

# BUTTE COUNTY SHERIFF'S OFFICE

## DEPARTMENTAL ORDER

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**TO:** ALL PERSONNEL

**FROM:** SHERIFF-CORONER

**SUBJECT:** PRISON RAPE ELIMINATION ACT (PREA)

**DATE:** August 4, 2014

**POLICY:** It is the policy of the Butte County Sheriff's Office to present a zero tolerance policy toward sexual assault, sexual abuse and sexual harassment of those in our custody. Furthermore, there will be no tolerance for retaliation of any sort, against those who report or cooperate with the investigations of these acts. It shall be the policy of the Sheriff's Office to promptly and thoroughly investigate and immediately address all allegations of sexual assault, sexual abuse, and sexual harassment of those in our custody, to include criminal and administrative sanctions as appropriate. Those contracted, employed by, or volunteering for the agency are subject to disciplinary actions up to and including termination for violation of this policy. All staff has an affirmative duty to report all allegations or knowledge of sexual abuse, harassment, or any sexual misconduct involving inmates that takes place within any Sheriff's Office facility. Failure to report is akin to committing the act and punishable as such. Staff who suspect sexual harassment or abuse of an inmate by other staff shall immediately notify their supervisor. This notification may be made in private, but shall occur immediately upon obtaining the knowledge.

**PURPOSE:** To comply with the Prison Rape Elimination Act of 2003 (PREA), preventing sexual harassment and assault of those in the custody of the Butte County Sheriff's Office.

**KORY L. HONEA**  
**SHERIFF/CORONER**

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## **AUTHORITY:**

1. California Penal Code §6030
2. California Code of Regulations, Title 15, Division 1, Chapter 1, §1027
3. Prison Rape Elimination Act (PREA, 2003)
4. Departmental Orders 5003, 5006, 5010, 5016, 5017, 5033, 5048, 5070

## **I. DEFINITIONS:** For the purpose of this order, the following definitions are provided:

- A. INTERSEX:** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sexual development.
- B. JAIL:** A confinement facility whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges, or persons adjudicated guilty who are awaiting transfer to a correctional facility.
- C. PRISON RAPE ELIMINATION ACT:** The Prison Rape Elimination Act of 2003 was signed into law by President George W. Bush. The purpose of this law is to protect inmates at all levels from sexual assault from other inmates and facility staff. These standards became effective August 20, 2012 and all agencies must be in compliance by August 20, 2013.
- D. SEXUAL ABUSE:** Sexual abuse can be committed by inmates or detainees, staff, contractors, and volunteers. It includes contact of the genitals or other parts of the suspect's body with the genitals, anus, mouth or other body parts of the victim as defined by the California Penal Code. This is to include any penetration, however slight.
- E. SEXUAL HARASSMENT:** Repeated and unwelcome sexual advances, verbal comments or gestures of a sexual nature, or requests for sexual favors to an inmate or detainee, by another inmate or detainee, staff member, contractor, or volunteer.
- F. TRANSGENDER:** A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- G. VOLUNTEER:** An individual donating their time to the agency for the benefit of the inmates.
- H. VOYEURISM:** An invasion of privacy of an inmate or detainee by staff for reasons unrelated to the official duties, for the purpose of sexual gratification.

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**II. PROCEDURE:** The Butte County Sheriff's Office PREA Coordinator is the Programs Lieutenant.

**A. REPORTING AND INVESTIGATIONS:**

1. All complaints of sexual harassment, abuse, or assault upon inmates or detainees shall be investigated and documented by the Sheriff's Office.
2. Inmates may report sexual harassment, abuse, or assault, retaliation for reporting, or staff indifference to any employee, volunteer or contractor. These reports can be made verbally or in writing through message requests, grievances, letters, or any other medium. Additionally, these reports can be made by third parties on behalf of the inmate.
3. Employees shall accept reports made verbally, in writing, anonymously and from third parties such as advocates or family members. All reports shall be immediately documented, with the appropriate duty station notified of the event, so the investigation may begin immediately.
4. While preliminary investigations may be conducted by jail Correctional Deputies, all criminal investigations of sexual abuse shall be conducted by investigators from the Sheriff's Investigation Unit. These investigators shall have received specific training in investigating sexual assaults in custodial environments.
5. All incidents of consensual sexual contact between inmates, in addition to being documented in a disciplinary/incident report, shall be investigated and documented in a Criminal Report.
6. Copies of all completed reports and investigations shall be forwarded to the facility PREA manager and the agency PREA Coordinator.
7. Upon completion of an investigation involving an inmate's allegation that he/she was sexually abused in the Butte County Jail, the inmate shall be informed as to the final determination of the investigation (Sustained, Not Sustained, and Unfounded).
8. Following an inmate's allegation that a staff member committed a sexual assault against the inmate, unless the allegation is determined to be unfounded, the Sheriff's Office shall inform the inmate of the following whenever:
  - a. The staff member is no longer assigned to the inmate's housing unit
  - b. The staff member is no longer employed/assigned at the facility
  - c. The staff member has been indicted/criminally charged related to abuse within the Facility.
  - d. The staff member has been convicted on a charge related to sexual abuse within the facility.

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e. This notification shall be made via a letter to the victim.

9. Following an allegation by an inmate that he/she was abused by another inmate, the victim shall be informed whenever:

a. The alleged abuser has been indicted/criminally charged on charges related to sexual abuse within the facility; or

b. The alleged abuser has been convicted on a charge related to abuse within the facility.

c. These notifications shall be made via letter to the victim.

10. Staff who suspects sexual harassment or abuse of an inmate by other staff shall immediately notify their supervisor.

11. The completed investigation shall be retained in the agency file for no less than ten years.

B. VICTIM ADVOCACY: All victims shall be afforded the opportunity to have a Victims Rights Advocate made available to them upon arrival at the hospital for treatment and counseling after their treatment, at no cost. The Butte County Sheriff's Office has Memorandums of Understanding with the following Victim's Rights agencies.

1. Rape Crisis Center Chico, CA (530) 342-7273

C. TRAINING: PREA standard 115.31 requires training on the following enumerated topics for all employees who may have contact with inmates:

1. The department's zero tolerance policy for sexual misconduct, sexual assault, and sexual harassment.

2. The rights of inmates, staff, contractors and volunteers to be free from sexual misconduct, sexual abuse and sexual harassment.

3. The rights of inmates, staff, contractors and volunteers to be free from retaliation for good faith reporting of suspected or observed instances of sexual misconduct, sexual abuse or sexual harassment

4. The dynamics of sexual misconduct, abuse and harassment in confinement.

5. The common reactions of sexual misconduct, abuse and harassment in confinement.

6. How to detect and respond to signs of threatened and actual sexual misconduct, abuse or harassment.

7. How to avoid inappropriate relationships with detainees and inmates.
8. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex and gender nonconforming inmates.

New hires who may have contact with inmates shall receive PREA training during their FTO cycle. Employees must receive one hour of refresher training every two years to ensure that they know the department's current sexual abuse and sexual harassment policies.

PREA standard 115.32 requires that all volunteers and contractors who have inmate contact receive training on the agency's zero-tolerance policy and how to report sexual abuse incidents. There is no requirement for refresher training.

- D. **HIRING AND PROMOTIONAL PROCESS:** The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who:
- a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).
  - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
  - c. Has been civilly or administratively adjudicated to have engaged in the activity described above.
  - d. All incidents of sexual harassment shall be considered when determining whether to hire or enlist the services of any contractor, volunteer, or staff member who may have contact with an inmate.
  - e. Before hiring, all employees, contractors, and volunteers are subject to a criminal background check prior to employment. Consistent with Federal, State, and local law, the Sheriff's Office shall make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
  - f. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

## 2. Promotions

- a. The Sheriff's Office shall not promote anyone who may have contact with inmates who:
  1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement

facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

2. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  3. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.
- b. The Sheriff's Office shall consider any incidents of sexual harassment in determining whether to promote an individual.
  - c. The Sheriff's Office shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for promotions. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.
  - d. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

**G. DISCIPLINE:** The Prison Rape Elimination Act mandates specific actions for investigators, both criminal and administrative as well as for violations of the law. The standard of proof for determining if a violation of the Prison Rape Elimination Act has occurred shall be no higher than a preponderance of evidence.

3. Investigators shall conduct complete and thorough investigations, using all evidence, interviews with victims, suspects, and witnesses, as well as review prior complaints and reports of sexual abuse involving the suspect.
4. All staff are subject to disciplinary action for violations of the Prison Rape Elimination Act, up to and including termination. In cases involving sexual abuse or assault by staff upon inmates, termination shall be the presumptive disciplinary action.
5. In the event the suspected abuser leaves the employment of the agency or the inmate has been released, the investigation shall continue.
6. Cases involving violations of agency policies relating to sexual abuse or sexual harassment of inmates, other than actually engaging in sexual abuse, shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
7. All reports, criminal and administrative, shall be retained by the agency for an additional five years after the employee's departure from the agency or the employee's release from incarceration.

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8. In the event an employee is terminated due to violation of this policy, or the employee resigns in lieu of termination, the information pertaining to the termination or resignation, shall be reported to appropriate law enforcement agencies and appropriate licensing bodies, unless the activity was not criminal.

E. **REVIEWS:** The facility Watch Commander shall conduct an incident review (form attached) following every sexual abuse incident involving those in the Sheriff's Office custody, unless the allegation has been determined to be unfounded. Every attempt will be made to insure the review occurs within 30 days of the conclusion of the investigation. The review team shall:

1. Consider whether a change to policy or practice is necessary to better prevent, detect, or respond to sexual abuse.
2. Consider if the event was motivated by race, ethnicity, gender identity, status or perceived status, gang affiliation, or was motivated by other group dynamics at the facility.
3. Examine the area where the incident occurred to assess whether physical barriers helped enable the suspect.
4. Assess the staffing levels in the area during different shifts
5. Assess whether video should be deployed or augmented in the area.
6. Prepare a report of its findings, including at a minimum, the team's findings in the previously mentioned areas and any recommendations for improvement. The report shall be submitted to the facility commander and forwarded to the agency PREA Coordinator.

F. **DATA COLLECTION/PREA COORDINATOR**

1. The Sheriff's Office shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control.
2. Managers shall forward all information to the agency PREA Coordinator, while maintaining a copy for their files. This data shall be securely retained.
3. The information from all the incidents in the prior calendar year will be compiled into an annual report submitted to the Sheriff no later than March 1<sup>st</sup> for his review. Upon approval of the Sheriff, the report shall be readily available to the public upon request.
4. All documents pertaining to investigations shall be securely retained by the Sheriffs Records Department for no less than ten (10) years.

G. **AUDITS**

1. Butte County Jail shall be audited annually by the agency PREA Coordinator to ensure the facility is maintaining compliance with all standards. The results of the audits will be documented via

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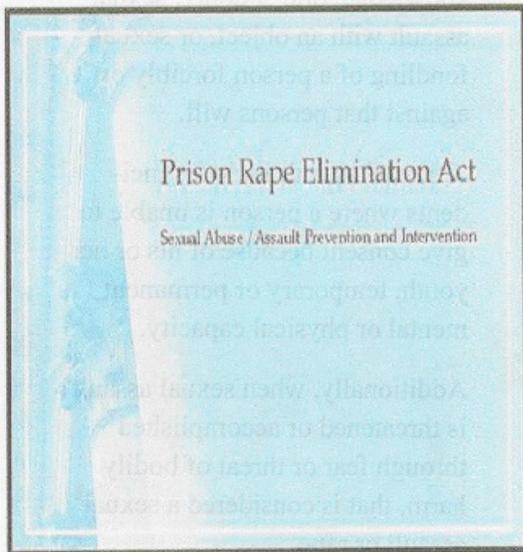
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memorandum to the Sheriff via the chain of command.

2. Effective August 20, 2012, each jail facility is required to be individually audited by an outside auditor who has been certified by the Department of Justice, once every three years. These audits shall commence when the Department of Justice certify an auditor.
  - a. During the audit, the auditor shall have access to all areas of the facility and supplied any relevant documentation requested.
  - b. The auditor shall have access to inmates, staff, and administrators. Staff will be expected to cooperate fully during the audit.

**BUTTE COUNTY  
Correctional Facility**



**Inmate  
Sexual Assault  
Awareness**

**WHAT IS  
SEXUAL ASSUALT**

Sexual assault/rape includes any kind of the following: Intimate knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person forcibly or against that persons will.

A sexual assault includes incidents where a person is unable to give consent because of his or her youth, temporary or permanent mental or physical capacity.

Additionally, when sexual assault is threatened or accomplished through fear or threat of bodily harm, that is considered a sexual assault or rape.

It is a crime for any employee of the Butte County Sheriffs Office to engage in sexual contact with an inmate.

Sexual assault effects every one either directly or through the experiences of those we care about.

It is not only a women's issue as it can affect persons of any gender, age, race, ethnic group, socioeconomic status, sexual orientation or disability

## WHAT CAN I DO TO AVOID A SEXUAL ASSAULT

The only way sexual assaults can be prevented is when a potential rapist chooses **NOT** to rape. You may avoid an attack by keeping the following guidelines in mind.

1. Be aware of situations that make you uncomfortable. Trust your instincts. If it feels wrong **LEAVE**.
2. Don't let your manners get in the way of keeping yourself safe. Don't be afraid to say, "**NO**" or "**STOP IT NOW**".
3. Walk and stand with confidence. Many rapists choose victims who look like they won't fight back or who appear emotionally weak.
4. Avoid casual nudity and talking about sex. These things may be considered an invitation, a come on, or otherwise convince another inmate that you have

an interest in a sexual relationship.

5. Do not accept commissary or gifts from other inmates. Placing yourself in debt to another inmate can lead to the expectation of repaying the debt with sexual favors.
6. Avoid secluded areas. Position yourself in plain view of staff members. If you are being pressured for sex, **REPORT IT IMMEDIATELY.**

## WHAT DO I DO IF I AM SEXUALLY ASSAULTED?

If the attack just happened....

### GET TO A SAFE PLACE!

Report the attack to **ANY** staff member immediately. If you do not feel comfortable reporting verbally to staff you may file a report using the confidential hotline.

**342-7273**

(Rape Crisis)

The longer you wait to report a sexual assault the more difficult it is for the criminal and /or administrative investigation to obtain the necessary evidence.

Request immediate medical attention. You may have serious injuries that you're not aware of and any sexual contact can expose you to sexually transmitted diseases!

Do not shower, brush your teeth, use the rest room, or change your clothes. You may destroy important evidence.

If you have been sexually assaulted or witness a sexual assault, but are unwilling to report it to a staff member, then you may use the confidential phone line **(342-7273)**

**Reporting a sexual assault is a serious allegation and will be treated as such. False reporting will carry serious consequences.**

## **What happens after I report a Sexual Assault**

You will immediately be separated from any alleged attackers, pending investigation.

Medical will be notified and you will receive a physical examination. The purpose of this will be to assess you for injuries or exposures to sexually transmitted diseases (STD). Additionally the investigating officer will take control of any evidence obtained from this.

Once the examination is complete, you may be referred to Mental Health for an assessment. Treatment will be provided as necessary.

Remember that sexual assault is a crime of violence and has nothing to do with lust or passion. The victim of an assault is a "Victim" and is not at fault.

## PRISON RAPE ELIMINATION ACT (PREA)

### Incident Review

<b>Watch Commander</b>	
<b>Incident Type</b>	
<b>Date</b>	[Click to select date]

*Complete the questions below with any recommendations for improvement. Submit this report with any supporting documents to the Jail Commander and forward a copy to the PREA Coordinator.*

**Is current policy and practice sufficient to prevent, detect and respond to sexual abuse?**

[Click to type your response]

**Was the event motivated by race, gender, identity, status or perceived status, gang affiliation or was it motivated other dynamics of the facility?**

[Click to type your response]

**In the area of the incident, were there physical barriers that helped enable the suspect?**

[Click to type your response]

**Was the staffing level sufficient?**

[Click to type your response]

**Should video be deployed or augmented in the area?**

[Click to type your response]