

Volume D - Prisoner Management

D11.00.00 **Rape Elimination and Reporting**

D11.01.00 Purpose

The Prison Rape Elimination Act (PREA) of 2003 provides for the analysis of incidents and the effects of sexual abuse in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from sexual abuse. This Act applies to incidents of prisoner/prisoner and staff/prisoner sexual abuse. Participants in all incidents will be referred to as perpetrator/victim. The Salt Lake County Jail has a zero-tolerance policy towards all PREA incidents and it is the policy of the jail to actively and vigorously prevent, report, and treat incidents of prisoner sexual abuse.

D11.02.00 Definitions

- A. Official Law Enforcement duties include the intentional viewing, photographing, recording and inspection of cells, prisoners and all areas of the jail for legitimate safety and security purposes.
- B. Sexual abuse of a prisoner, detainee, or resident by another prisoner, detainee or 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:
 - 1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
 - 2. Contact between the mouth and penis, vulva, or anus.
 - 3. Penetration of the anal or genital opening of another person, however slight, by the hand, finger, object, or other instrument.
 - 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.
- C. Sexual abuse of a prisoner, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the prisoner, detainee, or resident.
 - 1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
 - 2. Contact between the mouth and penis, vulva, or anus.

3. 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.
4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
6. Any attempt, threat or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) through (5) of this definition.
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a prisoner, detainee, or resident.
8. Voyeurism by a staff member, contractor or volunteer.

D. Sexual Harassment includes:

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

E. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of a prisoner, detainee, or resident by staff for reasons unrelated to official duties.

D11.03.00 Prevention

The jail will attempt to prevent incidents of sexual abuse by enforcing the provisions of this policy and all rules relating to prisoner interaction. Correctional deputies will intervene when a prisoner appears to be the target of sexual harassment or intimidation.

- A. At least once per shift supervisors will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Staff are prohibited from alerting other staff members that these supervisory rounds are occurring unless necessary for the operational function of the facility.
- B. The jail will conduct criminal background checks of all current staff, volunteers, and contractors that may have contact with prisoners every five years and shall not hire, promote, enlist, or contract with anyone who:
 - 1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution.
 - 2. Has been convicted of or has been civilly or administratively adjudicated to have engaged or attempted 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. Prisoners shall receive information explaining the jail's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

D11.04.00 Reporting

- A. The jail shall employ or designate a command level sheriff's office wide PREA coordinator with the authority to develop, implement, and oversee sheriff's office efforts to comply with the PREA standards in all of its facilities. The jail will also designate a PREA compliance manager with sufficient time and authority to coordinate efforts to comply with the PREA standards for each additional facility outside the primary jail.
- B. Any prisoner or member of the public may report the occurrence of sexual abuse to any jail staff member, contract employee, or volunteer staff.

- C. The HIPAA Privacy Rule does not preclude communication of information required under PREA. The relevant exceptions permitting disclosure are; to report a violation of facility rules, to protect the health and safety of prisoners or staff, and to maintain security and good order in a correctional institution.
- D. PREA incidents may be reported verbally, in writing, anonymously and from third parties. PREA incidents reported on a grievance form have no time limit attached to the PREA portion of the grievance. All other non PREA items included in a grievance which reports PREA information will follow normal grievance timeline restrictions.

D11.05.00 Initial Response and Investigation

- A. All reported prisoner sexual harassment or sexual abuse incidents will be investigated. Staff's primary goals are to provide for the safety of the prisoners and the collection and preservation of evidence. Staff will ensure that confidentiality and privacy regarding the incident are maintained.
- B. In all confirmed cases of sexual abuse, victims are afforded the right to a victim's advocate during specific portions of the investigative process. As requested by the victim, a victim advocate may accompany and support the victim through the forensic medical examination process and investigatory interviews.
- C. Victim advocate support is available through the Unified Police Department Investigations Unit for prisoner on prisoner and volunteer or contractor on prisoner incidents. The request for a victim's advocate can be made by contacting the Salt Lake Valley Emergency Communications Center (VECC). Victim advocate services may be provided by the investigating agency for staff on prisoner incidents.

D11.05.01 Prisoner on Prisoner Incidents

In response to a report of a prisoner on prisoner incident of sexual harassment or sexual abuse:

- A. The alleged perpetrator will be immediately separated from the alleged victim.
- B. The area sergeant will conduct a preliminary investigation to determine the nature of the complaint and initial actions to be taken.

- C. The area sergeant will notify their chain of command by phone and generate an RMS report on incidents of sexual abuse. The Jail Investigations Sergeant, Public Information Officer and PREA Coordinator will be notified by email. Notification to the Investigations Sergeant will be made by phone if any of the involved prisoners or witnesses are to be released within 24 hours.
- D. The area sergeant will notify their chain of command and the PREA Coordinator by email regarding incidents of sexual harassment. These incidents are not a violation of criminal code and will not require an RMS report or notification to the Investigations Sergeant or Public Information Officer.
- E. Jail Investigations will investigate allegations of sexual abuse. The area sergeant will be responsible for investigating allegations of sexual harassment.
- F. For incidents of sexual harassment and sexual abuse the alleged victim or perpetrator will be moved to a different housing unit (if applicable), keep separate alerts will be added in the Offender Management System and verbal warnings or written violations will be issued as appropriate.
- G. Classifications will be notified of all incidents of sexual harassment and sexual abuse in order to review housing placement and classification status of the alleged victim and perpetrator.

D11.05.02 Volunteer or Contractor on Prisoner

Upon receipt of a volunteer or contractor on prisoner sexual harassment or sexual abuse complaints:

- A. The area sergeant will notify their chain of command, the lieutenant who manages the contract or agreement by which the volunteer or contractor have been granted access to the prisoner population, the Jail Investigations Sergeant and the Public Information Officer by phone and generate an RMS report for allegations of sexual abuse. The PREA Coordinator will be notified by email.
- B. Incidents of sexual harassment do not require notification to the Jail Investigations Sergeant and the Public Information Officer or the generation of an RMS report.
- C. Incidents of sexual abuse will be investigated by Jail Investigations. Incidents of sexual harassment will be investigated by the lieutenant managing the contract or agreement.

- D. The alleged perpetrator will be denied access to the prisoner population until the investigation has been completed and the lieutenant will make verbal notification of the denied access to the organization that employs or sponsors the alleged perpetrator's services. Information provided will be limited to a brief description of the complaint and will not include the victim's identity or reveal details of the investigation.
- E. Access to the prisoner population may be reinstated based upon the results of the investigation and at the discretion of the captain and lieutenant who manage the contract or agreement. Reinstatement or denial of access based on the closure of a case as either unsubstantiated or unfounded will be communicated to the accused and their organization in writing.

D11.05.03 Staff on Prisoner

In response to a report of staff on prisoner sexual harassment or sexual abuse:

- A. An allegation of staff on prisoner sexual harassment or sexual abuse will be forwarded to the accused staff member's immediate supervisor. The supervisor will gather the initial information needed to begin an investigation, generate an Administrative Information Management (AIM) report, notify their chain of command and the Public Information Officer by phone. Notification to the PREA Coordinator will be made by email.
- B. The Division Administrator will determine whether or not the incident will be referred to an outside agency or the Internal Affairs Unit for further investigation.
- C. Allegations of sexual harassment are not criminal offenses but are a violation of the sheriff's office code of conduct and Salt Lake County policy. If there is evidence to support the allegation, or if the evidence is inconclusive, the incident may be referred to internal affairs for investigation.

D11.05.04 Medical and Mental Health Referral

The victim will be referred to mental health for assessment and support. If the incident is physical in nature, the victim will be referred to jail medical staff. Jail medical staff will only address serious bodily injuries that require immediate medical care. A more in depth forensic exam and medical treatment will be provided by an offsite emergency medical facility.

The alleged victim of a sexual abuse incident will not be transported to an emergency medical facility by a sheriff's office staff member if the alleged perpetrator is an employee of the sheriff's office. In such cases, the investigating agency will transport the alleged victim to an offsite medical facility for the forensic examination and medical care.

D11.06.00 Incidents of Sexual Abuse Prior to Accepting Custody

- A. Claims of sexual abuse occurring prior to arrival at the jail are not managed or tracked by the sheriff's office. If a person in custody claims to have been sexually abused during the course of arrest or transportation to the jail, the person receiving the information will notify the area sergeant who will pass on the information to the arresting agency's administration or watch commander if after hours. The information and the contact will be documented on the sergeant's shift log and an email will be sent to the chain of command.
- B. Claims of sexual abuse occurring within the community prior to a person's incarceration will be referred to the agency having jurisdiction over the location the alleged incident took place. Referral may be provided by phone to the agency's dispatch center for assignment. The information and the contact will be documented on the sergeant's shift log and an email will be sent to the chain of command.
- C. Jail staff will not routinely transport alleged victims to an offsite medical facility for either community or arresting agency allegations of sexual abuse. Offsite medical treatment and forensic examinations will be facilitated by the investigating agency through the off property release process.

D11.07.00 Subpoenas

The jail will fully cooperate with any lawful subpoenas issued by any Commission under the Prison Rape Elimination Act. Such requests shall be forwarded to and managed by the PREA Coordinator.

D11.08.00 Database

A database of all reported incidents of sexual abuse occurring during a person's incarceration shall be maintained by the PREA Coordinator. Access to the database shall be strictly limited. The Chief Deputy, Deputy Chief and Captains shall meet semi-annually to examine the reports and to assess the adequacy of rape elimination methods. Such reviews shall be documented and maintained by the PREA Coordinator.

D11.09.00 Database Elements

The database shall include:

- A. The date of the incident.
- B. The location of occurrence.
- C. Charges/commitments of the victim and alleged perpetrator.
- D. The resolution of the incident (either criminally or through the Prisoner Disciplinary Board).

- E. Remedial action taken after the incident.
- F. The disposition of the investigation as:
 - 1. Substantiated – The event was investigated and determined to have occurred, based on a preponderance of the evidence.
 - 2. Unsubstantiated – The investigation concluded that evidence was insufficient to determine whether or not the event occurred.
 - 3. Unfounded – The investigation determined that the event did not occur.

D11.10.00 Discrimination Prohibited

Staff shall not discriminate in their response to prisoners who are gay, bisexual, or transgender who experience sexual aggression or who report that they have experienced sexual abuse. In addition, staff shall not discriminate with respect to complaints filed under this policy on the basis of race, sex, national origin, or religion.

D11.11.00 Retaliation Prohibited

Retaliation against a prisoner for making an allegation of sexual abuse is strictly prohibited. Prisoners who make false reports of incidents of sexual abuse may be disciplined consistent with jail policy.

- A. For at least 90 days following the report of sexual harassment or sexual abuse, the PREA Coordinator or Compliance Manager will monitor the conduct and treatment of prisoners or staff who reported the sexual abuse and of prisoners who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by prisoners or staff, and shall act promptly to remedy any such retaliation. Items monitored include prisoner disciplinary reports, housing assignment changes, program changes, negative performance reviews or reassignments of staff. Monitoring beyond 90 days may be necessary if the initial monitoring indicates a continuing need.

D11.12.00 Reporting to Prisoners

Upon completion of an investigation into a prisoner's allegation that they suffered sexual abuse, the individual will be informed by the investigator whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

- A. For substantiated incidents involving prisoner on prisoner or volunteer or contractor on prisoner sexual abuse, the victim will be informed when:

1. The case has been accepted or declined for prosecution.
 2. The case is settled through a conviction or plea bargain.
- B. All such notifications or attempted notifications shall be documented by Jail Investigations as a follow up report to the original case.