

**Imperial County Sheriff's Office  
Corrections Bureau Policy and Procedures**

<b>Title: PREA</b>	<b>Date 05-18-15</b>	<b>Number 1711</b>
<b>Subject: INMATE SEXUAL ASSAULT/ABUSE PREVENTION</b>		
<b>Reference:</b>		

**I. POLICY**

It is the policy of the Imperial County Sheriff's Office (ICSO) to comply with the provisions set forth in the Prison Rape Elimination Act (PREA). ICSO has established a "Zero Tolerance" policy for sexual misconduct for incidents involving inmate-on inmate sexual violence and staff misconduct/harassment towards inmates, regardless if it is consensual or not. ICSO considers any form of sexual misconduct by staff an abuse of power. This Departmental Standard Operating Procedure (SOP) addresses the prevention, intervention, treatment, investigation, tracking and reporting of inmate-on-inmate sexual assault/battery and staff sexual misconduct/ harassment. ICSO shall make every effort to provide all inmates with a safe, humane and secure environment, free from the threat of sexual assault/abuse and staff sexual misconduct/harassment. As part of the intake and orientation process, inmates have been provided information regarding ICSO Zero Tolerance policy regarding sexual assault/abuse and staff sexual misconduct/harassment. In addition, All persons having access to inmates in ICSO custody shall receive training and education as required by PREA standards to include staff, Inmate Medical Provider (CFMG) mental health staff, investigators, contactors, vendors and volunteers. ICSO shall adapt any future PREA regulations as they become mandated.

**I. DEFINITIONS**

**Inmate-on-Inmate Sexual Violence**

Under the Prison Rape Elimination Act of 2003, sexual assault is separated into two categories including:

**A. Abusive Sexual Contacts**

Contact of any person without his/her consent and is coerced into such act by overt or implied threats of violence, or of a person who is unable to consent or refuse is prohibited.

Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person is prohibited.

Incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit is also prohibited.

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B. Non-Consensual Sexual Acts:

Contact of any person without his/her consent and is coerced into such act by overt or implied threats of violence, or of a person who is unable to consent or refuse is prohibited.

Contact between the penis and vagina, vagina and vagina, or the penis and anus including penetrations, however slight is prohibited.

Contact between the mouth and penis, vagina, or anus is prohibited.

Penetration of the anal or genital opening of another person by a hand, finger or other object is prohibited.

Prison Rape Elimination Act (PREA)

Enacted by Congress in 2003 to address the problem of sexual abuse of persons in the custody of United States correctional agencies. PREA applies to all public and private institutions that house adult or juvenile inmates and is also relevant to community based agencies. The major provisions of PREA are:

- A. Development of standards for detections, preventions, reduction and punishment of prison rape.
- B. Collection and dissemination of information on incidents of prison rape
- C. Award of grant funds to help state and local governments implement the purpose of PREA.

PREA Compliance Manager

Each facility will designate a PREA Compliance Manager assigned to serve as a point person for PREA related matters within the respective facility.

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Sexual Abuse:

For the purpose of this SOP in relation to inmate on inmate sexual violence and staff sexual misconduct/harassment, sexual abuse is defined as:

- A. Any of the acts defined under inmate-on-inmate sexual violence
- B. Any of the acts defined under staff sexual misconduct

Sexual Assault:

Sexual intercourse, oral or anal sex, or sex with instruments, whether consensual or not. Sexually offensive comments or gestures or any physical conduct which is of a sexual nature or sexually suggestive and the act of observing or interfering in an inmate's personal, intimate routines.

Sexual Harassment by inmates:

- A. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive nature by one inmate towards another.
- B. Any of the acts as defined under staff sexual harassment.

Sexual Harassment by staff:

Repeated verbal statements, comments, or retaliatory behavior of a sexual nature to an inmate by staff, volunteer, contractual staff, official visitor, or agency representative. examples include:

- A. Demeaning references to gender
- B. Derogatory comments about body or clothing
- C. Sexually profane or obscene gestures and or language

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Staff Sexual Misconduct

Any behavior or act of a sexual nature directed toward an inmate by staff, volunteers, contractual staff, official, visitor, or agency representative. Consensual or non-consensual behavior or sexual acts include:

- A. Verbal conduct of a sexual nature including threats for refusing sexual advances
- B. Intentional touching of genitalia, vagina, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire
- C. Completed, attempted, threatened, or requested sexual acts
- D. Occurrences of indecent exposure, invasion of privacy beyond what is reasonably necessary for safety and security, or staff voyeurism for sexual gratification. However, sexual misconduct does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of duty by staff
- E. Romantic relationships between staff and inmates

Voyeurism: By Staff, Contractors, or Volunteers

Invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate performing bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breast; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Zero Tolerance

Operational and philosophical standard that focuses on establishing a culture of intolerance of sexual misconduct against inmates by inmates or staff.

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**II. PREVENTION/INTERVENTION**

**A. TRAINING**

ICSO staff, contractors or volunteers, who have access to inmates, shall be provided training and /or education information on inmate-on-inmate sexual violence and staff sexual misconduct/harassment awareness through classroom training, brochures, handouts ,inmate handbooks, videos, online forums or in educational workbooks upon hiring and on an annual basis. All training shall be provided in a format based upon the level of contact and training requirements stipulated by PREA. Copies of the sign-off sheet(s) or electronic verification used to document staff training shall be forwarded to the Training Bureau. The training shall include, but not limited to:

1. Staff Training Requirements
  - a. ICSO Zero Tolerance policy
  - b. Staff's responsibilities to prevent, detect, report, and respond to sexual violence and staff sexual misconduct/harassment
  - c. The inmates right to be free from sexual violence, staff sexual misconduct/harassment
  - d. The dynamics of sexual violence in a confinement setting
  - e. Recognizing and responding to the physical, behavioral and emotional signs of sexual abuse, sexual assault/battery
  - f. How to avoid inappropriate relationships with inmate
  - g. Be familiar with the ICSO strip search procedures for cross gender, and identified victims of sexual violence
  - h. Disciplinary sanctions/criminal persecution.
  - i. Staff ethics

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- j. Applicable federal, state and local laws
2. Medical and Mental Health Staff Training Requirements:
- a. Assessing signs of sexual violence
  - b. How to preserve physical evidence of sexual violence
  - c. How to respond to victims of sexual violence
  - d. All Volunteers and contractors are responsible for having the knowledge and understanding of the Zero Tolerance Policy and are to report all incidents or suspicion of sexual violence or staff sexual misconduct or harassment.
3. Volunteer and Contractors Training Requirements:
- a. ICSO Zero Tolerance Policy and procedures for preventions, detections, and response to sexual violence and staff sexual misconduct/harassment
  - b. All volunteers and contractors will be responsible for adhering to all policies and procedures.
  - c. How to report incidents of suspicion of sexual violence or staff sexual misconduct/harassment
4. Inmate Training Requirements:
- All inmates shall be familiar with ICSO Zero Tolerance Policy regarding the right to be free from all forms of sexual violence and sexual harassment

**B. INITIAL INMATE ASSESSMENT**

An initial assessment shall be conducted as part of the intake process to determine if the newly arrested inmate is a victim of potential victim of sexual assault/battery or at risk of committing sexual assault/battery. The assessment shall include the following:

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1. Completion of an initial medical/mental health screening by search and escort
2. Completion of a medical/mental health screening interview by CFMG MEDICAL PROVIDERS
3. Review any information indicating the potential of vulnerabilities or tendencies of acting out in a sexually aggressive manner, to include:
  - a. First time in custody
  - b. Physical size or physical characteristics
  - c. Gang affiliation
  - d. Demeanor (openly showing fear versus aggressiveness)

If it is determined that the inmate is at risk, interviewing staff shall complete the administration segregation process and ensure the inmate is under direct supervision for his/her safety and security as well as the safety and security of others. In addition, the Facility/Bureau Supervisor or the PREA Compliance Manager notified via the chain of command if the inmate was victim of, or committed sexual acts in either facility.

**C. CLASSIFICATION ASSESSMENT**

1. Inmate's current charges which may reflect sexual assault/abuse behavior
2. Inmate history which may reflect that the inmate has a history of sexual assault/abuse behavior and/or has been a sexual assault/abuse victim
3. Self-reporting by the inmate that he/she is a victim of sexual assault/abuse

Inmate(s) identified as sexual offender(s) while in custody shall be placed in Administrative Segregation pending classification and administrative review by the respective Facility/Bureau Supervisor or designee.

The alleged victim(s) and offender(s) may be reclassified into protective custody from the general population or placed into direct supervision housing.

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**D. INMATE ORIENTATION**

Upon intake, all inmates will be educated on ICSO's Zero Tolerance policy. The ICSO Inmate Handbook and ICSO Sexual Assault Awareness pamphlet contain information regarding sexual assault/battery and staff sexual misconduct/harassment. This information shall be provided during the inmate classification interview process. The ICSO Inmate Handbook and Sexual Assault Awareness pamphlet shall include, but not be limited to:

1. Methods, and self-protection techniques to reduce the likelihood of being victimized by sexual offenders
2. Procedures for reporting attempted sexual assault/battery or sexual assault/battery by another inmate or staff sexual misconduct/harassment by staff to include
  - a. Reporting the attack to ICSO staff immediately
  - b. Requesting to see the Facility/Bureau Supervisor of designee via an Inmate Request form
  - c. Calling the Rape Crisis Hotline phone number that is posted in all holding and housing areas. Inmates can contact that hotline toll free from any inmate telephone
3. Sanctions for the inmate who commits sexual assault/battery against another inmate(s)
4. Available support services, e.g., counseling, medical/mental services, etc.
5. ICSO Disciplinary rules of conduct for all inmates

**III. RESPONSE TO SEXUAL ASSAULT/BATTERY ALLEGATIONS**

When ICSO staff, volunteers, or contractual staff become aware of a possible incident involving sexual assault/battery, discover a sexual assault/battery in



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progress, or observe physical evidence, he/she shall immediately notify the respective Watch Commander or designee. All incidents of sexual assault/abuse shall be reported immediately and investigated thoroughly. The Watch Commander shall ensure that the following protocols are adhered to and is completed:

- A. The alleged victim(s) shall be immediately separated from the alleged offenders(s)
- B. The alleged victim(s) shall be immediately escorted to a secure and non-hostile environment. To ensure the preservation of evidence, the victim(s) shall be advised not to eat drink, change clothes, shower or use the restroom until he/she has been examined by qualified medical staff
- C. ICSO and designated ICSO staff shall be notified in accordance with Major Incident Reporting Procedure
- D. The alleged offender(s) shall be immediately escorted to a holding area that does not have bathroom facilities. He/she shall remain in the holding area until trace evidence can be collected or clearance has been given by the responding Imperial County Sheriff's investigator(s)
- E. The alleged victims(s) and inmate (s) shall be separately escorted to the medical ward for medical assessment/treatment. Medical staff shall complete a screen to document that the alleged victim(s) and offender(s) were examined
- F. Upon completion of the medical assessment, the alleged victims(s) shall be escorted to the Rape Treatment Center, if applicable or the nearest hospital
- G. Medical staff shall refer the alleged victim(s) and offender(s) for mental health follow-up. This action shall be documented on a supplemental incident report, utilizing the same control number of the original ICSO incident report
- H. The crime scene shall be secured and preserved until given clearance by responding Imperial County Sheriff's Deputy investigators in accordance with SOP "Preservation of a Crime Scene," if applicable

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- I. The Administrative Investigations Unit shall be notified if the allegation(s) involve inmate(s) sexual assault or battery by staff. The Administrative Investigations Unit shall refer such incidents to the State Attorney's Office, if appropriate
- J. The PREA Coordinator shall be notified
- K. All of the events and chain of custody involving suspected evidence shall be maintained, if applicable
- L. An Incident Report shall be generated and the following shall be attached:
  - 1. A copy of the Daily Inmate Population Report of the area where the alleged incident occurred
  - 2. A copy of the Housing Card(s) of the victim(s) and alleged offender(s)
  - 3. Investigative statement(s) from staff, e.g., crime reports supplemental incident report; copy of the Spillman log from the area covering the time period of the alleged incident
  - 4. Digital video recording disc (if available)

ICSO staff is prohibited from any form of retaliation against an individual(s) because of involvement in the reporting or investigating of sexual assault, battery sexual misconduct, or harassment. Staff shall refrain from talking openly about such issues.

The PREA coordinator shall ensure an incident review is conducted within 30 days of the conclusion of every sexual abuse investigation, unless the allegation was unfounded.

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**IV. INMATE SANCTIONS**

Any inmate who commits a sexual assault/battery while in ICSO custody, shall be criminally prosecuted to the fullest extent of the law. He/she shall also be subject to ICSO disciplinary actions, if applicable. Any inmate(s) who commits a violation of ICSO rules of inmate conduct shall face disciplinary action as outlines in ICSO Inmate Disciplinary Procedures.

A. CRIMINAL PROSECUTION

An inmate who commits a criminal act of sexual assault or battery shall be subject to criminal prosecution as governed by federal, state, and local laws.

All inmates who have been designated as sexual predators by the court's written findings shall be registered as a sexual predator prior to their release from departmental custody.

B. DISCIPLINARY ACTIONS

Disciplinary action may include, but not be limited to;

1. Disciplinary confinement
2. Loss of gain time
3. Good time, or work time
4. Loss of privileges
5. Change in classification and custody level

**V. STAFF SEXUAL MISCONDUCT/HARASSMENT**

Sexual acts or sexual contact between staff and an inmate, even if the inmate consents, initiates, or pursues is always prohibited and illegal. There is no consensual sex in a custodial or supervisory relationship.

Any staff member who commits sexual assault or battery against an inmate supervised by ICSO is subject to criminal prosecution and/or disciplinary action up to and including termination. Further, those who engage in staff sexual

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misconduct/harassment, with an inmate without committing the crime of sexual assault/battery may be subject to criminal prosecution. Failure to report an incident of staff sexual misconduct/harassment shall result in corrective and/or disciplinary action up to and including termination and criminal prosecution. Intimidation of a witness or retaliation against an inmate who refuses to submit to sexual activity is prohibited.

All incidents of ICSO staff sexual misconduct/harassment shall be referred to the Administrative Investigation Unit and if appropriate, will refer such incidents to the Imperial County District Attorney's Office for prosecution. All sustained incidents of staff sexual misconduct/harassment shall result in corrective and/or disciplinary actions, up to and including termination and criminal prosecution. Sustained allegations shall be forwarded to the Imperial County District Attorney's Office.

**VI.DOCUMENTATION**

All case records associated with sexual assault/battery allegations, e.g., ICSO Incident Reports, investigate reports, case dispositions, offender/victim information, medical/mental, health findings, counseling evaluation findings, and recommendations for post release treatment, etc., shall be retained in accordance with the HIPPA of 1996 and legal requirements of the jurisdiction.(In addition, ICSO staff with access to an inmate's medical records and information shall adhere to the confidentiality requirements in order to maintain the privacy of the inmate.)

In order to comply with the United States Department of Justice, Bureau of Justice Statistics (USDOJ/BJJS), reporting requirements, ICSO shall collect and maintain sexual assault/battery and sexual misconduct/harassment data.

The Facility Supervisor shall review all cases of alleged inmate sexual assault/battery and staff sexual misconduct/harassment for his/her respective entity to ensure the incidents are accurately tracked in accordance with the definitions set forth by PREA and mandated by the USDOJ.

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A. BUREAU OF JUSTICE STATISTICS REPORTING CRITERIA

The investigative findings of all inmate-on inmate sexual violence or staff sexual misconduct/harassment towards inmates shall be reported to the BJS as follows:

1. Substantiated- the incident was investigated and determined to have occurred
2. Unsubstantiated- evidence was insufficient to make a final determination that the incident occurred
3. Unfounded- the incident was determined not to have occurred
4. On-going –a final determination has not yet been made as to whether the incident occurred

The PREA Coordinator shall review data collected/aggregated in order to assess and improve reporting process and data dissemination

B. AUDITS

The USDOJ requires audits to verify compliance every three years. Only individuals certified under guideline established by the USDOJ can conduct an audit for PREA Compliance.

The Accreditation and Inspections Bureau shall conduct periodic spot inspections to ensure compliance with PREA standards at all ICSO facilities/entities. In Addition, ICSO shall adopt and future PREA regulations as they become mandated.