

Volume D - Prisoner Management

D11.00.00 Rape Elimination and Reporting

D11.00.01 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.

D11.00.02 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 if 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; 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.
- 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, and
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; and
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, such as peering at a prisoner who is using a toilet in his or her cell to perform bodily functions; requiring a prisoner to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a prisoners naked body or of a prisoner performing bodily functions when it is unrelated to the members official duties.

D11.00.03 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 officers 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 5 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 agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
- D. Within 30 days of intake, the agency shall provide comprehensive education to prisoners either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

D11.00.04 Reporting

- A. The jail shall employ or designate an upper-level, agency wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency 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. Staff members will immediately report the occurrence of any observed or reported sexual abuse by submitting an initial report which will be forwarded to the Administrative and Watch Command Lieutenants. All complaints of sexual abuse will be immediately investigated.
- D. 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.
- E. 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.

D11.00.05 Initial Response

- A. After the occurrence or report of any prisoner on prisoner incident of sexual abuse, the alleged perpetrator will be immediately moved and separated from the alleged victim. Staff will generate an Initial report, contact the Jails Investigators by email or phone and gather basic information to help facilitate the investigators in their investigation. Staffs primary goals are to provide for the safety of the prisoners and securing any evidentiary scenes that might exist. Staff will ensure that confidentiality and privacy regarding the incident are maintained. The incident will be referred to Classification for assessments of the proper placement of the victim and alleged perpetrator.
 - 1. The Jails Investigator must be notified by phone if any of the involved prisoners will be released within 24 hours or if physical evidence may be lost or compromised if not gathered immediately.
 - 2. Classification risk factors include:
 - a. Age of the prisoner;
 - b. Whether the prisoner is a violent or nonviolent offender;
 - c. The nature of the crime; and
 - d. Whether the prisoner has served a prior term of commitment.

- B. All reports of sexual abuse involving staff will be reported to the area sergeant who will gather the initial information needed to begin an investigation. This information will be forwarded to the area administration for further investigation.

D11.00.06 Referral

The victim will be immediately referred to the Health Services Unit and receive treatment within existing medical protocols. The jail's mental health provider will also be contacted to offer treatment.

D11.00.07 Investigation

Alleged incidents of sexual abuse will be investigated by the Jail's Investigator and, if warranted, the South Salt Lake Police Department will be contacted to conduct the criminal investigation. Jail Watch Commanders will be immediately notified of any alleged sexual abuse.

- A. Prisoner victims of sexual abuse are afforded the right to a victim advocate during specific portions of the investigative process. As requested by the victim, a victim advocate shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals.

- 1. Victim advocate support will be requested through the Unified Police Departments Domestic Violence Unit.

D11.00.08 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.

D11.00.09 Database

A database of all reported incidents of sexual abuse shall be maintained by the Administrative Lieutenant. Access to the database shall be strictly limited to those expressly designated by the Corrections Bureau Chief Deputy. The Chief Deputy 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 Administrative Lieutenant.

D11.00.10 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); and
- E. Remedial action taken after the incident, if any.

D11.00.11 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.

D11.00.12 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 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 the agency should monitor include any prisoner disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

D11.00.13 Reporting to Prisoners

Following an investigation into a prisoner's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the prisoner as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

- A. Following a prisoner's allegation that a staff member has committed sexual abuse against the prisoner, the agency shall subsequently inform the prisoner (unless the agency has determined that the allegation is unfounded) whenever;
 - 1. The staff member is no longer posted within the prisoners unit;
 - 2. The staff member is no longer employed at the facility;

3. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 4. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- B. Following a prisoners allegation that he or she has been sexually abused by another prisoner, the agency shall subsequently inform the alleged victim whenever;
1. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 2. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- C. All such notifications or attempted notifications shall be documented by the PREA Coordinator.
- D. An agency's obligation to report under this standard shall terminate if the prisoner is released from the agency's custody.

D11.00.14 Records Classification

Pursuant to Utah Code Annotated, all records generated under this policy are considered "private" and "protected" under Utah's Government Records Access and Management Act, Utah Code Annotated. .