipulated under Juvenile Hall Policy and Procedures Manual, Part 09, Section 09.05.

RR. **Volunteer** - An individual who donates his or her time and effort on a recurring basis to enhance the activities and programs of the Department.

SS. **Voyeurism by staff member, contractor, volunteer, intern, or official guest/visitor** - Means an invasion of privacy of a client/resident by staff for reasons unrelated to official duties, such as peering at a client who is using a toilet to perform bodily functions; requiring a client to expose his or her buttocks, genital, or breasts; or taking images of all or part of a client’s naked body or of a client performing bodily functions.
**Zero Tolerance Policy** - Means by policy and practice the Department will not tolerate resident sexual abuse of any kind in its facilities or in the community. All incidents of sexual contact, sexual abuse, sexual harassment and sexual misconduct within its facilities shall be reported and investigated and, if applicable, criminal charges may be filed. Disciplinary sanctions and penalties shall apply to any violation of the policy to reinforce importance and deterrence. Consensual sex between juvenile residents is not allowed in facilities and will be addressed by facilities’ disciplinary process.

**Sexual Abuse of a resident by a staff member, contractor, volunteer, intern, official guest/visitor** includes any of the following acts, with or without consent of the client:

1. Contact between the penis and the vulva or the penis and the anus
2. Contact between the mouth and the penis, vulva, or anus
3. Penetration of the anal or genital opening of another person, however slight, by hand, finger, object or other instrument; and
4. 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
5. Contact between the penis and the vulva or the penis and the anus
6. Contact between the mouth and the penis, vulva, or anus
7. 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
8. 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, volunteer, intern or official guest/visitor has the intent to abuse, arouse or gratify sexual desire;
9. 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, volunteer, intern, or official guest/visitor has the intent to abuse, arouse, or gratify sexual desire;
10. Any attempt, threat, or request by a staff member, contractor, volunteer, intern, etc. to engage in the activities described in items (1) – (v) of this section;
11. Any display by a staff member, contractor, volunteer, intern, or official guest/visitor of his or her uncovered genitalia, buttocks, or breast in the presence of a client and/or
12. Voyeurism by staff member, contractor, volunteer, intern, or official guest/visitor.

**STRATEGIES AND RESPONSES TO REDUCE AND PREVENT SEXUAL ABUSE AND SEXUAL HARASSMENT OF RESIDENTS:**

A. The Department’s strategies to prevent, detect, reduce and respond to sexual abuse and sexual harassment of residents are outlined under the following broad headings:
1. Prevention Planning;
2. Responsive Planning;
3. Training and Education;
4. Screening For Risk of Sexual Victimization and Abusiveness;
5. Reporting Procedures;
6. Official Response to Resident Reporting, including Coordinated Response;
7. Investigations;
8. Discipline;
9. Medical and Mental Care;
10. Data Collection and Review;
11. Audits and Corrective Action.

PRISON RAPE ELIMINATION ACT NATIONAL STANDARDS – JUVENILES:
A. PREA POLICY GUIDE:

1. PREA Reference Guidelines

Prevention Planning - Juvenile Facilities
§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
§ 115.312 Contracting with other entities for the confinement of residents
§ 115.313 Supervision and monitoring
§ 115.314 Reserved
§ 115.315 Limits to cross-gender viewing and searches
§ 115.316 Residents with disabilities and residents who are limited English proficient
§ 115.317 Hiring and promotion decisions
§ 115.318 Upgrades to facilities and technologies

Responsive Planning - Juvenile Facilities
§ 115.321 Evidence protocol and forensic medical examinations
§ 115.322 Policies to ensure referrals of allegations for investigations

Training and Education - Juvenile Facilities
§ 115.331 Employee training
§ 115.332 Volunteer and contractor training
§ 115.333 Resident education
§ 115.334 Specialized training: Investigations
§ 115.335 Specialized training: Medical and mental health care

Screening for Risk of Sexual Victimization and Abusiveness - Juvenile Facilities
§ 115.341 Obtaining information from residents
§ 115.342 Placement of residents in housing, bed, program, education, and work assignments
§ 115.343 Reserved

Reporting - Juvenile Facilities
§ 115.351 Resident reporting
§ 115.352 Exhaustion of administrative remedies
§ 115.353 Resident access to outside support services and legal representation
§ 115.354 Third-party reporting

Official Response Following a Resident Report - Juvenile Facilities
§ 115.361 Staff and agency reporting duties
§ 115.362 Agency protection duties
§ 115.363 Reporting to other confinement facilities
§ 115.364 Staff first responder duties
§ 115.365 Coordinated response
§ 115.366 Preservation of ability to protect residents from contact with abusers
§ 115.367 Agency protection against retaliation
§ 115.368 Post-allegation protective custody

Investigations - Juvenile Facilities
§ 115.371 Criminal and administrative agency investigations
§ 115.372 Evidentiary standard for administrative investigations
§ 115.373 Reporting to residents

Discipline - Juvenile Facilities
§ 115.376 Disciplinary sanctions for staff
§ 115.377 Corrective action for contractors and volunteers
§ 115.378 Interventions and disciplinary sanctions for residents

Medical and Mental Care - Juvenile Facilities
§ 115.381 Medical and mental health screenings; history of sexual abuse
§ 115.382 Access to emergency medical and mental health services
§ 115.383 Ongoing medical and mental health care for sexual abuse victims and abusers

Data Collection and Review - Juvenile Facilities
§ 115.386 Sexual abuse incident reviews
§ 115.387 Data collection
§ 115.388 Data review for corrective action
§ 115.389 Data storage, publication, and destruction

Audits - Juvenile Facilities
§ 115.393 Audits of standards

Auditing and Corrective Action - Juvenile Facilities
§ 115.401 Frequency and scope of audits
§ 115.402 Auditor qualifications
§ 115.403 Audit contents and findings
§ 115.404 Audit corrective action plan
§ 115.405 Audit appeals

PREVENTION PLANNING:
I. 115.311 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator:

A. The Santa Clara County Probation Department has a written policy mandating zero tolerance toward all forms of sexual abuse, sexual harassment and staff sexual misconduct. The Department enforces this policy by ensuring its facilities (Juvenile Hall and the James Ranch) and programs providing services to residents comply with all applicable PREA standards. This policy prohibits sexual contact and acts of sexually abusive behavior, including sexual harassment among residents and/or between residents and staff, volunteer, contractor, intern or official guest/visitor, regardless of consensual status.

B. Existing policies that reinforce and complement the Zero Tolerance Policy as they relate to staff behavior include Administration Policy and Procedures Manual, Part 200, Section 220 - Code of Ethical Conduct; Juvenile Hall Policy and Procedures Manual, Part 01, Section 1.05 - Code of Ethical Conduct, and Part 01, Section 1.06 - Staff Conduct; Ranch Policy and Procedures Manual, Part 01, Section 01.03 - Responsibilities and Relationships, Part 01, Section 01.04 - Probation Department Code of Ethical Conduct and Part 02, Section 02.03 - Guidelines for Conduct of Staff. These policies variously establish specific expectations for staff behavior as related to their responsibilities, among which include, but are not limited to, the following:

1. Staff shall conduct themselves in a professional manner and as role models for residents/minors at all times.
2. Staff are prohibited from using profanities, obscene and derogatory language.
3. Staff shall maintain confidentiality of residents’ criminal charges, convictions, medical and mental health history.
4. Staff are prohibited from maintaining contact or developing social relationships with residents upon their release.
5. Staff shall treat all residents/minors and their family with respect and dignity and remain objective, fair and consistent when interacting with them.

C. The Department Zero Tolerance Policy on sexual abuse, sexual harassment and sexual misconduct is a complement to, not a substitute for, the existing County-wide policy on Sexual Harassment.

D. Consensual Sexual Relationships:

1. Consensual sexual relationships between residents are against policy. Residents who engage in these relationships will be charged with major infraction with appropriate sanctions. Even though these relationships may be something that is desired by both parties, they present medical and psychological issues which compromise residents’ safety. The spread of sexually transmitted diseases, jealousy between participants and from other residents and other issues make consensual sex a threat to everyone’s safety. Additionally, a consensual relationship can end, but in the close confines of a facility setting, the individual cannot get away from each other. This may cause feelings of fear, anxiety or anger, and may create situations of sexual assault and other forms of violence.

E. Non-Discriminatory, Developmentally-Sound Treatment of Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Youth:
1. It is the policy of the Probation Department and its juvenile institutions to establish operational guidelines and training to respond to the gender identity and sexual orientation of the youth in our care. Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) youth shall receive fair and equitable treatment without bias. LGBTI youth shall be safe and accepted and not treated as abnormal or bad. The Department recognizes that LGBTI youth are in the midst of adolescent development and have complex needs that require the sensitivity and awareness of well-trained staff in performing their duties without bias toward or criticism or judgment of LGBTI youth. The Department’s policy on LGBTI youth is enunciated in this Administration Policy and Procedures Manual, Part (600), Section (601).

F. In compliance with PREA Standards, the Department will use an objective screening instrument to determine vulnerability for victimization and/or sexually aggressive behavior. Additionally, the intake screening officer shall ascertain any gender-nonconforming appearance and consider whether the resident is or is perceived to be LGBTI; the youth’s perception of his or her own vulnerability, and any additional information that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents. Probation facilities will not place LGBTI youth in particular housing, bed, or other assignments solely on the basis of such identification nor consider LGBTI as an indicator of likelihood of being sexually abusive.

1. In deciding whether to assign a transgender or intersex youth to a particular unit for male or female residents, and in making other housing and programming assignments, each facility will consider (on a case-by-case basis) whether a placement would ensure the youth’s health and safety and whether the placement would present management or security problems. The transgender or intersex youth’s own view with respect to his or her own safety shall be given serious consideration.

2. Each facility will ensure that transgender and intersex youth shower separately from other residents. Each facility will reassess these placement and programming assignments for transgender and intersex youth periodically, but not less than two times annually.

3. If a youth is isolated due to the risk of sexual victimization, each facility shall follow the policy guidelines on Isolation or separation as spelled out in its Policy and Procedures Manual.

II. PREA Program Coordinator:

A. The Santa Clara County Probation Department has a senior level designated PREA Program Coordinator and two Compliance Managers. The PREA coordinator and the compliance managers, report directly to the Deputy Chief Probation Officer for Institutions. The duties of the PREA Coordinator shall include the following:
1. Develop, implement and oversee the Department’s efforts to comply with the PREA standards for both Juvenile Hall and the Ranch.
2. Serve as the Department’s expert regarding PREA standards, implementation and monitoring.
3. Be a resource for each facility’s PREA Compliance Manager when a PREA or sexual abuse related questions arise.
4. Ensure the consistent and sufficient adherence to the standards for prevention, detection and response to sexual abuse.
5. Ensure all staff, volunteers, contractors, interns, and visitors are trained regarding sexual abuse, sexual harassment and sexual misconduct.
6. Review incident reports and allegations of sexual abuse to ensure the matter is referred to the Sheriff’s Office for investigation.
7. Review new policies and procedures to ensure consistency with PREA standards.
8. Conduct an annual review of policies and procedures to ensure compliance with PREA Standards.
9. Coordinate the Department’s data collection efforts as well as the PREA audit function.
10. Coordinate the Department’s PREA audit functions

III. **PREA Compliance Manager:**
A. The PREA Compliance Managers shall be the Probation Manager or his or her designee for the Ranch and the Probation Manager (Control Section) or his or her designee for Juvenile Hall. The responsibilities of the Compliance Manager shall include the following:

   1. Provide oversight of designated facility’s implementation and compliance efforts as they relate to PREA standards.
   2. Coordinate and communicate on a regular basis with the PREA Coordinator as to the facility’s compliance with PREA standards.
   3. Responsible for hands-on involvement with auditors conducting reviews at their facility and for developing corrective action plans necessary as a result of the audit report.
   4. Responsible for ensuring all PREA training is conducted for facility staff and that all staff have been properly trained on PREA prior to their interaction with residents.
   5. Responsible for ensuring that residents have access to information regarding PREA, the Department’s zero-tolerance policy on, sexual abuse and sexual harassment, and that information is readily available to residents if they need to report any incident.
   6. Responds and or reviews all reported sexual related incidents i.e., grievances, sick call slips and verbal reports; and
   7. Conducts fact finding on alleged sexual abuse or sexual harassment in respective facility.
   8. Responsible for ensuring confidentiality of reported information and monitoring any retaliation that may happen as a result of a reported incident.

IV. **115.312 Contracting with Other Entities for the Confinement of Residents:**
A. All new and renewed contracts with private and public agencies covered under PREA and contracted with by the Santa Clara County Probation Department will have language requiring compliance with the Department’s zero-tolerance policy toward sexual abuse, sexual harassment and staff sexual misconduct. The following is the required Prison Rape Elimination Act (PREA) language for all new Request for Proposals (RFPs), contracts or contract renewals:
1. Contractor will comply with the Probation Department’s Zero Tolerance Policy related to preventing, detecting, monitoring, investigating, and eradicating sexual abuse within all juvenile detention facilities.

2. Contractor shall complete the required PREA training prior to beginning services in Probation juvenile detention facilities (for new agreements).

3. Contractor shall complete the required PREA training, within 30 days of the effective date of this amendment (for current agreements).

V. 115.313 Resident Supervision and Monitoring:

A. The Santa Clara County Probation Department juvenile facilities maintain the safety, wellbeing and accountability for the whereabouts of all youth assigned to its facilities. Each facility provides supervision necessary to protect residents from harm, including sexual abuse. Staff conduct count of the population at various times, including during shift changes as stipulated variously in the following sections of the Policies and Procedures Manual for Juvenile Hall and the Ranch facilities:

1. Juvenile Hall Policies and Procedures Manual Part 04, Section 4.01, Sub Section II - Guidelines For Supervision of Minors:
3. Juvenile Hall Policies and Procedures Manual, Part 10, Section 10.02, Sub section II - Supervision of Minors
5. Ranch Policy and Procedures Manual, Part 02, Section 2.09 – Nighttime Operations
6. Ranch Policy and Procedures Manual Part 09, Section 09.02 – Population Counts

B. Staff of the opposite gender are to announce their presence when entering a resident housing unit or area. Staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

C. Senior Group/Probation Counselors, Supervising Group/Probation Counselors and the Facility Managers shall conduct and document announced and unannounced rounds to identify and deter sexual misconduct. These rounds shall also be conducted in all units/areas of the facility during day and night shifts hours.

D. Staff are prohibited from alerting other staff members that supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility. (Ranch Policy and Procedures Manual, Part 09, Section 09.02 – Population Counts);

E. The SCC Probation Department shall use stationary video monitoring system to assist in ensuring the safety and well-being of residents, staff and visitors in its facilities. Video monitoring shall not substitute for the appropriate supervision of residents.

F. Each secure juvenile facility shall maintain 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 shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.
G. Each secure facility shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall 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.

VI. Staffing:
A. Each facility ensures adequate number of personnel sufficient to carry out its program and meet established State standards and regulations in accordance with the State of California, Title 15 Regulations on staffing ratios. These ratios provide for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse and misconduct. No required service is to be denied because of insufficient staffing.

B. Each facility ensures it has sufficient number of supervisory level staff to ensure adequate supervision of all staff members in accordance with Juvenile Hall Policy and Procedures Manual, Part 01, Section 1.08 – Juvenile Hall Staffing/Staff Training and Ranch Policy and Procedures Manual Part 02, Section 02.09 – Nighttime Operations, and Part 09, Section 09.02 – Population Counts).

C. In order to provide sufficient and continuous supervision of minors, the criteria for staffing ratios are currently as follows:

1. Juvenile Hall staff ratio shall remain at 1:10 wake hours and 1:30 sleep hours in accordance with Juvenile Hall Policies and Procedures Manual Part 01, Section 1.08, Subsection II. – Juvenile Hall Staffing / Staff Training
2. James Ranch staff ratio shall remain at 1:15 wake hours and 1:30 sleep hours in accordance with Ranch Policies and Procedures Manual, Part 02, Section 2.04 – Staffing / Staff Training

D. Effective October 1, 2017 staff ratios shall be 1:8 wake hours and 1:16 sleep hours

E. Staffing plans must be developed for each facility and adhered to except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.

1. Once each year, for each facility, the PREA Compliance Manager, in consultation with the PREA Coordinator shall assess, determine and document whether adjustments are needed to: The staffing Plan established
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.
5. When assessing adequate staffing levels and the need for video monitoring, the Department shall ensure that each facility staffing plan considers the following:
a) Generally accepted detention and correctional practices;
b) Any judicial findings of inadequacy;
c) any findings of inadequacy from federal investigative agencies;
d) Any findings of inadequacy from internal or external bodies;
e) All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated;
f) The composition of the resident population;
g) The number and placement of supervisory staff;
h) Institution programs occurring on a particular shift;
i) Any applicable state or local laws, regulations or standards;
j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

F. To ensure that any deficiencies in resident supervision are promptly identified and corrected, the Deputy Chief for institutions and the management and supervisory staff shall review all critical incidents to examine known areas where sexual abuse has occurred to assess and take corrective action regarding any physical barriers that may have enabled the abuse in accordance with the spirit and general provisions of the Quality Assurance (QA) Program as enunciated in Juvenile Hall Quality Assurance Standards Manual.

VII. 115.315 Limits to Cross Gender Viewing and Searches:
A. Searches in the Department’s facilities are guided by applicable federal laws and the provisions of California Penal Code Section 4030, and as noted in the Juvenile Hall Policy and Procedures Manual, Part 09, Section 9.05 - Searches, and Ranch Policy and Procedures Manual Part 05, Section 05.08 – Search Policy.

B. A transgender or intersex resident will not be searched or physically examined in a manner that is humiliating or degrading nor for the purpose of determining the youth's anatomy in accordance with Juvenile Policy and Procedures Manual, Part 09, Section 9.05, Sub-Section VI – Search Procedures for Transgender Youth, and Ranch Policy and Procedures Manual Part 05, Section 05.08. – Search Policy.

C. If the resident’s genital status is unknown, it may be determined during conversations with the resident, by viewing medical records, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner; Juvenile Hall Policy and Procedures Manual, Part 09, Section 9.05 - Searches, and Ranch Policy and Procedures Manual Part 05, Section 05.08. – Search Policy.

D. Staff shall not conduct cross-gender strip searches, cross-gender visual body cavity searches, or cross-gender pat-down searches except in exigent circumstances, or when performed by medical practitioners. All cross-gender strip searches, cross-gender visual body cavity searches and cross-gender pat-down searches shall be documented and justified; Juvenile Hall Policy and Procedures Manual, Part 09, Section 9.05 - Searches, and Ranch Policy and Procedures Manual Part 05, Section 05.08. – Search Policy.

E. Staff (with direct supervision responsibilities) shall receive training in how to conduct cross-gender part-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.
F. Both Juvenile Hall and the Ranch must ensure that residents are able to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks as specified. (Ranch Policy and Procedures Manual Part 06, Section 06.01 – General Rules and Expectations).

G. Transgender and intersex residents shall be given the opportunity to shower separately from other residents (Ranch Policy and Procedures Manual Part 06, Section 06.01. – General Rules and Expectations).

H. Staff of the opposite sex, shall announce their presence when entering a resident housing facility or an area where resident is likely to be showering, performing bodily functions, or changing clothing.

I. The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit. In facilities (such as group homes) that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

J. The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit. In facilities (such as group homes) that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

K. The facility shall 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.
**VIII. 115.316 Residents with Disabilities and Residents who are Limited English Proficient:**

A. The agency shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

B. The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

C. Accommodations for residents with disabilities are made in accordance with Administration Services Policy and Procedures Manual, Part 300, Section 304 – Use of Interpreters, and the Department Language Access Plan to ensure that residents who are limited English proficient (LEP), deaf, or disabled are able to report sexual abuse to staff directly, through interpretive technology, or through non-youth interpreters.

D. The Department prohibits the use of resident interpreters, resident readers, or other types of resident assistants, except in exigent circumstances.

E. Residents who cannot communicate in English language or are legally blind or deaf or have any other impairment that may preclude their understanding have the orientation conducted in a manner that they can understand pursuant to Administration Policy and Procedures Manual, Part 300, Section 304 – Use of Interpreters, and the Department web-based Language Access Plan.

F. Probation has been providing language assistance services to its clients for several years. Language assistance services are all interpretation and translation services provided by employees, volunteers or contractors to an LEP person in their primary language to ensure their ability to communicate effectively with Probation personnel or contracted service providers.

G. There are approximately 120 full-time bilingual employees within the Institutions and Juvenile Services Divisions of the Department providing in-language, interpretation and sight translation services primarily for the Spanish and Vietnamese-speaking populations. This corps of bilingual employees provides immediate support to all Probation clients and the families of juveniles receiving juvenile services located at primary and satellite locations. These employees are certified by the County's Department of Human Resources to provide either oral only or both oral and written language assistance.
The Department provides two contracted certified language assistance resources for Probation employees to access when communicating with LEP individuals. First, Probation has a contract with Language Line Services to provide telephonic interpreter services. Second, Probation has a contract with the Santa Clara County Superior Court's Court-Certified Interpreters Program to provide certified interpreter services for telephonic and in-person communications. The Department maintains contact information for both of these contracted services, which it makes available to Probation personnel, as noted in Section IV of the Language Access Plan.

The Department utilizes its corps of bilingual employees to translate vital documents. Document translation for languages other than Spanish and Vietnamese are handled through contracted resources.

IX. Special Education Services:
A. Disability: A youth through 21 years of age has a disability under the Individuals with Disability Education Improvement Act (IDEA 2004) if the youth meets the eligibility criteria in any of the following areas and needs special education and related services:
   1. Mild, moderate, severe or profound intellectual disabilities
   2. Hearing impairments (hard of hearing or deaf)
   3. Speech or language impairments
   4. Visual
   5. Orthopedic
   6. Emotional and behavioral
   7. Other health impairments
   8. Autism
   9. Traumatic brain injury
   10. Specific learning disabilities or
   11. Deaf-blind

B. The Department firmly believes that students with disabilities can achieve great things in school when they receive the support and services they require. While not every child with a disability will require special education services, every child whose disability affects their school progress is entitled to receive free and appropriate education which meets their unique needs.

C. All residents are to have educational services provided to them as required by federal, state and local standards as stipulated in the Juvenile Hall Policies and Procedures Manual Part 12, Section 12.03 - Educational Services - Osborne School and Ranch Policies and Procedures Manual Part 05, Section 05.01 - Programs, and Part 05, Section 05.02, - Educational Programs.

D. Residents with special needs are to be accommodated in accordance with Juvenile Hall Policies and Procedures Manual, Part 12, Section 12.03, Subsection D7 - Provisions For Minors With Special Needs and Ranch Policy and Procedures Manual Part 05, Section 05.02, - Educational Programs.

X. Student Assessment:
A. Residents are enrolled in school no later than three (3) days after admission for screening and assessment by educational staff to determine resident's general academic functioning levels in accordance with Juvenile Hall Policies and Procedures Manual Part 12, Section 12.03, Sub-section E - Educational Screening and Assessment; and Ranch Policy and Procedures Manual, Part 05, Section 05.02 - Educational Programs.
**115.317 Hiring and Promotional Decisions:**

A. The Santa Clara County Probation Department procedures include a criminal history review for all positions in accordance with Administration Policy and Procedures Manual, Part 200, Section 200.5. All sworn staff/employees (peace officers) undergo full background checks, which include polygraph examination, psychological evaluation, physical examination and criminal background investigation. All non-sworn staff/employees, as well as volunteers, contractors and interns undergo a criminal background investigation through the California Department of Justice prior to the start of employment or service provision.

B. The Department is statutorily mandated to receive subsequent arrest notifications from the California Department of Justice regarding any criminal charges brought against a sworn staff, non-sworn staff, contractor or intern, including those working in the juvenile facilities. As an added measure, all staff/employees are required to advise their direct Supervisor/Manager — the Deputy Chief Probation Officer of the Division to which they are assigned, or the Executive Administrative Services Manager of the Administrative Services Division within 24 hours, or by the next business day, of any felony or misdemeanor arrest or citation in accordance with Administrative Services Policy and Procedures Manual Part 200, Section 231 - Reporting of Arrest, Prosecution, Conviction, or Change in Driver's License Status. Any employee failing to provide notification of an arrest, citation or change in driver license status may be subject to disciplinary action including suspension, demotion or termination.


D. The Department does not hire persons with a history of serious or violent felonies, or misdemeanor sex offense convictions, to work in its juvenile facilities regardless of where the crime was committed.

E. The Department does not hire, promote or contract with anyone who:

   1. Has been civilly or administratively adjudicated to have engaged in sexual abuse.

F. The Department shall ask all applicants and staff who may have contact with youth directly about previous misconduct in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of review of current staff.

G. The Department shall consider any substantiated incidents of sexual harassment in determining whether to hire, promote, or contract with anyone.

H. Conduct background checks every five years for staff. The Department has an automatic notification system in place to capture information on law violations for current employees.

I. Staff being considered for promotion shall disclose any sexual misconduct and material omission regarding such misconduct, or the provision of materially false information shall be grounds for termination.
J. Unless prohibited by law the Department shall provide information on substantiated allegations of sexual misconduct involving former staff upon receiving a request from any PREA regulated employer for whom such staff has applied to work.

K. Neither the Department nor any other governmental entity responsible for collective bargaining on the Department's behalf shall 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 youth pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. Nothing in this policy shall restrict the entering into or renewal of agreements that govern:

1. The conduct of the disciplinary process, as long as such agreements are not inconsistent with PREA standards;
2. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

L. The presumptive discipline for any contractor or volunteer who engages in sexual abuse will be termination.

XII. 115.318 Upgrades to Facilities and Technology:
A. When the Department designs or acquires any new facility and in planning any substantial expansion or modification of existing facilities, the Department will consider the effect of the design, acquisition, expansion, or modification upon the Department's ability to protect residents from sexual abuse in addition to any local or State physical plant requirements.

B. In both facilities, staff will ensure that all hidden or secluded areas (such as janitor closets, blind spots) where covert sexual behavior may occur are monitored and the doors kept locked and secured at all times as stipulated in the Ranch Policy and Procedures Manual, Part 9, Section 009.03. Staff must follow the key control policy to ensure that staff is not allowed to enter into areas where staff and youth may interact after hours. The highly restricted keys are sign-in and out at all times in Juvenile Hall.

C. Clear and Unobstructed View:
1. The Department will ensure that its facilities maintain a clear and unobstructed view into offices, classrooms or any room/location where a resident and staff may interact as stipulated in the Ranch Policy and Procedures Manual, Part 07, Section 07.06 – Monthly Security Review and Inspections.

D. Technologies:
1. The Department uses video monitoring systems in Juvenile Hall in an effort to enhance the safety and security of staff and residents and to prevent, detect and respond to incidents. Future expansions of and modifications to the Ranch will consider the effect of the design upon the Department’s ability to protect residents from sexual abuse in addition to complying with any local or State physical plant requirements.

2. Additionally, security measures are in place to ensure the overall security of both facilities; and the Department’s buildings are maintained in accordance with Administration Policy and Procedures Manual, Part 400, Section 453 – Building Security, and Ranch Policy and Procedures Manual, Part 07, Section 07.06 – Monthly Security Reviews and Inspections.

RESPONSIVE PLANNING:

XIII. 115.321 Evidence Protocol and Forensic Medical Examinations

A. When a resident/youth informs a staff that he/she has been sexually assaulted, or there is a suspicion or a report of a sexual assault from anyone, the staff member receiving the information is required to immediately refer the resident/youth to the medical services staff for evaluation and determination of the need for an outside medical referral for further testing and evaluation as outlined in Juvenile Hall Policy and Procedures Manual Part 02, Section 2.05, Sub Section III A(d) – Child Abuse Reporting Procedures; and Ranch Policy and Procedures Manual, Part 07, Section 07.04 – Child Abuse Reporting, and Part 05, Section 05.01 – Programs; and Part 10, Section 10.01 – Medical Program.

B. In accordance with the Department’s policy, and in compliance with The California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims, the Department offers all residents who experience sexual abuse access to forensic medical examination without financial cost to the victim notwithstanding the victim’s willingness or lack thereof to identify the abuser or cooperate with any investigation arising out of the incident.

C. The California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims requires that forensic tests and examinations are performed by Sexual Assault Forensic Examiners (SAFE) or Sexual Assault Nurse Examiners (SANE). The sexual Assault Response Team (SART) at VMC provides medical and forensic response to victims of sexual assault who come into the Emergency Department 24 hours a day. There are approximately 20 specially trained registered nurses who serve as SART Nurse Examiners, according to the VMC website.

D. Upon release from custody, the re-entry/Aftercare case manager/probation counselor provides the youth/resident with follow up referrals for services in the community, including the local Rape Crisis Center, to ensure continuity of care for victims.

E. Additionally, the Department ensures that all victims of sexual abuse have at their disposal, a victim advocate from the local Rape Crisis Center pursuant to the Service Agreement (SA) between the Probation Department and the local Rape Crisis Center. In the event there is no staff available from the Rape Crisis Center (RCC), the Department will make available, a qualified CBO staff member or a qualified staff member from the Department to provide victim advocate services.
F. At the victim’s request, the Department will ensure that a victim advocate or his or her designee/replacement shall accompany and support the victim through the forensic medical exam process and the investigatory interviews pursuant to the SA with the local RCC.

G. The Deputy Chief for Institutions shall maintain copies of agreements with the local Rape Crisis Center to provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by making accessible mailing addresses and telephone numbers, including toll free hotline numbers, where available. Staff shall inform residents, prior to giving them access, of the extent to which such communications will be monitored to ensure that confidentiality is maintained.

XIV. **115.322 Policies to Ensure Referrals of Allegations for Investigations:**

A. Every Santa Clara County Probation staff/employee is a mandatory child abuse reporter for all incidents of suspected sexual child abuse or neglect under the provisions of Penal Code Sections 11165.7, 11165.9, and 11166. Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.05 – Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07, Section 07.04 – Child Abuse Reporting, stipulate to this policy and spell out the procedures for reporting. Additionally, reporting incidents, including sexual assault are specified under Part 09, Section 09.02 of the Juvenile Hall Policy and Procedures Manual – Incident Reporting and Ranch Policy and Procedures Manual, Part 07, Section 07.02 – Incident Reports and Part 07, Section 07.03 – Supervisor’s Reports.

B. In all instances where there is an allegation of sexual abuse or sexual harassment of resident, the Department ensures that an administrative and/or criminal investigation is completed.

C. The Department refers all allegations of sexual abuse to the local law enforcement (the Sheriff’s Office) for investigation pursuant to a standing MOU between both agencies.

**TRAINING AND EDUCATION**

XV. **115.331 Staff/Employee Training:**

A. The Department provides numerous training opportunities for all staff through the county-wide training program, the state funded Standards and Training for Corrections program (STC) and departmental programs in accordance with Administration Policy and Procedures Manual, Part 200, Section 211 – Training; Juvenile Hall Policy and Procedures Manual, Part 1, Section 1.08 – Juvenile Hall Staffing / Staff Training; and Ranch Policy and Procedures Manual, Part 02, Section 02.04 – Staffing / Staff Training.

B. In addition to the aforementioned training, all staff/employees, including part time staff that may have contact with residents must be able to fulfill their responsibilities under the Department’s zero tolerance policy on prevention, detection and responding to sexual contact, sexual abuse, sexual harassment and staff sexual misconduct. All staff must complete refresher training every two years as stipulated in the Ranch Policy and Procedures Manual, Part 02, Section 02.04 – Staffing / Staff Training, and Juvenile Hall Policy and Procedures Manual, Part 01, Section 1.08 – Juvenile Hall Staffing / Staff Training.

C. The staff/employee training shall consist of classroom activities to include, but not limited to the following topics:
1. The Department’s zero tolerance policy for sexual abuse, sexual harassment and staff sexual misconduct.
2. The responsibility of staff/employees in preventing, detecting, and responding to sexual abuse, sexual harassment and staff sexual misconduct in accordance with the Department’s policies and procedures.
3. Resident’s rights to be free from sexual abuse, sexual harassment and staff sexual misconduct and retaliation for reporting such.
4. The dynamics of sexual abuse and sexual harassment in confinement.
5. The common reactions of sexual abuse and sexual harassment juvenile victims.
6. How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents.
7. How to avoid inappropriate relationships with residents.
8. How to communicate effectively and professionally with residents, including lesbians, gay, bisexual, transgender, intersex, or gender non-conforming residents.
9. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
10. Relevant laws regarding appropriate age of consent.

D. The Department shall document, via employee signature, or electronic verification that staff/employees understand the training they have received.

E. In addition to training, the Deputy Chief for Institutions will ensure that key and refresher information relative to PREA and current sexual abuse and sexual harassment policies are continuously and readily available and/or visible to all staff through posters, resident handbook, staff/unit meetings and email distribution.

F. All current institution employees (direct supervision staff) who have not received such training shall be trained within one year of the effective date of the PREA Standards, and the Department shall provide each employee with refresher training every two years to ensure that all institution employees know the Department’s current sexual abuse and sexual harassment policies and procedures.

XVI. 115.332 Volunteer/Contractor/Intern Training:

A. The facility Compliance Managers, working closely with the PREA Coordinator, shall ensure that all volunteers, contractors and interns who have contacts with residents have been trained on their responsibilities under the Department’s zero tolerance policy on prevention, detection and responding to sexual contact, sexual abuse, sexual harassment and staff sexual misconduct and how to report such incidents. The training will consist of a video in addition to reviewing and signing the PREA Acknowledgement Statement as noted in the Juvenile Hall Policy and Procedures Manual, Part 11, Section 11.01 – Special Services and Programs; and Ranch Policy and Procedures Manual, Part 05, Section 05.01 – Programs.

B. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with residents.

C. The Department will maintain documentation confirming that volunteers and contractors understand the training they have received.
D. Volunteers and contractors are required to complete PREA refresher training every 2 years

XVII. 115.333 Resident Education and Orientation:
A. Ranch Policy and Procedures Manual, Part 03, Section 03.02 – Screening and Admissions Process, and Juvenile Hall Policy and Procedures Manual, Part 6, Section 6.01 – Risk Classification System, Part 9, Section 9.03 – Admit Procedures / Admit Counselor Duties, and Part 11, Section 11.01 – Multi Agency Assessment Center make provision for the following:

1. During the youth’s intake process to Juvenile Hall and subsequently to the Ranch, all youth shall receive information that includes the Department’s zero tolerance policy relating to non consensual sexual contact and abusive sexual contact, sexual harassment and staff sexual misconduct, and how to report such incidents. The current orientation packet shall be revamped to include sexual abuse prevention and reporting information as well as youths’ rights to be free from sexual abuse and free from retaliation for reporting abuse.

2. The information shall be communicated orally and in written form in a language that is clearly understood by the juvenile/resident.

3. Within 10 days of intake, all juveniles/residents shall receive comprehensive, age appropriate education, either in person or through video or both regarding the right to be free from sexual misconduct and retaliation from reporting incidents, as well as the Department’s policies and procedures for responding to incidents. Information provided shall include, but not be limited to:
   a) Self-protection,
   b) Prevention/intervention
   c) Reporting procedures
   d) Treatment and counseling,
   e) Protection against retaliation
   f) Youth’s rights to be free from sexual abuse and sexual harassment
   h) Department’s sexual abuse response policies and procedures
   i) Disciplinary actions for making false allegation and,
   j) The Department’s zero-tolerance policy.

4. Training shall be tailored to the unique needs and attributes of residents including their gender, and disabilities.

5. The Department shall provide education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills in accordance with Administrative Services Policy and Procedures Manual, Part 300, Section 304 – Use of Interpreters.

6. Current residents who have not received such education shall be educated within one year of the effective date of the PREA Standards.

7. In addition to providing such education the Department shall ensure that key information is continuously and readily available or visible to residents through resident hand books, other written formats. Posters shall also be posted at, but not limited to, these areas to continuously inform residents about key information: (i) Living Units; (ii) Intake Area; (iii) Dining Hall; (iv) School; (v) Recreational Hall
8. Resident/Youth shall be required to sign an acknowledgment of having received a brochure entitled “Zero Tolerance Policy and Sexual Abuse Reporting” during the intake process. A copy of the acknowledgment shall be maintained in the youth’s case file.

B. Orientation:

1. The Department’s written policy and procedure, as well as current practice, ensure that youth admitted into Juvenile Hall and the Ranch receive timely, meaningful and appropriate orientation that will help ease their transition into the facility. This orientation also ensures that youth quickly learn about their rights, as well as their responsibilities while within the facility in accordance with Juvenile Hall Policy and Procedures Manual, Part 10, Section 10.06 – Unit Orientation and Ranch Policy and Procedures Manual, Part 03, Section 03.04 – Orientation and Admissions Process. The policy also requires that orientation includes a video and a package which must be available in English, Vietnamese and Spanish, which are acknowledged in writing by the youth. If the youth cannot read, someone fluent in the youth’s language will read the packet to him/her.

XVIII. 115.334 Specialized Training: Investigations:

A. All criminal offenses, including sexual assault/abuse allegations are investigated by local law enforcement upon referral by any staff, individual or entity. Additionally, all allegations against an employee are referred to the Department’s Internal Affairs unit.

B. Staff conducting administrative investigations into any possible policy violations will receive specialized training, including, but not limited to:

   1. Techniques in interviewing sexual abuse victims,
   2. Proper use of Miranda and Garrity warnings,
   3. Criteria and evidence required to substantiate a case for administrative action and/or prosecution referral
   4. Written documentation.

C. To the extent that the Probation Department is not responsible for investigating criminal allegations of sexual abuse, the Probation Department shall ensure that the local law enforcement agency investigating the case, follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

D. The Department will maintain documentation that staff investigators (administrative investigations) have completed the specialized training in conducting sexual abuse investigations.

XIX. 115.335 Specialized Training: Medical and Mental Health Care:

A. Critical to minimizing the trauma experienced as a result of sexual abuse is the response that follows the detection of an incident. Consequently, medical and mental health staff shall be provided rape and sexual abuse sensitivity training. Through the Valley Medical Center Sexual Assault Response Team (SART) and the MOU with the local Rape Crisis Center (RCC), the Department will ensure that all full and part time medical and mental health care practitioners working in the juvenile facilities have been trained in, among other topics:
1. Detecting, assessing and responding effectively and professionally to signs of possible sexual abuse
2. Preservation of physical evidence for further investigation by local law enforcement
3. How to respond effectively and professionally to victims of sexual abuse/harassment
4. How and to whom to report allegations or suspicions of sexual abuse/harassment.

B. In addition to the above noted specialized training, medical and mental health practitioners who have contact with residents, shall be notified of the Department's Zero Tolerance Policy regarding sexual abuse and sexual harassment and, informed how to report such incidents.

C. The Department will ensure there is documentation that medical and mental health practitioners have received this specialized training.

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SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

XX. 115.341. Obtaining Information from Residents:
A. Screening:
   1. Existing policy requires that during the intake process, staff utilize such factors as age, gender, maturity, sophistication, legal status, emotional stability and admitting offenses, among other criteria, of each youth/minor admitted, in order to assign appropriate classification of risk to determine their housing, supervision and care. Policy also ensures that any special housing or programming decisions must be made on a case by case basis in accordance with Juvenile Hall Policy and Procedures Manual, Part 06, Sections 6.01 — Classification; and Ranch Policy and Procedures Manual, Part 03, Section 03.04 — Orientation and Admissions Process, and Part 03, Section 03.03 — Case Classification and Considerations.
B. Ranch Policy and Procedures manual, Part 03, Section 03.04 – Orientation and Admissions Process, and Part 03, Section 03.03 – Case Classifications and Considerations; and Juvenile Hall Policy and Procedures Manual, Part 6, Sections 6.01 - Classification make provision for the following:

C. All new arrivals, detained and committed to Juvenile Hall or subsequently to the Ranch, shall be screened upon arrival for potential risk to be sexually abusive or victimized. The Risk of Victimization / Sexually Aggressive Behavior (RV/SAB) instrument shall be utilized to assess potential risk. The instrument will include the following criteria to assess residents

1. whether the resident has mental, physical or developmental disability
2. the age and physical built
3. previous commitment/detention
4. criminal charges and offense history, including sustained petitions for sex offenses
5. Any gender nonconforming appearance or manner or identification as LGBT and the resident may therefore be vulnerable to sexual abuse
6. history of victimization or abusiveness
7. resident’s own perception of vulnerability and
8. Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

D. Results from the RV/SAB screening, Risk Assessment Instrument (RAI), MAYSİ and case classification assessment shall be entered in JAS database where available and maintained in the juveniles’ case file. The Department will ensure that confidentiality of the RV/SAB screening information shall be maintained.

E. If a youth/resident discloses prior sexual victimization or abusiveness during intake screening or assessment, the staff must notify the youth that report of a sexual abuse will be reported to the Child Protective Services according to Child Abuse Reporting laws and in accordance with Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.05 - Child Abuse Reporting Procedures, and Ranch Policy and Procedures Manual, Part 07, Section 07.04 – Child Abuse Reporting

F. Residents found to be at risk of victimization during the screening process, will not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers.

G. Residents will be reassessed, within 30 days of initial assessment, when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the residents risk of sexual victimization or abusiveness.

XXI. Confidentiality:
A. Any sexual abuse information received by any staff member must only be disclosed on a need-to-know basis and in accordance with state and federal privacy laws, professional licensure, and ethical standards.

B. Youth/ Resident interviews about sexual abuse incidents must be conducted in safe and private environments.

C. Under no circumstances may access to treatment resources be denied a youth/resident who is a victim of sexual abuse because the youth/resident refuses to disclose sexual abuse incident details to investigators
XXII. **115.342 Placement of Residents in Housing, Bed, Program, Education and Work Assignments:**

A. Juvenile Hall Policy and Procedures Manual, Part 04, Section 4.04 - *Isolation* and Part 06, Section 6.06 - *Classification System*; and Ranch Policy and Procedures Manual, Part 03, Section 03.03 - *Case Classifications and Considerations*; Part 06, Section 06.04 - *Use of Force/Restraints/OC Spray* - make provision for the following: (Items #1 through #7)

1. If the results from the RV/SAB screening and other assessments indicate a probability for victimization or sexually aggressive behavior, and an overall high level of risk, appropriate interventions shall be implemented to ensure the safety of the resident and others, such as No Roommate (NR), and special management consideration (SMC). Screening information shall be used, in conjunction with other assessment information, to guide staff in bed assignment, programming, education and work assignment, referral to clinician, or treatment interventions.

2. Custody and housing assignments will not be based solely on the youth's sexual orientation or gender identity, or use LGBTI status as an indicator or likelihood of being sexually abused.

3. In making housing and programming assignments, each facility will consider (on a case-by-case basis) whether a placement would ensure the youth's health and safety and whether the placement would present management or security problems. The LGBTI youth's own view with respect to his or her own safety shall be given serious consideration.

4. Residents will be isolated (protective custody) from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe.

5. In deciding whether to assign a transgender or intersex resident to a housing unit for male or female residents, and in making any other housing and programming assignments, the Department/facility shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.
6. Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice a year to review any threats to safety experienced by the resident.

7. A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.

8. Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

9. If a resident is isolated as a last resort when less restrictive measures are inadequate to keep him/her safe, the facility (Juvenile Hall or the Ranch) shall clearly document the following:
   a) The basis for the facility's concern for the resident's safety; and
   b) The reason why no alternative means of separation can be arranged.

10. Every 30 days, the facility shall afford any resident in protective custody (isolation) a review to determine whether there is a continuing need for separation from the general population.

11. Residents in crisis including victims and perpetrators of incidents of sexual abuse, will receive immediate, unimpeded access to on-site and off-site mental health services as stated variously in the following Policy and Procedures Manuals - Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.01 – Medical and Dental Services /Medical Emergency Procedures, Part 2, Section 2.03 – Mental Health Services, and Part 10, Section 10.01 – On-Duty Living Section Supervisor Duties, Mental Health Services and Ranch Policy and Procedures Manual, Part 10 Section 10.01 – Medical Program and Part 05, Section 05.01, – Programs.

12. Administration Policy and Procedures Manual, Part 500, Section 503 – Critical Incidents Policy and Procedures, makes provision to staff and clients for mental health care to mitigate any psychological effects of critical incidents. The nature and scope of care are determined by medical and mental health practitioners according to their professional judgment.

B. Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident.

C. 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, agencies shall not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

D. If a resident is isolated pursuant to paragraph (C) of this section, the facility shall clearly document:
   1. The basis for the facility's concern for the resident's safety; and
   2. The reason why no alternative means of separation can be arranged.

E. Every 30 days, the facility shall afford each resident described in paragraph (D) of this section a review to determine whether there is a continuing need for separation from the general population.
REPORTING

XXIII. **115.351 Resident Reporting:**
A. The Grievance Process as stipulated in Juvenile Hall Policy and Procedures Manual, Part 04, Section 04.07 – Grievance, and the Ranch Policy and Procedures Manual, Part 08, Section 08.03. – Grievance Policy and Procedure, coupled with Juvenile Hall Policy and Procedures Manual, Part 07, Section 7.01 – Reports; and Ranch Policy and Procedures Manual, Part 07, Section 07.02 – Incident Reports are some of the multiple internal ways for residents to privately report sexual abuse, sexual harassment and sexual misconduct, retaliation by other offenders or staff for reporting sexual abuse, sexual harassment and sexual misconduct, and staff neglect or violation of responsibilities that may have contributed to such incidents.

B. Each facility will provide multiple internal ways for youth/resident to report sexual abuse and sexual harassment, retaliation by other youth/resident or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

C. Each facility will ensure that mechanisms for reporting sexual abuse and seeking relief against retaliation shall include, but not limited to, the following:

1. Completing Sick-Call Request Form
2. Using the grievance process
3. Dropping a note in the Grievance Box
4. Telling a teacher, counselor, the manager, a supervisor, medical or mental health staff, the Deputy Chief, Parent/Guardian, Chaplain, or any trusted adult
5. Toll Free Hotlines have been installed in Juvenile Hall and at the Ranch (408-287-3000) to provide residents at both facilities access to a confidential telephone line to contact the local Rape Crisis Center, in addition to the above noted mechanisms.

D. Staff are instructed to accept sexual abuse/assault reports that are made verbally, in writing, anonymously , and by third parties. Staff shall promptly document any and all verbal reports. Documentation of verbal reports shall be completed the same day.

E. Each facility must ensure that all youth with disabilities (including, for example residents/youth who are deaf, or hard of hearing, those who are blind, or have low vision, or those who have intellectual, developmental, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the Department’s efforts to prevent, detect and respond to sexual abuse, sexual harassment and staff sexual misconduct to residents/youth who are limited English Proficient, including steps to provide interpreters , who can interpret effectively, accurately and impartially, both receptively and expressively.

F. Youth/Resident assigned to either facility will not receive any form of reprisal for exercising their right to file a grievance and may seek relief against retaliation for filing a grievance in accordance with Juvenile Hall Policy and Procedures Manual, Part 04, Section 04.07 – Grievances, and Ranch Policy and Procedures Manual, Part 08, Section 08.03 – Grievance Policy and Procedure.

G. Grievance forms shall be available on each living unit and common areas accessible to residents without staff assistance.
I. Each facility shall provide residents tools (writing materials) to help them make written reports of sexual abuse, or sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

J. There shall be no time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

K. Residents will be advised that filing a false sexual misconduct report is an offense according to California Penal Code Section 148.5, which states, in part, "Every person who reports to any peace officer, the Attorney General, or a deputy attorney general, or a district attorney, or a deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor."

L. A report of sexual misconduct made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident even if an investigation does not establish evidence sufficient to substantiate the allegation.

XXIV. 115.352 Exhaustion of administrative Remedies: (Juvenile Hall Policy and Procedures Manual, Part 04, Section 4.07 - Grievances; and Ranch Policy and Procedures Manual (Part 08, Section 08.03 – Grievance Policy and Procedure)

A. There will be no time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

B. A resident has exhausted his or her administrative remedies with regard to a claim of sexual abuse, regardless of who made the report, when the Department makes a final decision on the merits of the report of abuse, or the local law enforcement agency or Protective Services has cleared the case.

C. A final departmental decision will be made 90 days of the initial filing of a grievance. The Department may claim an extension of up to 70 days to make a final decision.

D. The computation of the 90-day period shall not include time consumed by residents in preparing any administrative appeal.

E. The victim will be notified in writing of any extension and will be provided with a date by which a decision will be made. If a victim requests the grievance not be processed, the Department shall document that request. The Department may require the alleged victim to personally pursue additional steps in the administrative remedy process.

F. A resident seeking immediate protection from imminent sexual abuse will be deemed to have exhausted his or her administrative remedies 48 hours after notifying any Department staff member of his or her need for protection.

G. Before a resident can file a federal law suit, the resident must exhaust all facility requirements through the
grievance process - Juvenile Hall Policy and Procedures Manual, Part 04, Section 4.07 - Grievance; and Ranch Policy and Procedures Manual, Part 08, Section 08.03 - Grievance Policy and Procedure. However, in urgent and emergency situations when a resident seeks immediate injunction from the court to provide protection from imminent harm of abuse, an exemption to the 90-day waiting period shall be waived.

1. There will be no timeline for resident/youth to file a federal lawsuit, except if the State laws set limitations.

H. The Department will allow the following third parties to assist residents and/or file requests on residents’ behalf for administrative remedies relating to allegations of sexual abuse:

1. Fellow Residents
2. Staff Members
3. Family Members
4. Attorneys
5. Outside Advocates

I. Other than parents and guardians, a resident may decline such a grievance from third parties. A decline by a resident shall be documented.

J. A parent or legal guardian of a resident shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such a resident regardless of whether or not the resident consents.

K. A resident who alleges sexual abuse may submit a grievance without referring it to, or submitting it to a staff member who is the subject of the complaint.

L. A resident who is alleging substantial risk of imminent sexual abuse can file an emergency grievance at any time, by any means, without following the grievance procedure.

M. After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the receiving staff shall immediately forward the grievance to his or her supervisor for review and immediate action. The supervisor shall ensure that within 48 hours of initial receipt of grievance, a response is provided, and shall issue a final decision within 5 calendar days. The initial response and the final decision shall document the determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

N. The Department prohibits the use of informal grievance process by a resident or otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

O. A resident shall be disciplined for filing a grievance related to alleged sexual abuse only where it can be demonstrated that the resident filed the grievance in bad faith.

XXV. Legal Services:
A. The County Counsel Office will serve as the gatekeeper for all alleged matters concerning the Department by providing, but not limited to, the following services:

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1. Reviewing Department actions to ensure compliance with state and federal laws
2. Monitoring all litigation initiated against the Department pursuant to the Department's objectives; and
3. Responding to the request for records under the Open Records Act, by subpoena and discovery motions.

XXVI. **115.353 Resident Access to Outside Support Services and Legal Representation:**
A. Juvenile Hall Policy and Procedures Manual, Part 08, Section 8.01 – Rights of Juveniles; and Ranch Policy and Procedures Manual, Part 08, Section 08.01 – Access to Legal Services and Advocates.

1. Through the Department's Service Agreement (SA) with the local Rape Crisis Center, victims and/or witnesses of abuse shall be provided victim advocacy and emotional support services related to sexual abuse,
2. Each facility shall post, provide and make accessible mailing addresses and telephone numbers (including hotline number(s) of the local Rape Crisis Center.
3. Communications between residents and victim advocates will be available in as confidential a manner as possible.
   (a) All communication between residents and victim advocates shall be conducted in private settings where conversations cannot be overheard.
   (b) To ensure privacy of communication, each facility will ensure that staff are prohibited from reading marked correspondence to or from victim advocates.
4. The Department, to the extent possible, will ensure that all youth/resident victims of sexual abuse/assault will receive the same level of care as if they were in a community setting. All victims will be immediately referred to outside medical testing and evaluation. Upon release from custody, the re-entry/Aftcare case manager/probation counselor will provide the youth with follow up referrals for services in the community to ensure continuity of care in accordance with Ranch Policy and Procedures Manual, Part 05, Section 05.06 - Ranch Pre-Release Program Manual.

XXVII. **Access to Legal Representation:**
A. Residents in both facilities (Juvenile Hall and the Ranch) have constitutional right to unimpeded access to attorneys and legal representation as well as court and legal services in accordance with Juvenile Hall Policy and Procedures Manual, Part 8, Section 8.03 – Legal Representation of Minors; and Ranch Policy and Procedures Manual, Part 08, Section 08.01 – Access to Legal Services and Advocates.

B. Residents shall have reasonable and confidential access to their attorney, or other legal representation, their parents, or legal guardians for reporting of sexual allegations.

XXVIII. **Access to Emergency Medical and Mental Health Services:**
A. Pursuant to Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.01 – Medical and Dental Services/Medical Emergency Procedures, and Part 2, Section 2.03 – Mental Health Services and Ranch Policy and Procedures Manual, Part 10, Section 10.01 – Medical Program and Part 05, Section 05.01, – Programs, all residents have access to timely, unimpeded on-site and off-site medical and mental health care. Administrative Policy and Procedures Manual, Part 500, Section 503 – Critical Incidents Policy and Procedures, provides access to staff and clients for mental health care to mitigate any psychological effects of critical incidents.

B. Resident victims of sexual abuse/misconduct shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
C. Resident victims shall be offered pregnancy tests and comprehensive information about and timely access to all lawful pregnancy-related medical services

XXIX. **115.354 Third Party Reporting:**

A. In accordance with Section 832.5 of the California Penal Code, "each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public." Members of the public, clients or minors under the jurisdiction of the Probation Department, and departmental employees, have the lawful right to file a complaint relating to performance or alleged misconduct within the Santa Clara County Probation Department as stipulated in the Department's web-page, under Internal Affairs," and in accordance with Juvenile Hall Policy and Procedures Manual, Part 07, Section 7.05 – Parental Complaint/Citizens Complaint Against Staff and Ranch Policy and Procedures Manual, Part 07, Section 07.09 – Citizens Complaints. In addition to this reporting mechanism, sexual abuse related incidents can be reported as follows:

B. Using the Probation Department’s website, by clicking on the "PREA web-page," will give the public access to a form "Third Party Reporting Form" in English, Spanish and Vietnamese to report any incidents including sexual abuse, sexual harassment staff sexual misconduct, and youth or staff seeking relief against retaliation for reporting.

C. Additional established methods of distributing publicly information on how to report sexual abuse, sexual harassment and staff sexual misconduct will include the Parent/Guardian Orientation and Information pamphlet

D. Forms for members of the public to make written complaints involving personnel of the Santa Clara County Probation Department will also be available during business hours in the Internal Affairs Unit and at all Probation offices and facilities

XXX. **Citizen Notification:**

A. A closing letter is mailed to the citizen making the complaint within 30 days of completing an investigation as noted on the Department’s web-page. Pursuant to Section 832.7(e)(1) of the Penal Code, the notification letter will include:

1. The disposition of the complaint, and
2. An explanation of confidentiality restrictions imposed under Section 832.7(a) of the Penal Code

XXXI. **Resident Notification:**

A. Following an investigation into an allegation of sexual abuse, the resident victim shall be notified as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If the Department did not conduct the investigation, it will request the relevant information from the investigative agency in order to inform the resident

B. Through posters at Juvenile Hall and the Ranch, and information on the Department's web-page, the public will be informed on how to report sexual abuse on behalf of a resident
OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

XXXII. **115.361 Staff and Department Reporting Duties (Crime Scene Preservation)**

A. Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.05 - Child Abuse Reporting Procedures, and
Ranch Policy and Procedures Manual, Part 07, Section 07.04 - Child Abuse Reporting as well as State
statutory requirement under Penal Code Section 11165.7, 11165.9 and 11166), call for employees of the
Department, as mandated reporters, to report known or suspected child abuse or neglect to a police
department, a Sheriff office, and/or a county welfare department – Child Protective Service (CPS).

XXXIII. **Juvenile Hall Policy and Procedures Manual and the Ranch Policy and Procedures Manual on
Child Abuse Reporting make provision for the following:**

A. In addition to the Department’s policy and State’s statute on Child Abuse Reporting, all employees are
required to report immediately any knowledge, suspicion, or information received regarding an incident of
sexual abuse or sexual harassment that occurred in a facility; retaliation against youth/resident or staff
who reported such incident; and any staff neglect or violation of responsibilities that may have contributed
to an incident or retaliation. Such incidents shall be reported to the unit supervisor, the facility manager or
in their absence directly to the Deputy Chief for Institutions.

B. Upon receiving an allegation of sexual abuse in a facility, the supervisor shall notify the facility Probation
Manager, who in turn, will notify the Deputy Chief for institutions. The Deputy Chief shall immediately
notify the following;

1. The Probation Chief
2. The juvenile court judge that handled the victim’s case or the victim’s judge of record
3. The victim’s parents or legal guardians, unless there is official documentation
   showing the parents or legal guardians should not be notified
4. The victim’s case worker if the victim is involved in the child welfare system

C. Apart from reporting to the designated individuals and the CPS, staff shall only reveal information to those
individuals who have a need-to-know, to make treatment, investigation, and other security and
management decisions.

D. Staff shall fully cooperate with any law enforcement investigation of a sexual misconduct and shall
establish a chain of custody to preserve evidence

E. If a youth/resident discloses prior sexual victimization or abusiveness during intake screening or
assessment, the staff will report the abuse according to Child Abuse Reporting laws and in accordance with
Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.05 - Child Abuse Reporting Procedures, and
Ranch Policy and Procedures Manual, Part 07, Section 07.04 - Child Abuse Reporting. Additionally,
pursuant to the Service Agreement (SA) with the Rape Crisis Center (RCC), the resident will be provided
an advocate for services.

F. Medical and Mental Health practitioners are mandated child abuse reporters. They are required to report
any knowledge, suspicion or information they receive regarding an incident of sexual abuse to the unit
supervisor or designee, law enforcement and Child Protective Services (CPS). Said practitioners must
inform residents at the initiation of services of their professional duty to report and the limitations of
confidentiality.
G. The Department will ensure that Medical and Mental Health practitioners are required to immediately report any knowledge, suspicion, or information received regarding retaliation against youth/resident or staff who report sexual misconduct; and any staff neglect or violation of responsibilities they may have contributed to an incident of sexual misconduct or retaliation.

H. Upon receiving any allegation of sexual abuse, the facility Probation Manager or his or her designee shall promptly report the allegation to the appropriate child welfare agency office and to the alleged victim’s parents or legal guardians, unless there is official documentation on record showing the parents or legal guardian should not be notified.

I. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim’s caseworker instead of the parents or legal guardians.

J. If the juvenile court retains jurisdiction over the alleged victim, the facility Probation Manager or designee shall also report the allegation to the juvenile’s attorney or other legal representative of record within 14 days of receiving the allegation.

XXXIV. **115.362 Agency Protection Duties:**

A. The County of Santa Clara Policy Against Discrimination, Harassment and Retaliation as well as the County 24/7 Whistleblower Program establish a process for the receipt, acceptance, investigation, documentation and monitoring of improper governmental activity.

B. In addition to the County policy, the Probation Department will take appropriate steps to protect all residents/youth and staff who report sexual abuse/harassment or misconduct or cooperate with investigators from retaliation by other youth or staff as noted under Standard 111.358, in this policy - Anti-Retaliation

C. Upon learning that a resident is subject to a substantial risk of imminent sexual abuse, the Department shall take immediate and appropriate steps to protect the resident.

D. Each facility will employ multiple protection measures including, but not limited to, custody and housing changes, special management plans, No Contact Status, emotional support services, or transfers for youth/resident victims or abusers.

E. At each 90 day period following a report of sexual abuse, sexual harassment/sexual misconduct, the Department will monitor the conduct or treatment of youth/resident or staff who reported the abuse/harassment/misconduct and the victims to determine if retaliation is occurring. Items to be monitored include, but are not limited to, (in the case of a resident) youth disciplinary reports, status checks, housing, or program changes, and (in the case of staff) negative performance reviews or reassignment of staff.

XXXV. **115.363 Reporting to Other Confinement Facilities:**

A. Reporting procedures under this section shall be dictated by Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.05 - Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07, Section 07.04 - Child Abuse Reporting.

B. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the
Deputy Chief for institutions, or the Probation Manager of the facility or his/her designee that received the allegation shall notify the head of the facility where the alleged abuse occurred and shall also notify the appropriate law enforcement agency as well as CPS. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation and that the Deputy Chief or the facility Probation Manager or his/her designee shall document that it has provided such notification.

C. In all cases where another facility or agency refers allegations of sexual abuse or sexual harassment that occurred within one of our facilities, the designated point of contact shall be the facility Probation Manager or designee. Or the Deputy Chief for institution in the absence of the facility’s Probation Manager.

D. It shall be incumbent upon the Deputy Chief for institutions or the facility Probation Manager or his/her designee to ensure that the allegation is investigated in accordance with the PREA standards.

XXXVI. **115.364 Staff First Responder Duties:**
A. Upon learning of an incident of sexual abuse that occurred within a time period that still allows for the collection physical evidence, the first direct care staff member to respond shall do the following,

1. Separate the alleged victim and abuser
2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence
3. Request/Ensure that the alleged victim not take any actions that could destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating
4. If the first responder is non-direct care staff member, he or she is required to (1) instruct the victim not to take any actions that could destroy physical evidence and then immediately (2) notify direct care staff
5. All residents have access to medical and mental health care pursuant to Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.01 – Medical and Dental Services/Medical Emergency Procedures, and Part 2, Section 2.03 – Mental Health Services, and Ranch Policy and Procedures Manual, Part 10, Section 10.01 – Medical Program and Part 05, Section 05.01, – Programs. Additionally, Administrative Policy and Procedures Manual, Part 500, Section 503 – Critical Incidents Policy and Procedures, makes provision to staff and clients for mental health care to mitigate any psychological effects of critical incidents. Consequently, the first responder will immediately refer the youth to the medical services staff for initial evaluation services and determination of the need for an outside medical referral for further testing and evaluation.

B. The staff responding to the incident of abuse shall notify law enforcement, as well as his/her supervisor and follow the reporting requirements under Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.05 - Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07, Section 07.04 – Child Abuse Reporting

C. The Probation Department’s juvenile facilities shall ensure the preservation and the integrity of all suspected crime scenes. First responders will ensure crime scenes are secured to prevent unauthorized access by any person, removal of evidence, or contamination of the crime scene.

D. Documentation of sexual abuse incidents shall follow guidelines in accordance with Juvenile Hall Policy and Procedures Manual, Part 07, Section 7.01 – Incident Reports/Reviews; and Ranch Policy and Procedures Manual, Part 07, Section 07.02 - Incident Reports
115.365 Coordinated Response:

A. (Ranch Policy and Procedures Manual, Part 12, Section 12.01 – PREA)

B. In responding to incidents of sexual abuse in the juvenile facilities, the Department is committed to a coordinated and victim centered care approach involving the staff First Responder, Law Enforcement, Child Protective Services (CPS), Victim Advocates, Medical and Mental Health Care Providers, the District Attorney’s Office, the PREA Coordinator, facility probation manager (PREA Compliance Manager) and the Deputy Chief for institutions. The role of each responding party shall be as follows:

1. **The Staff First Responder** will follow the steps outlined in this policy under Staff First Responder Duties. Upon informing the supervisor on duty, the supervisor will notify the Probation Manager who, in turn, will inform the Deputy Chief for institutions. Law enforcement is notified in all incidents where violation of the law is suspected in accordance with Juvenile Hall Policy and Procedures Manual Part 02, Section 2.05 - Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07, Section 07.04 – Child Abuse Reporting.

2. **Law enforcement officers (the Sheriff’s Office)** will be responsible for processing the crime scene evidence, conduct investigation, work to enhance victims’ safety, collaborate with the Probation Department to arrange for victims’ transportation to and from the exam site as needed, interview victims in a language they understand, collect evidence from the scene, coordinate collection and delivery of evidence to designated labs or law enforcement facilities, interview suspects, and conduct other investigative activities (such as interviewing suspects and witnesses in a language they understand, requesting crime lab analyses, reviewing medical and lab reports, preparing and executing search and arrest warrants, writing reports, and presenting the case to the District Attorney’s Office.

3. **Victim Advocates from the Rape Crisis Center** may be involved in initial victim contact (via 24-hour hotline or face-to-face meetings) or be involved no later than 24 hours of the incident. Responsibilities will include - offer victims advocacy, emotional support, crisis intervention, information, language assistance services, including interpreters, and referrals before, during, and after the exam process; and help ensure that victims have transportation and are accompanied to and from the exam site. Advocates will also provide comprehensive, longer term services designed to aid victims in addressing any needs related to the assault, including but not limited to counseling, legal (civil, criminal, and immigration), and medical system advocacy.

4. **Medical and Mental Health care providers at each facility** will initially assess victims for acute medical needs and refer victim to the Valley Medical Center to provide stabilization, forensic examination and treatment.
5. **Forensic Examiners at Valley Medical Center** perform the medical forensic exam, gather information for the medical forensic history, collect and document forensic evidence, and document pertinent physical findings from victims. They will offer information, treatment, and referrals for sexually transmitted infections (STIs), and other non-acute medical concerns; assess pregnancy risk and discuss treatment options with the victim, including reproductive health services; and testify in court if needed. They will coordinate with advocates to ensure patients are offered crisis intervention, support, and advocacy before, during, and after the exam process and encourage use of other victim services. There are approximately 20 specially trained registered nurses at VMC who serve as SART Nurse Examiners.

6. **The District Attorney’s Office, in consultation with law enforcement investigators shall** determine if there is sufficient evidence for prosecution and, if so, prosecute the case. The Probation Department will ensure the full cooperation of staff and first responders as needed in the investigation process.

C. In all coordinated first response activities concerning sexual abuse of youth, the Probation Department will evaluate each incident of sexual abuse to:

1. Ensure that the victim receives the required treatment;
2. Assess potential causes of the incident or allegation (e.g. race, ethnicity, gender identity, sexual orientation, gang affiliation, interpersonal dynamics, etc.);
3. Identify any physical barriers that may have enabled the abuse (e.g. blind spots, covered windows, poor lighting, etc.);
4. Identify inadequacy of staffing levels during different shifts;
5. Conduct an assessment of technology, policy, or training, to better prevent, detect, and/or respond to incidents of sexual abuse;
6. Ensure all identified corrective actions are documented.

XXXVIII. **115.366 Preservation of Ability to Protect Residents from Contact and Abusers:**

A. In accordance with the Department policy on **Anti-Retaliation** under this Administration and Procedures Manual, each facility will employ multiple protection measures, including custody and housing changes, special management plans, No Contact Status, or transfers for youth/resident victims or abusers and emotional support services for youth or staff that fear retaliation for reporting sexual abuse or cooperation with investigations.

B. During the law enforcement investigations and the administrative review process the accused staff member will be placed on “No Contact Status” if there is an allegation of child abuse, sexual harassment or sexual misconduct.

C. Employees/Staff placed on “No Contact Status” will not be allowed contact with any youth until the completion of the required investigation.

D. Prior to placing an employee on “No Contact Status”, the Supervisor, and the Probation Manager, in consultation with the Deputy Chief, will consider the following factors:
1. The severity of the resident injury
2. Witness statements
3. Video evidence, if available, and any other evidence
4. Past history of the accused staff member

E. The employee/staff may be placed on paid administrative leave until the completion of the required investigation.

F. Neither this Department nor any other governmental entity responsible for collective bargaining on this Department's behalf shall enter into or renew any collective bargaining agreement that limits this 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.

XXXIX. 115.367 Protection Against Retaliation:
A. The County of Santa Clara Policy Against Discrimination, Harassment and Retaliation as well as the County 24/7 Whistleblower Program prohibit retaliation for reporting governmental improprieties. Juvenile Hall Policy and Procedures Manual, Part 04, Section 4.07 – Grievances, and Ranch Policy and Procedures Manual, Part 08, Section 08.03 - Grievance Policy and Procedure state, "At no time may any action be taken by any counselor or the Administration against any minor filing a grievance and exercising his or her rights under this process."

B. The Department's Anti-Retaliation Policy as contained in this Administration Policy and Procedures Manual, and Ranch Policy and Procedures Manual, Part 08, Section 08.03:

C. In compliance with PREA standards, the Probation Department encourages its staff, clients, residents, contractors, volunteers, interns, visitors/special guests, and other covered individuals to make good-faith reports of staff on resident, and resident on resident sexual abuse, sexual harassment and sexual misconduct incidents. The commitment to improve the quality of life and services for clients, ensure the safe custodial care of residents and provide healthy work environment for all through such reports is vital to the well-being of the entire department and the community it serves. Retaliation as a response to such a report will not be tolerated.

D. Retaliation, whether actual or threatened, destroys a sense of trust that is central to a quality environment. The Department, therefore, wishes to make clear that it considers acts or threats of retaliation in response to such reports to constitute a serious violation of the Department policy.

XL. DEFINITIONS.
A. "Good faith report" means disclosure of sexual abuse, sexual harassment, and sexual misconduct made with a belief in the truth of the report which a reasonable person in the reporter's position could hold based upon the facts. (Such report is sometimes called "whistleblowing."). A report is not in good faith if made with reckless disregard for or willful ignorance of facts that would disprove the report.

B. Sexual abuse, sexual harassment and sexual misconduct include any activity by staff on resident or among residents as defined in the Department Zero Tolerance Policy on sexual abuse, sexual harassment and sexual misconduct.
C. "Reporter" means any staff, resident, contractor, volunteer, intern, visitor/special guest, or other covered individuals who, in good-faith, reports real or perceived violation of the Department Zero Tolerance Policy on sexual abuse, sexual harassment and sexual misconduct.

D. "Complainant" means any staff, resident, contractor, volunteer, intern, or visitor/special guest or other covered individual who makes a complaint of retaliation under this policy. Such a complaint may be made by the individual suffering from the retaliation or by a third party who has knowledge of retaliation.

E. "Other covered individual" means any person who has participated in complaint proceedings or who has a close association with someone who has reported a sexual misconduct violation or filed a complaint of retaliation.

F. "Retaliation" means any materially adverse action or credible threat of a materially adverse action by the Department, or staff member thereof, taken against any staff , or resident/client, contractor, volunteer, intern, visitor/special guest, for having made a good-faith report of a violation of the Department policy on sexual abuse, sexual harassment and sexual misconduct, or taken to deter such a report in the future, or taken against another covered individual because of a close association with someone who has made or may make such a report.

G. "Materially adverse action" means any action that causes or threatens to cause significant injury or harm to a reporter, complainant or other covered person such that it would likely dissuade a reasonable member of the staff, resident, clients, contractor, volunteer, or visitor/special guest from making or supporting a good-faith report of a violation of the Department policy on sexual abuse, sexual harassment and sexual misconduct.

H. Staff: Adverse actions may include, but are not limited to, employment actions such as discharge, demotion, suspension, denial of promotion, detrimental changes in work assignments, threats, harassment, purposeful exclusion from job interactions, and otherwise being substantially disadvantaged with respect to compensation or the terms, conditions, and privileges of employment. Adverse actions may also include actions or threats not directly related to employment if the actions would dissuade a reasonable staff member from making or supporting a complaint of violation of the Department policy.

I. Residents: Adverse actions may include, but are not limited to, isolation, denial of rights, denial of privileges and other learning opportunities, exclusion from programming, work, educational and recreational activities or extracurricular activities or opportunities, threats, harassment, or otherwise being substantially disadvantaged with respect to the educational, recreational, residential or extra-curricular life.

J. Contractor: Adverse actions may include, but are not limited to, denial of contract renewal, termination of contract, or being discriminated against on contract awards.

K. Other covered individuals: Adverse actions may include those mentioned above as well as those that may prevent the individual from pursuing and/or obtaining employment.
XLI. **SCOPE OF ANTI-RETAILIATION POLICY.**

A. No staff/employee of the Department shall engage in retaliation in response to the filing of a report/complaint of violation of the Department Zero Tolerance policy on sexual abuse, sexual harassment and sexual misconduct.

B. The Department will take immediate and continuing steps to guard against retaliation and make every reasonable effort to stop retaliation immediately, to conduct a complete and thorough investigation of alleged acts of retaliation in a timely manner, and to sanction the perpetrators of retaliation as appropriate. For victims of substantiated retaliation, the Department will provide redress by returning the reporter/complainant, if a staff member, to the working conditions s/he would have been in absent retaliation, where appropriate and reasonable.

C. Institution Probation Managers (Juvenile Hall and the Ranch) and their supervisors will take immediate steps to ensure that youth/residents alleging abuse, harassment and sexual misconduct, or resident on resident sexual acts are not victims of any form of retaliation.

D. The act of a good-faith report of a violation of the Department Zero Tolerance policy on sexual abuse, sexual harassment and sexual misconduct shall not be used to make a decision to the reporter's or other covered individual's detriment, or to subject the reporter or other covered individual to harassment such that it creates a hostile custodial or work environment.

E. To encourage and protect reporters, it is the Department policy that no reference to the good-faith report of violation of Department Zero Tolerance policy on sexual abuse, sexual harassment and sexual misconduct shall be made in personnel files, letters of recommendation, performance appraisals, or any other permanent evaluative documents without the consent of the reporter. To the extent that it is possible to do so, the identity of the reporter and complainant will remain confidential.

F. Those who make reports not in good faith will be disciplined as appropriate through regular Department procedures. Irrespective of the origin or the intent of the allegations, in the event the allegations are not substantiated, the Department in consultation with the accused shall take all reasonable steps within the control of the Department to restore the reputation of the accused to the extent that it was damaged by the investigation and proceedings, for example, removing all references to the allegations in the personnel records of the accused.

G. Each facility (Juvenile Hall and the Ranch) shall employ multiple protection measures for residents who fear retaliation for reporting sexual abuse or sexual harassment, or for cooperating with investigations.

H. Protection measures for residents shall include, but not limited to (1) Housing changes or transfers for resident victims or abusers (2) Removal of alleged resident abusers from contact with victims (3) Provision of emotional, medical and mental health services for victims. The safety, security, and well-being of the alleged victim will be primary in these decisions.

I. The Department shall employ multiple protection measures for staff who fear retaliation for reporting sexual abuse, sexual harassment or sexual misconduct, or for cooperating with investigations. Protection measures for staff shall include, but not limited to removal of alleged staff abuser from contact with victim, the placement of alleged staff on administrative leave with pay until the completion of the required
investigation. Emotional support services via the Employee Assistance Program (EAP) shall be offered to the staff that fear retaliation for reporting sexual abuse, harassment or misconduct or cooperation with investigations.

J. At each 90 day period following a report of sexual abuse, sexual harassment/sexual misconduct the Department (Probation Managers and unit supervisors) will monitor the conduct or treatment of youth/resident or staff who reported the abuse/harassment/ misconduct and the victims to determine if retaliation is occurring. Items to be monitored include, but are not limited to, youth disciplinary reports, status checks, housing, or program changes, negative performance reviews or reassignment of staff. The obligation to monitor terminates if the allegation is determined to be unfounded.

XLII. STAFF WHO RETALIATE.
A. In order to maintain a hostility-free work environment, Department policies seek to protect staff from the harassing behaviors of other staff members. Staff and other covered individuals who make good-faith reports are protected from retaliation by the Administration or other staff members. As agents of the Department, staff shall be subject to disciplinary sanctions if he or she threatens, assaults, or harasses a staff member, or resident in retaliation for making a report. Sanctions also may be imposed in cases where no report has been filed but a staff threatens to retaliate against one who does make a report.

XLIII. SANCTIONS.
A. Anyone who violates the anti-retaliation policy is subject to disciplinary action. Following an appropriate investigation, administration staff, or an employee may be subject to sanctions, including reprimand, probation, suspension, demotion, reassignment, or termination.

B. In addition to disciplinary action by the Department, violations of this policy which fall under California Penal Code may also be referred to the District Attorney for prosecution.

XLIV. 2.5 PROCEDURES FOR REPORTING.
A. Any violation of this policy will receive prompt and appropriate action. Any employee, or prospective employee, who experiences retaliation for reporting sexual abuse, sexual harassment or sexual misconduct should immediately contact any of the following:

1. His/Her supervisor, a higher level manager
2. The Departmental Affirmative Action Advisor
3. The County Equal Opportunity at Department (408) 299-5195
4. The Coordinator of Women's Policy at (408) 299-5135
5. A union representative,
6. The Department of Fair Employment and Housing (800) 884-1684
7. The Equal Employment Opportunity Commission, or a private attorney

B. Mechanisms available to residents who experience retaliation for reporting sexual abuse and seeking relief against retaliation include, but not limited to the following:
1. Completing a Sick-Call Request Form
2. Using the grievance process
3. Dropping a note in the Supervisor’s Box
4. Telling a teacher, counselor, the manager, a supervisor, medical or mental health staff, the Deputy Chief, Parent/Guardian, Chaplain, or any trusted adult
5. Using the confidential Hotline in the clinic (408)-287-3000

C. At any time before the complaint is fully resolved, the complainant may submit a request to the responsible person/supervisor/manager to take interim actions to protect the complainant against any adverse action.

XLV. 115.368 Post Allegation Protective Custody:
A. The Department has as a policy the belief all youth under supervision have a right to be free from unreasonably restrictive conditions of confinement, including isolation, and that most situations can be managed through the use of counseling techniques, verbal corrections, rewards, privilege restrictions or enhancements. In most situations, the least restrictive method is used, and isolation is used as a last resort as stipulated in the Juvenile Hall Policy and Procedures Manual, Part 04, Section 4.04 – Isolation, and Ranch Policy and Procedures Manual, Part 06, Section 06.04 – Use of Force/Restraint/

B. According to the Department policy, Isolation is used under two of these circumstances:
   1. Minor (residents) with disciplinary issues who have been segregated to maintain order, safety and security, and
   2. Protective Custody; which is defined as a type of confinement (or care) to protect a minor from harm, either from outside or from other minors (residents)

C. The Department policy on Isolation, which is in compliance with PREA Standards, dictates the following:
   1. Isolation is temporary and will end once the circumstances causing the isolation are resolved
   2. Whenever a minor (resident) is in isolation, periodic direct visual monitoring and counseling by staff is mandated
   3. Each minor (resident) must be seen in their room no less than every 15 minutes
   4. A mental health referral is made for a minor in isolation beyond 24 hours for intensive counseling plan that provides assistance in re-integration
   5. A minor (resident) placed in isolation shall not be subjected to corporal punishment, physical or psychological degradation
   6. Minors (residents) shall maintain their rights while in Isolation, including their rights to programming, counseling, medical, religious and educational services, unless their rights pose a safety issue to the minor or others
   7. Minors (residents) will receive one hour of large muscle activity which usually takes place during the 3-11 shift

D. Resident abusers shall be removed from contact with victims, and emotional support services shall be provided for youth, or staff who fear retaliation for reporting sexual abuse, or cooperation with investigations.

E. Upon a resident return from the emergency room, a new custody and housing assessment will be completed. The facility Probation Manager, or designee, in consultation with the Deputy Chief will make a decision regarding housing/bed placement for the alleged victim. The safety, security and well-being of the alleged victim will be primary in these decisions. The alleged victim will not be housed in the same area as
the alleged perpetrator.

INVESTIGATIONS

XLVI. 115.371 Criminal and Administrative Department Investigation: Department policy and Ranch Policy and Procedures Manual, Part 12, Section 12.01 – PREA provide for the following:

A. The Department is committed to investigating all allegations of sexual abuse, sexual harassment and staff sexual misconduct from all sources, including third party and anonymous reports. All investigations shall be carried through to completion regardless of whether the alleged abuser or victim remains at the facility and whether the source of the allegation recants his or her allegation. Allegations of child abuse and suspected child abuse shall be reported immediately and in accordance with procedures outlined under Juvenile Hall Policy and Procedures Manual Part 02, Section 2.05 - Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07, Section 07.04 - Child Abuse Reporting

B. All reports of sexual abuse that are believed to be criminal in nature shall be reported to law enforcement - Sheriff’s Office. The on-duty supervisor will assess the incident and make the necessary referrals in accordance with the Duties of the Supervisor as noted in Juvenile Hall Policy and Procedures Manual Part 02, Section 2.05 - Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07, Section 07.04 - Child Abuse Reporting

C. In compliance with PREA, following the reporting and response to sexual abuse or sexual harassment, a thorough investigation shall be conducted.

XLVII. Internal Investigation:

A. An internal investigation of allegation of resident on resident and staff sexual abuse of a resident will proceed whether or not a law enforcement investigation is opened. If a law enforcement investigation is opened, the Department will cooperate and coordinate with law enforcement as to the timing and process of the investigation to ensure the integrity of the internal and law enforcement investigations to avoid any complications associated with Garrity, and in accordance with the Department’s Internal Affairs Policy and Procedures. Internal Affairs investigations follow the criminal investigation and proceed with an Administrative Investigation regarding Merit System Rule violations. In the event of sexual harassment claims, Equal Opportunity Division (EOD) and Internal Affairs conduct parallel investigations.

B. The Department will ensure that internal affairs staff responsible for investigating incidents of sexual abuse shall receive specialized training in sexual abuse investigations.

C. Internal investigations shall be completed within the constraints imposed by statutes of limitation and terms and conditions of collective bargaining agreement.

D. The District Attorney’s Office determines prosecution based upon filing of criminal charges.

E. To the extent the Department is not responsible for investigating criminal allegations of sexual abuse, the
Department shall request and ensure that the investigating law enforcement agency follow a uniform evidence protocol, adopted from, or otherwise based on the most recent edition of the US Department of Justice's Office on Violence Against Women publication "A National Protocol For Sexual Assault Medical Forensic Examinations, Adults/Adolescents."

F. The Department will retain all written Administrative and Criminal investigation reports for as long as the abuser is incarcerated/committed or employed by the Department, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.

G. Administrative investigations

1. shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
2. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

H. The Department prohibits residents who report abuse, or cooperate in the investigation of abuse, from taking a polygraph test.

XLVIII. 115.372 Evidentiary Standard for Administrative Investigations:

A. (Ranch Policy and Procedures Manual, Part 12, Section 12.01 PREA)

1. Complaints received by the Department Internal Affairs unit are investigated, and the findings of these investigations are reported back to the complaining citizen or personnel as well as the accused employee(s).
2. Administrative investigations shall include an effort to determine whether staff actions of omission or commission facilitated the abuse.
3. The evidentiary standard for administrative investigations shall be guided by the Department's Internal Affairs policy and procedures and applicable Merit System Rules, state and federal laws, and the Department will ensure that evidentiary standard shall be consistent with PREA Standard 115.372 – Evidentiary Standards for Administrative Investigations.

XLIV. 115.373 Reporting to Residents:

A. (Ranch Policy and Procedures Manual, Part 12, Section 12.01 - PREA)

1. Following an investigation into an allegation of sexual abuse, whether by a resident or a staff member, the resident victim shall be notified as to whether the allegation has been determined to be substantiated, or unsubstantiated,
2. The resident victim shall be notified of criminal and administrative actions regardless of the following circumstances:
   a) The staff member is no longer posted within the resident unit
   b) The staff member is no longer employed by the Department
   c) The Department learns that the staff member or the resident has been indicted on a charge related to sexual abuse within the facility
   d) The Department learns that the staff member or the resident has been convicted on the sexual abuse charge.

B. In all resident victim notifications, whether the perpetrator is a staff member or a resident, the Department / facility shall document such notifications or attempted notifications.

C. Youth Notification form Link
DISCIPLINE

115.376 Disciplinary Sanctions for Staff:
A. The Department Code of Ethical Conduct under Part 200, Section 220 of the Administration Policy and Procedures Manual; Juvenile Hall Policy and Procedures Manual, Part 01, Section 1.05 – Code of Ethical Conduct, and Part 01, Section 1.06 – Staff Conduct; Ranch Policy and Procedures Manual, Part 01, Section 01.03 – Responsibilities and Relationships, Part 01, Section 01.04 – Probation Department Code of Ethical Conduct and Part 02, Section 02.03 – Guidelines for Conduct of Staff, establish professional and personal activities must be free of improper influence or the appearance of improper influence. Inappropriate conduct is defined to include engaging in improper relationships with clients and/or their families.

B. Any sanction contemplated by the Department, which is related to a violation of policy and/or the law shall be subject to the County Charter, Union Agreements, Merit System Rules and applicable laws, rules and regulations as stipulated under Administration Policy and Procedures Manual, Part 200, Section 231 – Reporting of Arrest, Prosecution, Conviction or Change in Driver’s License Status.

C. Violation of the law or policy, including sexual abuse and sexual harassment shall call for disciplinary sanctions up to and including, reprimand, suspension or termination, depending on multiplicity of factors, including (1) the nature and circumstance of the acts committed, (2) the staff member’s disciplinary history, (3) the sanctions imposed for comparable offenses by other staff with similar histories.

D. Staff who participates in or permit youth/resident or staff to violate the rights of youth/resident will be subject to disciplinary action up to and including termination.

E. Staff who participates in, or permits the unlawful discrimination, harassment or bullying of youth/resident will be subject to disciplinary action up to and including termination.

F. The presumptive disciplinary sanction for staff who have engaged in sexual abuse of a resident is termination.

G. All terminations for violations of the Department policies relating to sexual abuse or sexual harassment policies or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agency, unless the activity was clearly not criminal, and to any licensing bodies.

115.377 Corrective Action for Contractors and Volunteers:
A. The Santa Clara County Probation Department, in compliance with the PREA Standards, strictly prohibits any form of consensus sexual activities between resident and resident, staff, contractors, volunteers, interns. Such conduct is subject to administrative disciplinary sanctions and may result in criminal prosecution.

B. Juvenile Hall Policy and Procedures Manual, Part 12, Section 12.02 – Volunteers/Programs/Non-Probation Visitors and Ranch Policy and Procedures Manual, Part 5, Section 5.01- Programs require volunteers to undergo a criminal background investigation (live-scan).
C. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

D. The Department shall take appropriate remedial measures, and consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

XLVII. 115.378 Intervention and Disciplinary Sanctions for Residents:

A. The Department shall utilize a consistent, responsive, non-demeaning and fair disciplinary process within its facilities as noted in the Juvenile Hall Policy and Procedures Manual, Part 04, Section 4.01 – Behavior Control of Minors, and Ranch Policy and Procedures Manual, Part 06, Section 06.01 – General Rules and Expectations.

B. The Department’s zero tolerance policy on sexual abuse, sexual harassment and sexual misconduct as specified under this Administration Policy and Procedures Manual, strictly prohibits any form of consensual sexual activities between resident and resident, staff, contractors, volunteers, interns, visitors/guests. Such conduct is subject to administrative disciplinary sanctions and may result in criminal prosecution.

C. Residents will receive appropriate interventions if they engage in resident on resident sexual abuse. Decisions regarding which types of interventions to use in particular cases, including treatment, counseling, education programs, or disciplinary sanctions, are made with the goal of promoting improved behavior by the resident and ensuring the safety of other residents and staff.

D. A resident shall 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.

E. Any disciplinary sanctions shall 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.

F. The Department will ensure that the disciplinary process considers 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.

G. In the event a disciplinary sanction results in the isolation of a resident, the Department / facility will not deny the resident daily large muscle exercise or access to any legally required educational programming or special education services in accordance with Juvenile Hall Policy and Procedures Manual, Part 4, Section 4.04 – Isolation; and Ranch Policy and Procedures Manual, Part 06, Section 06.03 – Use of Force/Restraint.

H. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible in accordance with Juvenile Hall and the Ranch Policy and Procedures Manuals.
I. A report of sexual abuse made in good faith shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

J. To the extent that the Department’s Zero Tolerance Policy prohibits all forms of resident-on-resident sexual activity, the Department will not deem such activity to constitute sexual abuse if it is determined that the activity is not coerced.

K. Residents who commit law violations while in custody shall be referred to law enforcement (the Sheriff’s Office). Juvenile Hall Policy and Procedures Manual, Part 07, Section 7.04 – New Law Violations While in Custody, establishes guidelines for processing residents who commit new law violations while in Juvenile Hall.

MEDICAL AND MENTAL HEALTH CARE

XLVIII. 115.381 Medical and Mental Health Screenings; History of Sexual Abuse:

A. Juvenile Hall Policy and Procedures Manual, Part 06, Sections 6.01 – Classification; and Part 02, Section 2.01 – Health Care Services; and Part 02, Section 2.01 – Medical and Dental Services/Medical Emergency Procedures; and Ranch Policy and Procedures Manual, Part 03, Section 03.04 – Orientation and Admissions Process, Part 03, Section 03.03 – Case Classification and Considerations; and Part 10, Section 10.01 – Medical Program meet the following requirements:

B. ((a) Within 24 hours of the resident/youth’s arrival in Juvenile Hall or at the Ranch, and periodically throughout a resident’s confinement, the facility staff will obtain and use information about each resident/youth’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident/youth. The assessment information will be obtained primarily from utilizing the Risk of Victimization / Sexually Aggressive Behavior (RV/SAB) screening instrument and other sources such as the MAYSII.

C. The key elements of the (RV/SAB) instrument include the following information:
1. Prior sexual victimization or abusiveness;
2. Any gender nonconforming appearance or manner, self-identification as
   lesbian, gay, bisexual, transgender, or intersex, and whether the resident
   may therefore be vulnerable to sexual abuse;
3. Level of emotional and cognitive development;
4. Physical size and stature;
5. The residents' own perception of vulnerability; and
6. Any other specific information about individual residents that may indicate
   heightened need for supervision, additional safety precautions, or separation from
   certain other residents.
7. Mental illness or mental disabilities;
8. Intellectual or developmental disabilities;
9. Physical disabilities;
10. Any other information about a resident that may indicate heightened need for
    supervision

D. If a resident/youth discloses prior sexual victimization or abusiveness during the intake process or during a
    medical or mental health intake screening or assessment, the staff will report the abuse according to state
    Mandated Child Abuse Reporting guidelines, and Juvenile Hall Policy and Procedures Manual Part 02,
    Section 2.05 - Child Abuse Reporting Procedures and Ranch Policy and Procedures Manual, Part 07,
    Section 07.04 - Child Abuse Reporting. For resident/youth over the age of 18, medical and mental health
    staff shall obtain informed consent from the resident/youth prior to reporting the abuse.

E. If the RV/SAB intake screening indicates that a resident has experienced prior sexual victimization,
    whether it occurred in an institutional setting or in the community, the staff shall ensure that the resident
    is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake
    screening.

F. If the RV/SAB intake screening indicates that a resident has previously perpetrated sexual abuse, whether
    it occurred in an institutional setting or in the community, the staff shall ensure that the resident is offered
    a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

G. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall
    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.

H. The Department will ensure that medical and mental health practitioners shall obtain informed consent
    from residents before reporting information about prior sexual victimization that did not occur in an
    institutional setting, unless the resident is under the age of 18.
XLIX. **115.382 Access to Emergency Medical & Mental Health Services:**

A. All residents have access to timely, unimpeded emergency medical and mental health care pursuant to Juvenile Hall Policy and Procedures Manual, Part 02, Section 2.01 – Medical and Dental Services / Medical Emergency Procedures, and Part 2, Section 2.03 – Mental Health Services, and Ranch Policy and Procedures Manual, Part 10, Section 10.01 – Medical Program and Part 05, Section 05.01, – Programs. Additionally, Administrative Policy and Procedures Manual, Part 500, Section 503 – Critical Incidents Policy and Procedures, makes provision to staff and clients for mental health care to mitigate any psychological effects of critical incidents.

B. Victims of sexual abuse will have 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.

C. Any youths reported or believed to have been sexually assaulted shall be immediately referred to health care staff for appropriate first aid and emergency care. The youth shall be sent to a hospital for further examination, treatment, and collection of forensic evidence. When on-site health care staff are unavailable, the youth shall be transported to the hospital for treatment. The first responders will take preliminary steps to protect the victim.

D. All known abusers or perpetrators will be provided treatment, as deemed necessary by qualified mental health professional. Each youth/resident shall be provided individualized and measurably effective services directed towards his/her assessed risk and needs.

E. Any allegation, suspicion or report of a sexual assault/abuse that includes penetration will be immediately referred for outside medical (VMC) testing, evaluation and forensic examination.

F. Health information will be kept confidential. The youth/resident will be asked to sign a release of information permitting the hospital to release the records of the evaluation to the Department/facility health care staff to be placed in the youth’s/resident’s health record.

G. Resident victims of sexual abuse while in custody shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections and prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

H. Medical services shall be provided to victims without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

I. Medical services staff will provide appropriate follow-up care and treatment. At the follow up appointment, the youth’s/resident’s physical and emotional status will be assessed. The provider will review the records from the outside medical facility to determine if all medical aspects of the evaluation were completed.
**115.383 Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers:**

A. The Department offers all youth/resident victims of sexual abuse/assault the same level of care as if they were in a community setting to ensure ongoing medical and mental health evaluations and treatment. All victims of sexual abuse are immediately referred to outside medical testing and evaluation. Upon release from custody, the Re-entry/Aftercare case manager/probation counselor will provide the youth/resident with follow up referrals to the Rape Crisis Center and the community for services to ensure continuity of care in accordance with Ranch Policy and Procedures Manual, Part 04, Section 04.04 – Multi-Disciplinary Team Meetings (MDT).

B. Resident victims of sexually abusive vaginal penetration while in custody shall be offered pregnancy tests. If pregnancy results from conduct specified, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

C. Youth victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. Treatment services shall 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.

D. Youth/resident will receive appropriate interventions if they engage in youth on youth sexual abuse. Decisions regarding which types of interventions to use in particular cases, including treatment, counseling, education programs, or disciplinary sanctions, are made with the goal of promoting improved behavior by the youth and ensuring the safety of other youth and staff. Pre-adjudicated youth will not be placed in a sexually harmful behaviors treatment program.

E. If pregnancy results from sexual abuse, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

F. Resident victims of sexual abuse while in custody shall be offered tests for sexually transmitted infections as medically appropriate.

G. The Department will pay for medical expenses incurred on behalf of committed youth/resident in Juvenile Hall or the Ranch regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

H. The Department is committed to ensuring that each facility shall 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.

**MONITORING: DATA COLLECTION AND REVIEW**

**115.386 Sexual Abuse Incident Reviews:**

A. The Department should consider treating all incidents of sexual abuse/assault as critical incidents to be examined by the Mental Health Disaster Coordinator.
B. Within 24 hours of a sexual abuse incident, the facility Compliance Manager or his/her designee shall notify the Rape Crisis Center victim advocate.

C. Within 30 days following the investigation of sexual abuse incident, the facility in question, shall conduct an incident review regardless of the outcome of the investigation. The team that reviews the incident shall consist of the facility PREA Compliance Manager, the PREA Coordinator, the Supervisor involved, the first responder and any medical or mental health personnel whose input is deemed necessary.

D. The sexual abuse incident review team shall do the following:
   1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse
   2. Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim's race, ethnicity, gender identity: sexual orientation, actual or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility
   3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse
   4. Assess the adequacy of staffing levels in that area during different shifts
   5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff
   6. Prepare a report of its findings, including but not necessarily limited to the above noted causes, and any recommendations for improvement and submit such report to the Deputy Chief for Institutions.
   7. The facility in question shall implement the recommendations for improvement, or shall document its reasons for not doing so.

E. Within 20 business days of the incident, the facility's Compliance Manager will ensure that all required reports are provided to the PREA Coordinator, the Deputy Chief for Institutions and the Chief Probation Officer.

F. The facility in question shall implement the recommendations for improvement, or shall document its reasons for not doing so.

115.387 Data Collection:
A. All allegations and reports of sexual abuse/assault, sexual harassment and staff sexual misconduct will be documented in accordance with Juvenile Hall Policy and Procedures Manual, Part 07, Section 7.01 – Incident Reports/Reviews; and Ranch Policy and Procedures Manual, Part 07, Section 07.02 – Incident Reports.

B. The Department shall collect accurate, uniform data for every allegation sexual abuse including all available incident-based documents, including reports, investigation files and sexual abuse incident reviews at both facilities, using a standardized instrument and set of definitions. Incidents involving sexual abuse and sexual harassment shall be captured in the Incident Reports database.
C. The incident-based data collected, at a minimum, will include data necessary to answer all questions from the most recent version of the *Survey of Sexual Violence* conducted by the Department of Justice Bureau of Justice Statistics.

D. The Quality Assurance Unit, in conjunction with the PREA Coordinator and Compliance Managers will review, analyze and use all sexual abuse and harassment data, at least, annually, to assess and improve the effectiveness of the Department’s prevention, detection and responding to sexual contact, sexual abuse, sexual harassment and sexual misconduct policies, practices and training.

LIII. **Data Monitoring:**
   A. Each facility Compliance Manager will complete an annual self-assessment at the facility as guided by the PREA Coordinator.
   
   B. The Manager responsible for contracts, in conjunction with the PREA Coordinator, will monitor all contractors providing services for residents for PREA compliance.

LIV. **115.388 Data Review for Corrective Action:**
   A. PREA Coordinator develops guidelines and policies for the prevention, detection, response, and monitor of sexual abuse and harassment that makes safety the top priority for youth/residents and staff.
   
   B. The PREA Coordinator will conduct an internal Department/Facility culture assessment every two (2) years. Upon completion of the culture assessment, the Department/Facility will gain an understanding of the informal practices and the values and beliefs of staff. This will enable the Department/Facility to have a deeper understanding of how PREA efforts are taking root throughout the Department. All staff will be required to complete 2-4-hour PREA training every two years as a part of the refresher training.
   
   C. Each Compliance Manager, in collaboration with the Information System Unit (ISU) and the PREA Coordinator, will provide trend data to assess and improve the effectiveness of the Department sexual abuse prevention, detection, and response policies, practices, and training, including:
      1. Identifying problem areas;
      2. Recommend corrective action on an ongoing basis;
      3. Provide trend data for preparing annual reports;
      4. Providing comparison data of the current year’s data.
      5. Assess Department’s progress in addressing sexual abuse.

D. The Department shall prepare an annual report of its findings of its data review and any corrective actions for each facility. Such report shall include a comparison of the current year’s data and corrective actions with those of prior years and provide an assessment of the Department’s progress in addressing sexual abuse.

E. The Department’s report shall be approved by the Chief Probation Officer and made readily available to the public through its website.

F. IF the Department finds it necessary to redact specific material from its reports, the redactions shall be limited to specific materials where publication would present a clear and specific threat to the safety and
security of the facility in question.

LV. 115.389 Data Storage, Publication and Destruction:
A. The Department shall securely maintain sexual abuse data collected for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise.

B. To the extent applicable, the Department shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public, at least annually through its website.

C. The Department shall make public, without personal identifiers, sexual abuse data, on its website or other means, annually.

AUDITS

LVI. 115.393 Audits of Standards:
A. In view of the Department's late implementation of the PREA Standards, a self-audit process shall begin by August 20, 2014.

B. The DOJ developed and issued audit instrument will provide guidance on the conduct of and contents of audits. Auditors will review all relevant Department/Facilities policies, procedures, reports internal and external audits, for each facility.

C. Auditors will review, at a minimum, a sampling of relevant documents and other records and information for the most recent one year period.

D. For each PREA standard, the Department of Justice Auditors determines whether the facility reaches one of the following findings:
1. **Exceeds Standard** (Substantially exceeds requirement of standard);
2. **Meets Standard** (Substantial compliance; complies in all material ways with the standard for the relevant review period);
3. **Does Not Meet Standard** (requires corrective action).
4. A finding of "Does Not Meet Standard" with one or more standards will trigger a 180-day corrective action period.
5. The DOJ auditor and this Department shall jointly develop a corrective action plan to achieve compliance.
6. The DOJ auditor can take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
7. After 180-days corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
8. If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that is has achieved compliance.

**AUDITING AND CORRECTIVE ACTION & DOJ TIMELINES**

LVII. **115.401: Frequency and scope of audits**
A. Beginning in August of 2014, a three-year auditing period will begin. An audit of Juvenile Hall and the Ranch facilities will be done, with 1/3 being audited each year. DOJ is developing and will issue an audit instrument in early 2013.

LVIII. **115.402: Auditor qualifications**
A. Auditor qualifications include being certified by DOJ. Expected procedures regarding the certification process, including training requirements have been released.

LIX. **115.403: Audit contents and findings:**
A. The final audit will be published on the Department’s web site. The Department expects to be PREA compliant, as shown through the audit process, scheduled to be conducted from August 2014 to August 2016.

LX. **115.404: Audit corrective action plan**
A. If the Department does not meet the audit standard set by DOJ, it has 180 days to take corrective action.

LXI. **115.405: Audit appeals:**
A. There is an appeal process that can be lodged within 90 days of the final audit before the findings are finalized.

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<th>Department of Justice Timelines</th>
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<tr>
<td>May 17, 2012</td>
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*Due*