

WORKING GROUP ON SEXUAL ASSAULT

SUMMARY OF PROPOSED CHANGES

At the Board's direction, BSCC staff convened the Working Group on Sexual Assault to consider each PREA Jails and Prisons standard. The workgroup has agreed to forward the following suggested amendments for inclusion in Titles 15 and 24, California Code of Regulations.

1) Concerning **PREA §115.11 Zero Tolerance, PREA §115.654 Third Party Reporting, PREA §115.13 Supervision and Monitoring, PREA §115.51 Inmate Reporting** and **PREA §115.67 Agency Protection Against Retaliation**, the workgroup suggests that **Title 15 §1029 Policy and Procedures Manual** be amended to read:

Facility administrator(s) shall develop and publish a manual of policy and procedures for the facility. The policy and procedures manual shall address all applicable Title 15 and Title 24 regulations and shall be comprehensively reviewed and updated at least every two years. Such a manual shall be made available to all employees.

(a) The manual for Temporary Holding, Type I, II, and III facilities shall provide for, but not be limited to, the following:

- (1) Table of organization, including channels of communications.
- (2) Inspections and operations reviews by the facility administrator/manager.
- (3) Policy on the use of force.
- (4) Policy on the use of restraint equipment, including the restraint of pregnant inmates as referenced in Penal Code Section 6030(f).
- (5) Procedure and criteria for screening newly received inmates for release per Penal Code sections 849(b)(2) and 853.6, and any other such processes as the facility administrator is empowered to use.
- (6) Security and control including physical counts of inmates, searches of the facility and inmates, contraband control, and key control. Each facility administrator shall, at least annually, review, evaluate, and make a record of security measures. The review and evaluation shall include internal and external security measures of the facility including security measures specific to prevention of sexual assault and sexual harassment .
- (7) Emergency procedures include:
 - (A) fire suppression preplan as required by section 1032 of these regulations;
 - (B) escape, disturbances, and the taking of hostages;
 - (C) civil disturbance;
 - (D) natural disasters;
 - (E) periodic testing of emergency equipment; and,

- (F) storage, issue, and use of weapons, ammunition, chemical agents, and related security devices.
- (8) Suicide Prevention.
- (9) Segregation of Inmates.
- (10) Zero Tolerance in the Prevention of Sexual Assault.
- (11) Policy and procedure to detect, prevent and respond to retaliation against any staff or inmate after reporting abuse.
- (12) The policies and procedures required in subsections (6) and (7) may be placed in a separate manual to ensure confidentiality.
- (b) The manual for court holding facilities shall include all of the procedures listed in subsection (a), except number (5).
- (c) The manual for Type IV facilities shall include, in addition to the procedures required in subsection (a), except number (5), procedures for:
- (1) accounting of inmate funds;
 - (2) community contacts;
 - (3) field supervision;
 - (4) temporary release; and
 - (5) obtaining health care.
- (d) The manual for Temporary Holding, Court Holding, Type I, II, III and IV facilities shall provide for, but not limited to, the following:
- (1) multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents,
 - (2) a method for uninvolved inmates, family and community members and other interested third-parties to report sexual abuse or sexual harassment and shall distribute publicly how to report on behalf of the inmate.

2) Concerning **PREA §115.18 Upgrades to Facilities and Technologies**, the workgroup suggests that **Title 24, Part 1, §13-102 Minimum Standards for Local Detention Facilities; Section (c) Initial Planning for a Local Detention Facility Subsection, (6) Design Requirements** be amended to read:

6. Design requirements.

A. The design of a local detention facility shall comply with provisions of California Code of Regulations, Title 24, Part 2, Section 2-1013.

B. The design of a Type I, Type II, Type III or Type IV facility, shall provide the following:

(1) **Fire safety.** The provisions of Title 19 and Title 24, Part 2 as they relate to detention facilities shall be incorporated into the facility design.

(2) **Suicide hazards.** Architectural plans shall be reviewed by the Board for the purpose of reducing hazards posed by fixtures and equipment which could be used for an act of suicide by an inmate. The facility design shall avoid any surfaces, edges, fixtures or fittings that can provide an attachment for self-inflicted injury. The following features shall be incorporated in the design of temporary holding cells, temporary staging cells, sobering cells, safety cells, single occupancy cells and any other area where an inmate may be left alone:

a. plumbing shall not be exposed. Operation of control valves shall use flush buttons or similar. The drinking fountain bubbler shall be without curved projections;

b. towel holders shall be ball-in-socket or indented clasp, not pull-down hooks or bars;

c. supply and return grilles and any other vent or security cover shall have openings no greater than 3/16 inch or have 16-mesh per square inch;

d. beds, desk surfaces and shelves shall have no sharp edges and be configured to prevent attachment;

e. light fixtures shall be tamper resistant;

f. fixtures such as mirrors shall be mounted using tamper-resistant fasteners; and

g. fire sprinkler heads inside rooms shall be designed to prevent attachment.

h. telephone cords shall be at a length that reduces the potential for use as a ligature.

(3) **Health and sanitation.** Provisions of Subchapter 4, Title 15, California Code of Regulations, and of the California Retail Food Code as they relate to detention facilities shall be incorporated into the facility design.

(4) **Single- and/or double-occupancy cells.** In any local detention system, the number of single and/ or double-occupancy cells shall be that number, determined by the facility/system administrator in conjunction with the Board, necessary to safely manage the population of the facility/system based on a comprehensive needs assessment which accounts for those inmates projected to be:

a. administrative segregation cases,

b. persons with disabilities,

c. custodial problems, and/or

d. likely to need individual housing for other specific reasons as determined by the facility/system administration. The total number of single- and/or double occupancy cells shall not be less than 10 percent of the system's Corrections Standards Authority rated capacity. The local detention facility/ system shall comply with all other design requirements contained in these regulations.

(5) **Staff and inmate safety.** Facilities shall be designed and/or equipped in such a manner that staff and inmates have the ability to summon immediate assistance in the event of an incident or an emergency.

(6) **Heating and cooling.** Provision shall be made to maintain a living environment in accordance with the heating, ventilating, and air conditioning requirements of Parts 2 and 4, and the energy conservation requirements of Part 6, Title 24, California Code of Regulations.

(7) **Acoustics.** Housing areas shall be designed and constructed so that the average noise level does not exceed 70 decibels during periods of activity and 45 decibels during sleeping hours.

(8) **Living areas.** Living areas shall be separated from the area for reception and booking.

(9) **Spaces for persons with disabilities.**

a. Housing cell or room. A cell or room for an inmate with a disability using a wheelchair must have an appropriate entry and toilet, washbasin and drinking fountain which the inmate can use without personal assistance.

b. Other spaces within the security perimeter such as day rooms and activity areas shall be located such that persons with disabilities will not be excluded from participating in any program for which he or she would otherwise be eligible. Accessible showers for inmates with disabilities shall be available.

c. Spaces outside the security perimeter. Public areas of a local detention facility shall comply with the applicable chapters of Title 24, Part 2 of the California Code of Regulations.

(10) **Security.** The design should facilitate security and supervision appropriate to the level of inmate custody including consideration of design and space as it relates to the prevention of sexual abuse and harassment.

(11) **Glazing.** Internal and external facility glazing shall be appropriate to the security level of the detention area or room.

(12) **Hair care space.** Space and suitable equipment must be provided in all Type II or Type III facilities for men's haircutting and/or female hair- dressing.

(13) Floor drains shall be provided where operationally and mechanically appropriate.

(14) A sewage system design capable of addressing items that could potentially impact waste water systems.

(15) Medical/mental health care housing shall be designed in consultation with the health authority. Medical/mental health areas may contain other than single occupancy rooms.

C. The design of a Court Holding or Temporary Holding facility must include and comply with the following subsections of Section 13-102(c)6B: (1), (2), (3), (5), (6), (7), (9), (10) and (13). Court holding facilities shall have separate paths of travel for inmates from those used by the public.

3) Concerning **PREA §115.33 Inmate Education**, the workgroup suggests that **Title 15 §1069 Inmate Orientation** be amended to read:

(a) In Type II, III, and IV facilities, the facility administrator shall develop written policies and procedures for the implementation of a program reasonably understandable to inmates designed to orient a newly received inmate at the time of placement in a living area. Such a program shall be published and include, but not be limited to, the following:

- (1) correspondence, visiting, and telephone usage rules;
- (2) rules and disciplinary procedures;
- (3) inmate grievance procedures;
- (4) programs and activities available and method of application;
- (5) medical services;
- (6) classification/housing assignments;
- (7) court appearance where scheduled, if known; ~~and~~
- (8) voting, including registration; and,
- (9) agency's Zero Tolerance policy against sexual abuse and harassment.

(b) In Type I facilities, the facility administrator shall develop written policies and procedures for a program reasonably understandable to non-sentenced detainees to orient an inmate at the time of placement in a living area. Such a program shall be published and include, but not be limited to, the following:

- (1) rules and disciplinary procedures;
- (2) visiting rules;
- (3) availability of personal care items, opportunities for personal hygiene;

- (4) availability of reading and recreational materials; and,
- (5) medical/mental health procedures.

4) Concerning **PREA §115.41 Screening for Risk of Victimization and Abusiveness** and **PREA §115.42 Use of Screening Information**, the workgroup suggests that **Title 15 §1050 Classification Plan** be amended to read:

(a) Each administrator of a temporary holding, Type I, II, or III facility shall develop and implement a written classification plan designed to properly assign inmates to housing units and activities according to the categories of sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior, risk of being sexually assaulted / sexually victimized and other criteria which will provide for the safety of the inmates and staff, including the risk of sexual assault. Such housing unit assignment shall be accomplished to the extent possible within the limits of the available number of distinct housing units or cells in a facility. The written classification plan shall be based on objective criteria and include receiving screening performed at the time of intake by trained personnel, and a record of each inmate's classification level, housing restrictions, and housing assignments.

Each administrator of a Type II or III facility shall establish and implement a classification system which will include the use of classification officers or a classification committee in order to properly assign inmates to housing, work, rehabilitation programs, and leisure activities. Such a plan shall include the use of as much information as is available about the inmate and from the inmate and shall provide for a channel of appeal by the inmate to the facility administrator or designee. An inmate who has been sentenced to more than 60 days may request a review of his classification plan no more often than 30 days from his last review.

(b) Each administrator of a court holding facility shall establish and implement a written plan designed to provide for the safety of staff and inmates held at the facility. The plan shall include receiving and transmitting of information regarding inmates who represent unusual risk or hazard while confined at the facility, and the segregation of such inmates to the extent possible within the limits of the court holding facility.

(c) In deciding whether to assign an inmate to a housing area for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. An inmate's own views with respect to his or her own safety shall be given serious consideration.

5) Concerning **PREA §115.81 Medical and Mental Health Screenings**, the workgroup suggests that **Title 15 §1206 Health Care Procedures Manual** be amended to read:

The health authority shall, in cooperation with the facility administrator, set forth in writing, policies and procedures in conformance with applicable state and federal law, which are reviewed and updated at least every two years and include but are not limited to:

- (a) summoning and application of proper medical aid;
- (b) contact and consultation with other treating health care professionals;
- (c) emergency and non-emergency medical and dental services, including transportation;
- (d) provision for medically required dental and medical prostheses and eyeglasses;
- (e) notification of next of kin or legal guardian in case of serious illness which may result in death;
- (f) provision for screening and care of pregnant and lactating women, including prenatal and postpartum information and health care, including but not limited to access to necessary vitamins as recommended by a doctor, information pertaining to childbirth education and infant care;
- (g) screening, referral and care of mentally disordered and developmentally disabled inmates;
- (h) implementation of special medical programs;
- (i) management of inmates suspected of or confirmed to have communicable diseases;
- (j) the procurement, storage, repackaging, labeling, dispensing, administration/delivery to inmates, and disposal of pharmaceuticals;
- (k) use of non-physician personnel in providing medical care;
- (l) provision of medical diets;
- (m) patient confidentiality and its exceptions;
- (n) the transfer of pertinent individualized health care information, or individual documentation that no health care information is available, to the health authority of another correctional system, medical facility, or mental health facility at the time each inmate is transferred and prior notification pursuant to Health and Safety Code

Sections 121361 and 121362 for inmates with known or suspected active tuberculosis disease. Procedures for notification to the transferring health care staff shall allow sufficient time to prepare the summary. The summary information shall identify the sending facility and be in a consistent format that includes the need for follow-up care, diagnostic tests performed, medications prescribed, pending appointments, significant health problems, and other information that is necessary to provide for continuity of health care. Necessary inmate medication and health care information shall be provided to the transporting staff, together with precautions necessary to protect staff and inmate passengers from disease transmission during transport.

(o) forensic medical services, including drawing of blood alcohol samples, body cavity searches, and other functions for the purpose of prosecution shall not be performed by medical personnel responsible for providing ongoing care to the inmates.

(p) provisions for application and removal of restraints on pregnant inmates consistent with Penal Code Section 3407.

(q) other Services mandated by statute.

(r) for inmates reporting being victimized by sexual assault or abuse, the provision for timely and appropriate medical and mental health screenings, access to medical and mental health services concerning sexual abuse or assault (regardless of location of the incident), and no-cost access to contraception and STD treatment.

6) Concerning PREA **§115.87 Data Sharing**, the workgroup suggests that **Title 15 §1041 Inmate Records** be amended to read:

(a) Each facility administrator of a Type I, II, III or IV facility shall develop written policies and procedures for the maintenance of individual inmate records which shall include, but not be limited to, intake information, personal property receipts, commitment papers, court orders, reports of disciplinary actions taken, medical orders issued by the responsible physician and staff response, and non-medical information regarding disabilities and other limitations.

(b) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control and from other facilities with which it contracts for the confinement of its inmates. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.