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DATE:	DECEMBER 17, 2015
NUMBER:	F.1
SUBJECT:	RECORDS MAINTAINED
RELATED SECTIONS:	F.7

PURPOSE

To ensure inmates are properly committed; inmate property is correctly managed; there is a record of events while the inmate is in custody; and there is an established records retention schedule.

POLICY

Detention Support Services will maintain and update the following inmate records:

PROCEDURE

- I. Inmate records that will be maintained and kept in the inmate custody record are:
 - A. Booking Intake/Personal Property Inventory (J-15 form)
 - B. Sentence documents
 - C. Court orders
 - D. Discipline reports (If not recorded in IMS)
 - E. Release orders
 - F. Classification records (If not recorded in IMS)
 - G. Any document changing the inmate's legal, medical, disciplinary, or special custody status (If not recorded in IMS)

II. The following records will be maintained and kept for the designated period of time:

<u>RECORD TITLE</u>	<u>RETENTION RECORD</u>
Facility quarterly reports (historical file)	Indefinite
Bail/fine receipts	5 Years
Cash disbursement forms	5 Years
Check cashing requests	5 Years
Prison and honor camp transfers	5 Years
Custody or safekeeping receipts	5 Years
Bureau of State and Community Corrections	5 Years
Facility correspondence files	5 Years
Fire incident reports	5 Years

General and subsidiary ledgers	5 Years
Money adjustment requests	5 Years
Monthly balance sheet reports (A.R.M.S.)	5 Years
Monthly bank statements (inmate welfare revolving fund, bail account, inmate trust fund)	5 Years
Stores deposit permits	5 Years
Inmate worker pay reimbursement Claims (confidential file kept by the legal advisor)	5 Years
Weekly proof of cash reports	5 Years
Employee grievance	2 Years
Erroneous releases	2 Years
Escape reports	2 Years
Facility master schedule	2 Years
Facility property & inventory files	2 Years
Grand jury inspections	2 Years
Disciplinary actions	2 Years
Inmate Grievances (non-disciplinary)	2 Years
Night count sheets	2 Years
Inmate participation in jail program	2 Years
Inmate property records	2 Years
Kitchen inspections	2 Years
Petty cash transactions	2 Years
Requisitions/purchasing files	2 Years
Subpoena logs and files	2 Years
Watch commander logs	2 Years
Work orders	2 Years
*Bi-weekly leave activity reports	1 Year
*Detention facility services quarterly reports	1 Year
*Food service reports	1 Year

III. After the above documents have exceeded their required retention period, they may be destroyed, if not needed for an ongoing investigation or pending court order.
 * Original kept by other county department for a minimum of two years.

IV. After January 18, 2002, all records listed in section II that are recorded in the IMS system will be retained for a minimum of 5 years.

DATE:	DECEMBER 17, 2015
NUMBER:	F.3
SUBJECT:	COMMITMENTS AND COURT ORDERS
RELATED SECTIONS:	P.15 , Q.49

PURPOSE

To establish a standard operating procedure for the processing of court orders received on “In custody” inmates.

POLICY

Every effort will be made to comply with valid court orders.

PROCEDURE

I. COURT ORDER ACCEPTANCE

- A. If there is a question as to the authenticity of a court order, the court clerk should be contacted to verify the order. Legal Affairs should be contacted in the event a court clerk cannot be reached.
- B. Any court order received at a detention facility, whether via transportation, messenger mail or hand delivery, will be inspected for authenticity and validity prior to processing. Any questions or discrepancies should be directed to the clerk of the court issuing the order. Hand delivered court orders will not be accepted if incomplete or invalid.
- C. Court orders will be accepted from anyone eighteen (18) years of age, or older. Family or friend must present a valid driver license or other valid picture identification. A bail bond agent must present a valid bail bond identification card with a driver's license or other picture identification. An attorney must present a valid bar card with a driver license or other picture identification. The court order will be inspected for authenticity and validity prior to processing. Any questions or discrepancies should be directed to the clerk of the court issuing the order.
- D. Court orders (other than “To-report commitments”) will not be accepted regarding inmates who are not physically in custody at the time the order is received. Such orders will be returned to the issuing judge with a written explanation as to why the order was not accepted.

II. COURT ORDER PROCESSING

- A. All court orders accepted are to be time-stamped immediately upon receipt, inmate’s booking number written on the face of the document and processed in the following manner:
 - 1. Court orders authorizing jail entry of an outside party, (i.e. court appointed psychiatric investigators) will be reproduced and copies distributed as follows:

- a. The original document will be filed in the inmate's custody record.
 - b. A copy will be provided to the watch commander.
 - c. A copy will be filed in the alphabetical file, by inmate's name, in the custody information office.
 - d. If the court order pertains to a medical or psychiatric evaluation, a copy will be sent to the medical staff.
2. Court orders ordering the release or transport of an inmate for other than custody related purposes (i.e., family funeral services) will be immediately directed to the watch commander for review and approval. The document shall be distributed as follows:
- a. The original document will be placed in the inmate's custody record.
 - b. A copy will be directed to the watch commander.
 - c. A copy will be forwarded to the medical staff if the court order pertains to a medical issue.
3. Court orders for release or transport of an inmate for medical reasons (i.e. dental/medical/psychiatric) will be immediately directed to the watch commander for verification and acceptance. The watch commander (along with the medical staff on medical/dental/psychiatric orders) shall make any and all efforts to ensure the following:
- a. Confirm the necessity for the transport or release if the same could not be accomplished by having the other party (ies) come to the facility.
 - b. Confirm the exact date, time and location of the appointment as well as the expected duration.
 - c. Confirm all other aspects of the court order (transportation method, criminal record and driver's license validity of the person named to transport, if other than Sheriff's personnel).

Any court order not received in ample time to allow confirmation, or which appears unreasonable, or places the security of the inmate(s), facility or staff in jeopardy is subject to amendment or denial by the facility commander. Efforts should be made to inform the issuing judge, and/or initiating attorney, of the changes or denial, prior to the effective time of the original order. The facility commander shall contact Legal Affairs when presented with such an order.

- B. The computer records will be updated to reflect the court order.
1. Update the computerized custody record to reflect future court dates and times, sentencing information and other pertinent court ordered information.

2. Release orders will be processed as soon as possible.

DATE:	JANUARY 15, 2016
NUMBER:	F.4
SUBJECT:	TEMPORARY RESTRAINING ORDERS
RELATED SECTIONS:	

PURPOSE

To set a standard procedure for the acceptance, service and processing of a temporary restraining order (TRO) when the respondent is in custody.

POLICY

Responsibility of acceptance and processing of a TRO upon inmates in custody of the Sheriff's detention facilities will rest with the watch commander.

PROCEDURE

If it is determined the respondent of a TRO is in custody and the TRO has not been served, the appropriate detention facility watch commander will be contacted by the Sheriff's Civil Office (SCO) and made aware of the existence of the TRO. A copy of the TRO will be sent via fax or e-mail to the detention facility for immediate service by that facility's sworn personnel. SCO personnel must make contact with the watch commander or designee before the TRO is faxed/e-mailed.

- I. Once the watch commander receives the TRO for service, the watch commander will direct sworn personnel to serve the TRO as soon as possible. Time is of the essence, and the TRO must be served before the respondent is released from custody.
 - A. The important points to be communicated to the inmate while serving the TRO are the stay away orders located on the restraining order or the teletype. Stay away orders include, the address/location and distance from which the respondent must stay away; the court appearance date; and the protected person or person's name(s). In addition, any prohibited conduct and all of the firearms requirements and restrictions must be communicated.
 - 1. The orders that apply to inmates in custody or inmates pending release are listed on the restraining order.
 - 2. Disregard any orders on the TRO that are lined or crossed out by the SCO.
 - B. Once the TRO is served by sworn personnel, the serving deputy must call Sheriff's records at 858-974-2457 for a local TRO and relay the service information for computer entry and documentation. The service information needed for documentation is the serving deputy's name and ARJIS number, the case number for the TRO, the name of the person served and the date, time, and location of the service of the TRO. The above information suffices as acknowledgement of the TRO; the inmate does not have to sign the TRO.

- C. Following each TRO service, the serving deputy must document the service in the Jail Information Management System (JIMS) using a primary incident type of "TRO." To complete, the deputy must log the facility, area, and housing unit information. For "action taken" the serving deputy need only write, "Records notified" and "Case number 1234567," filling in the actual number of the TRO served. A narrative is not required to complete a "TRO service" incident. If something unusual happens during the service that should be documented; the deputy should write a narrative for future reference. Link the inmate to the TRO service incident. When linking the inmate, use involvement code "O." This will complete the TRO service documentation.

II. Procedures for a National Crime Information Center (NCIC) hit of a TRO prior to release

- A. All inmates in custody of the Sheriff's detention facilities are run in NCIC before being released. The NCIC inquiry is part of the release process to ensure that all wants for the particular inmate have been addressed prior to release. If an inmate being processed for release or as part of a records check has an active TRO in the system and the restraining order has not been served, the detention processing technician (DPT) will contact the watch commander or designee immediately.
- B. The DPT will make a copy of the information contained in the NCIC hit with regard to the TRO. This information is to be used to serve the TRO upon the inmate prior to release.
- C. The watch commander or designee will direct a sworn deputy to serve the TRO from the NCIC hit information. The NCIC hit information contains all the information necessary for legal service of the TRO
 - 1. If the NCIC hit is for a local TRO, sworn staff shall follow the procedures in section I for service.

The NCIC hit information will not contain the court date for appearance for the local TRO. The serving deputy should direct the inmate to contact the nearest Court Services Bureau office or court of jurisdiction to obtain the appearance date. This information may also be obtained at the court of filing of the TRO.

- 2. If the TRO is out-of-county or out-of-state the NCIC hit information will contain a contact phone number for service information. The serving deputy shall follow the procedures in section IA for service, and then call the service information number listed in the NCIC hit to relay the service information. The service information that needs to be communicated is the serving deputy's name and ARJIS number, the case number for the TRO, the name of the person served and the date, time, and location of the service of the TRO. Once completed, the service deputy must document the service (refer to section I.C for procedures).

DATE:	APRIL 27, 2018
NUMBER:	F.5
SUBJECT:	INMATE INCIDENT REPORT (JIMS)
RELATED SECTIONS:	J.1 , J.2 , J.3 , O.1 , Prison Rape Elimination Act of 2003

PURPOSE:

To standardize reporting procedures for a variety of inmate incidents/actions encountered in daily facility operations.

POLICY:

All inmate movements, other than for population management reasons, including applicable inmate actions shall be documented in the incidents module within the Jail Information Management System (JIMS). Completed forms shall be reviewed, approved, forwarded and disseminated as required.

PROCEDURE:

Incident reports shall be completed for, but not limited to, the following reasons:

- I. Any change in an inmate's status due to:
 - A. Medical Transfer
 - B. Housing movement due to inmate request or individual problem
 - C. Keep separate
 - D. Administrative segregation
 - E. Initial protective custody housing placement
 - F. Loss of inmate worker status
 - G. Injury
 - H. Change of classification due to disciplinary action
- II. An inmate's special housing requirements:
 - A. Safety cell
 - B. Medical isolation
 - C. Sobering cell
 - D. Need for specialized housing of LGBT inmates beyond 30 days

E. Other

III. Any unusual inmate behavior:

Incident reports shall be entered into JIMS. Copies of incidents shall be distributed according to facility policy. Other than for disciplinary actions (violation of inmate rules & regulations), no incident report shall be given to any inmate.

If discipline is to be imposed on an inmate or housing module, discipline shall be documented in JIMS on an incident report (refer to DSB P&P section O.1.).

DATE:	DECEMBER 17, 2015
NUMBER:	F.7
SUBJECT:	RECORD OF INMATE PARTICIPATION IN PROGRAMS
RELATED SECTIONS:	

PURPOSE

To establish a standard procedure for maintaining records of inmate participation in programs.

POLICY

Correctional counselors will maintain complete and accurate records of all inmates participating in programs.

PROCEDURE

Correctional counselors will be responsible for maintaining a record of the programs available to the inmates. Participation by inmates will be recorded on an attendance record and entered into the Offender 360 database by reentry services staff.

The attendance records will be kept in the correctional counselor's office and will be maintained for two (2) years.

DATE: DECEMBER 17, 2015
NUMBER: F.9
SUBJECT: CRIME REPORTS AND MAJOR INCIDENT DOCUMENTATION
RELATED SECTIONS:

PURPOSE

To fulfill legal and departmental requirements for proper crime/incident documentation.

POLICY

Whenever a crime or incident occurs, that results in physical harm, or serious threat of physical harm, to an employee, inmate or other person, proper documentation shall be completed in a timely manner.

PROCEDURE

Whenever an incident occurs in which a crime/incident report is required, it shall be the responsibility of the on-duty watch commander when the incident occurred, or was discovered, to see that all necessary reports are written and processed as rapidly as possible. All reports shall be completed on the same shift as the incident occurred or was discovered, unless otherwise authorized by a supervisor. In which case, the reports shall be completed as soon as reasonably possible. Supervisors may authorize overtime to complete the reports if it is deemed necessary.

It is the supervisor's responsibility to review all reports for accuracy and completeness. The supervisor shall then approve the report and check all attached documents or property/evidence to see it has been processed properly.

I. PROCESSING OF REPORTS

- A. The report writer shall call the Sheriff's Records Division to get a case number. Once the case number has been obtained, the report writer will log into NetRMS and complete the report.
- B. The report writer shall submit the completed incident/crime report to the shift supervisor utilizing NetRMS for approval.
- C. The shift supervisor shall submit the approved report to the Detentions Investigations Unit (DIU) utilizing NetRMS.
- D. If a copy of the report needs to be retained at the module or placed on the briefing board, extra copies may be made and distributed.
- E. If there is evidence to be submitted, the evidence tag shall be attached to the evidence.

II. COMPLETING OF REPORTS

Watch commanders shall ensure the following documents, when applicable, are fully completed immediately after the incident:

- A. Crime reports, arrest reports, and property/evidence documentation.. Employee medical injury incident reports shall be submitted verifying any injury to staff personnel as soon as reasonably reliable information is obtained explaining the nature and severity of the injury or illness.
- B. Interdepartmental memorandum (After-action report) describing in detail the sequence of events, known or suspected escape location or method, personnel actions, suspect identification, suspect charge, known criminal history and any other pertinent information that clarifies or adequately describes the incident.
- C. When appropriate, motor vehicle accident reports shall be completed.

III. EXTRAORDINARY OCCURRENCES

- A. Any extraordinary occurrence such as riots, fires, severe medical injuries or illness to inmate populations or staff, suicides or natural calamity shall be duly noted and explained in sufficient detail to adequately describe the situation.
- B. When appropriate, collateral support services utilized (Homicide, arson, SWAT, communications center, etc.) shall be indicated in the report. These references shall include mention of what functions were requested and provided by these units.
- C. It shall be the watch commander's responsibility to notify the communications center of any incident of such importance that it should be placed on the morning report. These shall include major crimes, escapes and serious unusual incidents.

DATE:	DECEMBER 17, 2015
NUMBER:	F.10
SUBJECT:	TARASOFF NOTIFICATIONS
RELATED SECTIONS:	SDSD P&P Section 6.120, W&I Code 8100 (b) (1)

PURPOSE

This policy establishes guidelines for properly documenting Tarasoff notifications in all San Diego County detention facilities.

POLICY

Detention Services Bureau staff shall respond to and properly document all Tarasoff notifications occurring in the detention facilities. The facility watch commander shall be notified and take appropriate steps to ensure all documentation and notification requirements are met.

PROCEDURE

A Tarasoff warning or notification is when a licensed psychotherapist reports one of their patients has made a serious threat of physical violence against any reasonably identifiable victim(s). An inmate who informs the therapist he or she intends to harm their parole officer (or any other reasonably identifiable victim) upon release from custody is an example of when a Tarasoff notification is necessary.

Tarasoff notifications will be handled similarly to other threats of violence. Deputies will speak with the reporting party to gather information about the threat. Deputies will make a reasonable attempt to contact the victim to provide information about the threat of violence and the identity of the suspect.

Deputies will speak with the suspect to determine an appropriate course of action (i.e. crime report for Penal Code section 422). Deputies will attempt to locate the suspect if they have already been released from custody.

Deputies shall notify the watch commander of a Tarasoff warning as soon as possible and prepare a case report detailing the incident. To ensure Tarasoff cases are readily identifiable, deputies will select the "Tarasoff incident" option under the special studies drop down menu in NetRMS.

Deputies will also complete an "FD4074 Law enforcement report of firearms prohibition" form. Properly filling out this form and faxing it to the appropriate personnel will prohibit the suspect from purchasing a firearm or other deadly weapon for six months. The form is available on the [Sheriff's Sharepoint Site \(SSP\)](#) and will be faxed by the deputy to the Department of Justice (the fax number is on the form). A copy of the completed form will be scanned and attached to the case report. Deputies will document in their report the date and time the form was successfully faxed. These forms are only to be used in cases involving a licensed psychotherapist making a Tarasoff notification and not for other crime reporting purposes.

The facility watch commander or designee shall inform the communications center of all Tarasoff notifications. This will generate a CAD event documenting the Department's response to the incident. The watch commander or designee will provide the dispatcher with: the victim's name; identity of the suspect; information about the threat of violence; and information regarding notifications or contacts that were made.

DATE: DECEMBER 17, 2015
NUMBER: F.13
SUBJECT: SUBPOENA DUCES TECUM
RELATED SECTIONS:

PURPOSE

To set a standard procedure for the acceptance and processing of a Subpoena Duces Tecum (SDT).

POLICY

Responsibility of acceptance and processing of a SDT will rest with the watch commander.

PROCEDURE

Any SDT will be directed to the watch commander. This includes subpoenas for support personnel (i.e., medical, kitchen, laundry, etc.). The Detention Information Assistant (DIA) will not accept the subpoena. It must be served on the watch commander. Prior to acceptance, the watch commander or designee will complete a search to ensure the inmate is in custody. (If the inmate is not in custody, refer the person serving the subpoena to the Sheriff's records division).

The watch commander will then:

- I. Log the SDT in the SDT log in the watch commander's office.
- II. Before acting on the SDT, scan and forward the SDT directly to the Sheriff's legal advisor. Fax a copy to the chief deputy district attorney (CDDA) of the proper division in which the case is being heard (El Cajon, Vista, or South Bay). For San Diego cases, fax a copy of the subpoena to the chief of the superior court division. In as much as these positions are subject to transfer in personnel, it is better to address the subpoenas to the title rather than the name or particular CDDA.

The CDDA's FAX numbers, mail stations and telephone numbers are:

<u>LOCATION OF HEARING</u>	<u>FAX NO.</u>	<u>MAIL STATION</u>	<u>PHONE NO.</u>
Vista	(760) 806-4162	N-160	(760) 806-4004
El Cajon	(619) 441-4095	S-127	(619) 441-4588
South Bay	(619) 498-5625	S-109	(619) 498-5656
San Diego	(619) 531-3735	C-16	(619) 531-4255

If the subpoena is sent via fax, follow through with a telephone call to the CDDA's office to make sure they received it and await further instructions. The DA may move to quash the subpoena or request that the Sheriff's legal advisor make the motion to quash. Alternatively, they may ask you to comply with the subpoena and to make their office duplicate copies of the records produced.

Notify the Sheriff's legal advisor with what the DA's instructions are with regard to each subpoena, so the legal advisor will know whether to move to quash it or not.

- III. Review the contents of the subpoena, and if it is believed that the records requested contain sensitive or confidential material or will be unduly burdensome to comply with, the watch commander will forward the subpoena to the facility commander. The facility commander should then review the subpoena with the Sheriff's legal advisor, who will decide whether to take appropriate legal action against it. (Refer to Department P&P Section 6.16)
- IV. If section III above does not apply and instructions are given to comply with the subpoena after completing section II, the watch commander will assign the appropriate personnel to gather the documents.
- V. The watch commander will make sure the documents are certified as being true and correct copies.
- VI. Assign the appropriate personnel to appear in the designated court with the required documents.
- VII. File a copy of the subpoena in the SDT log.

DATE:	NOVEMBER 1, 2011
NUMBER:	F.15
SUBJECT:	CONTACT WITH THE DUTY JUDGE
RELATED SECTIONS:	PC 810, The Duty Judge Manual

PURPOSE

To ensure access to the Duty Judge is facilitated for the reduction or enhancement of bail, or for O.R. (own recognizance) release after court hours.

POLICY

All requests for bail enhancement, bail reduction, or O.R. releases made by attorneys and/or Arresting Officers/Deputies during court hours shall be instructed to go to the courthouse to process their request.

When a request is made to the Watch Commander or designee to contact the Duty Judge for the purposes of bail reduction, enhancement or O.R. release after court hours, the Watch Commander or designee will contact the Duty Judge by leaving a phone message on the Duty Judge Line. The request can be made by the Arresting Officer/Deputy, an inmate or the inmate's attorney of record pursuant to Penal Code 810.

Accurate telephone numbers for the following shall be posted prominently in the Watch Commander's office in every detention facility:

- Duty Judge Line
- Sheriff's Warrants Unit
- Duty District Attorney
- Duty City Attorney

It is the responsibility of the Sheriff's Warrants Unit to ensure that current working phone numbers are provided to the Watch Commanders.

PROCEDURE

The following procedures shall be followed by the Watch Commander or designee when contacting the Duty Judge after court hours by the requesting party:

- A. Arresting Officer/Deputy
 1. Watch Commander or designee calls the Duty Judge to inform him/her of a request for enhancement or reduction in bail by an arresting agency.
 2. The Arresting Officer/Deputy will provide justification to the Duty Judge for the bail enhancement or reduction.

3. If the request is approved by the Duty Judge, the Watch Commander or designee will ensure the J-107 Bail Setting Request form is properly filled out and submitted to the Detention Processing Supervisor.
 4. If the request is denied by the Duty Judge, the Watch Commander or designee does nothing.
- B. Requests by an Inmate or an Inmate's Attorney.
1. When an attorney of an inmate requests the Duty Judge for the purpose of bail enhancement, reduction or O.R. release, the Watch Commander or designee shall obtain the attorney's contact information and Bar Card number.
 2. The Watch Commander or designee shall leave a message with the Duty Judge by calling the Duty Judge telephone number. The Watch Commander shall inform the Duty Judge of the request and provide the Duty Judge with the attorney's information, as well as the Watch Commander telephone number.
 3. After leaving a message with the Duty Judge, the Watch Commander shall inform the attorney of the following:
 - a. If the Duty Judge does not wish to entertain the request, no further action will be taken.
 - b. If the Duty Judge wants to entertain the motion on the merits, the Sheriff's Department will be in contact with the attorney.
 4. If the Duty Judge decides to entertain the motion, the Duty Judge will contact the Sheriff's Warrants Unit and provide the responding employee with the attorney's telephone number, as well as a callback number for the court so that the hearing can be recorded. Warrants Unit will then set up a conference call between the requesting attorney, and the prosecutor on duty (either from the D.A.'s office or the City Attorney's office). The last number called will be the court's callback number. Once the conference call is set up on the court's recording line, the employee will put down the receiver and not participate further nor listen to the call.
 5. If the Duty Judge decides to reduce bail, he/she will contact the Watch Commander. Upon receiving such a call, the Watch Commander shall contact the Warrants Units via conference call and have the Warrants Unit verify that the person on the other line purporting to be the Duty Judge is, in fact, the same person who contacted the Warrants Unit.
 6. If the request is made by an inmate, the same procedures as above shall be followed, except that the Watch Commander's message for the Duty Judge shall inform him or her that the request is being made by the inmate. The contact telephone number given to the Duty Judge, instead of the attorney's telephone number, will be the Watch Commander's telephone number.
 7. If the request is approved by the Duty Judge, the Watch Commander or designee will ensure the *J-107 Bail Setting Request* form is properly filled out and

submitted to the Detention Processing Supervisor. If the request denied by the Duty Judge, the Watch Commander or designee shall make an in entry in the inmate's JIMS history.

The telephone numbers used in this process shall not be disclosed to the attorney or the inmate, unless specifically directed to do so by the Duty Judge.

DATE:	MAY 15, 2019
NUMBER:	F.16
SUBJECT:	SEXUAL MISCONDUCT CASE ASSIGNMENTS & INVESTIGATIONS
RELATED SECTIONS:	DSB P&P M.9 , R.13 SDSD P&P 6.33, 6.71, 6.125, & 6.127

PURPOSE

To standardize case assignment, investigation, and notification procedures for a variety of sexual misconduct incidents encountered in a detention facility, in compliance with the Prison Rape Elimination Act (PREA).

POLICY

The San Diego County Sheriff's Department has a zero-tolerance policy on sexual misconduct towards inmates. This zero-tolerance policy applies to all facilities and extends to all programs providing services to clients under the jurisdiction of the San Diego Sheriff's Department.

Whenever an allegation of sexual misconduct against an inmate is reported, whether from an inmate/detainee, volunteer, contractor, Sheriff's employee or any outside source, the allegation shall be documented and investigated in a timely manner.

Sexual misconduct includes but is not limited to sexual abuse and sexual harassment. For purposes of PREA, refer to the definitions below.

DEFINITIONS

- I. The following definitions, taken from PREA, shall apply to this section.
 - A. Sexual abuse of an inmate, detainee, or resident by another inmate, 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 the penis, vulva, or anus.
 - 3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or another 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.

- B. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without the consent of the inmate, 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 the 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 another 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)-(5) of this section.
 7. Any display by a staff member, contractor, or volunteer of their uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident.
 8. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties. This may include things such as peering at an inmate who is using a toilet in their cell to perform bodily functions; requiring an inmate to expose their buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

C. 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 inmate, detainee, or resident directed toward another.
2. Repeated verbal comments or gestures of a sexual nature to an inmate, 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.

- D. **Substantiated allegation:** An allegation that was investigated and determined to have occurred.
- E. **Unsubstantiated allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- F. **Unfounded allegation:** An allegation that was investigated and determined not to have occurred.

PROCEDURE

The deputy whom the sexual misconduct was reported to is responsible for writing the initial Crime/Incident Report or appropriate report as noted below, and charging the applicable Penal Code section, based on the circumstances of the incident (refer to Sheriff's P&P section 6.71 regarding report documentation) if applicable. The Detention Investigation Unit (DIU) and or Sexual Assault Unit (SAU) will be responsible for follow-up investigations as appropriate.

In all cases, if the alleged incident took place within 120 hours, immediate notification to the appropriate investigative body is required, via the Communications Center. The Communications Center has contact information for outside agency notifications.

I. CASE ASSIGNMENTS

- A. Inmate on inmate sexual abuse or sexual harassment – Follow up investigations, and Prison Rape Elimination Act (PREA) tracking will be handled by DIU.
- B. Sheriff's employees, contractors or volunteers sexual abuse on inmate – Investigations will be handled by the SAU and DIU (support) unless otherwise directed.
- C. Sheriff's employees, contractors or volunteers sexual harassment on inmate - In the detention facilities, non-criminal, sexual harassment allegations will be investigated by the command and/or handled via an administrative investigation as appropriate.
- D. Sheriff's employees on detainee – Incidents occurring outside of the detention facilities will be investigated by the SAU. The detentions watch commander will notify the on-call SAU sergeant. SAU will be responsible for PREA reporting to DIU and command notifications. The effected command will decide if an administrative investigation is warranted.
- E. SDDS jurisdiction or community – If the abuse occurred within 120 hours; immediately contact SAU for investigation/direction. If SAU/DIU waives to respond, the deputy taking the preliminary report will be responsible for completing the initial crime/incident report in NetRMS; to document the allegation and deputy actions. The report will then be forwarded to the SAU for investigation.
- F. Outside jurisdiction, community – If the abuse occurred within 120 hours, immediately contact the agency of jurisdiction for investigation/direction. If the agency waives, a deputy will take the initial report and complete a "courtesy" report in NetRMS following

Sheriff's P&P 6.71; Courtesy Reports. If the case occurred out of the country, complete the courtesy report and contact the appropriate consulate.

- G. Outside jurisdiction, detention facility (Core Civics / GEO /RRC or Other) – If the abuse occurred within 120 hours, immediately contact DIU for investigation/direction. The deputy taking the initial report will be responsible for completing the initial crime report in NetRMS to document the allegation and deputy actions. The report will then be forwarded to the DIU for investigation as deemed appropriate.
- H. Sexual misconduct by other law enforcement officers - The watch commander will immediately contact the relevant agency watch commander for investigation. SDSO deputies will complete a "981000-ZZ-Miscellaneous Incident Report" in NetRMS, print it out and forward it to the station/agency watch commander for investigation.

II. RESPONDING TO SEXUAL HARASSMENT – BETWEEN INMATES

- A. The watch commander will assign a deputy to determine if a report was written. If a report has not been written, the deputy will conduct the investigation and write the incident report.
- B. The deputy conducting the investigation and document their findings in a "981000-ZZ-Miscellaneous Incident Report" in NetRMS. Depending on the findings, the deputy should write a "Kept Separate" ISR in JIMS and notify classification. The deputy should reference the NetRMS case number in the ISR. Upon conclusion of the investigation, the deputy should write in their report how the incident was resolved.
- C. DIU will be responsible for tracking the incident and the follow-up investigation as appropriate. DIU will determine if the incident was substantiated, unsubstantiated, or unfounded.
- D. The level of inmate's sobriety/intoxication and mental status should be considered in determining the evidentiary value or credibility of the allegation. A follow-up interview should be considered when the inmate has recovered from alcohol or substance abuse. A supervisor should be informed if there is any significant delay in the investigation.

III. RESPONDING TO SEXUAL ABUSE – BETWEEN INMATES

California Penal Code 293(a): Any employee of a law enforcement agency who personally receives a report from any person, alleging that they have been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.

When a victim of a sexual abuse requests their name be confidential, the deputy will fill out the victim information on the report. The very first sentence, above the synopsis, should be bold-typed and contain the sentence, "THE VICTIM IN THIS REPORT REQUESTS TO REMAIN CONFIDENTIAL PURSUANT TO CALIFORNIA PENAL CODE 293(a) AND CALIFORNIA GOVERNMENT CODE 6254."

When sworn staff first becomes aware or informed that a sexual abuse has occurred, and determined that a DIU response is necessary, the following steps shall be taken:

- A. Secure the safety of the victim away from the suspect. Instruct the victim not to take any actions that could destroy physical evidence: showering, brushing their teeth, changing their clothes, urinating, defecating, drinking or eating.
- B. Lockdown the housing unit or suspend operations in the affected area.
- C. Notify the supervisor and request additional staff for assistance.
- D. Secure the scene to ensure evidence is not destroyed or tampered with.
- E. Do not attempt to collect evidence (absent exigent circumstances) until directed by DIU/SAU.
- F. Separate all witnesses and/or suspect(s). Place known suspect(s) in an area where their ability to destroy evidence is limited (example: an area without a sink, shower, toilet etc.)
- G. Prepare a synopsis of the incident and be prepared to brief DIU upon their arrival.
- H. Do not process the scene, conduct suspect/witness interviews, or arrange for a sexual assault response team (SART) exam unless directed by DIU.
- I. Conduct a preliminary interview with the victim to obtain the elements of the crime. The report should document the following:
 - 1. When and where the sexual abuse took place.
 - 2. Specific details of how they were sexually abused.
 - 3. Can the victim identify the suspect and any possible witnesses?
 - 4. Does the victim complain of any injuries or pain, even if there are no visible injuries?
 - 5. What is the victim and the suspect's condition and demeanor (apologetic, afraid, etc.)?
 - 6. Document torn clothing, bodily fluids, and areas in disarray.
 - 7. Document the initial evidence of injury (description, photographs, etc.).
 - 8. If necessary, take photographs of the scene making sure not to disturb anything.
- J. Once DIU detectives arrive on the scene, they will assess the sexual abuse and arrange for a SART exam, if needed. SART exams should not be initiated or attempted by detention facility medical staff. These exams must be done at a recognized medical facility by a SART nurse. It is the detention facility's responsibility to transport the victim

and the suspect to the examining facility and provide security during the exam. A DIU detective will be present during the exam.

- K. The DIU case agent will write a follow-up report to the initial report and submit the case to the District Attorney's office for review and possible case issuance.
- L. Refer to the sexual abuse checklist attached to this policy.

III. RESPONDING TO SEXUAL HARASSMENT - STAFF on INMATE

- A. If an inmate alleges a sexual harassment complaint against a staff member, notify the watch commander immediately.
- B. Non-criminal, sexual harassment allegations will be investigated by the command and/or handled via an administrative investigation as appropriate.

IV. RESPONDING TO SEXUAL ABUSE STAFF on INMATE

- A. If the inmate alleges a sexual abuse complaint against a staff member, notify the watch commander immediately. If the alleged incident occurred within 120 hours and there is an evidentiary value that can be obtained (video, soiled clothing, injury etc.), immediately contact the SAU sergeant for direction.
- B. If SAU waives response to the incident, the deputy notified of the alleged incident will take the initial report and document how they became aware of the incident in a crime report using "miscellaneous report" and assign the case to the SAU. The affected command will be notified by SAU and decide if an administrative investigation is warranted.
- C. Refer to the sexual abuse checklist attached to this policy.

IV. PROCEDURE PURSUANT TO INTAKE/MEDICAL SCREENING

If during the PREA medical intake questions, an inmate chooses to disclose to sworn staff that they have been a previous victim of sexual abuse the following procedures shall be followed.

- A. If the sexual abuse occurred within 120 hours, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate: washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

In addition, the following procedures shall be followed:

1. Medical staff will notify the watch commander, JPMU and refer the inmate to the mental health clinician.
2. The watch commander will notify their respective sexual abuse investigator as identified above in section I.

B. Allegations of an inmate on inmate sexual abuse occurring in SDSD detention facilities

The watch commander will assign a deputy to conduct the initial investigation to determine if a report has been written. If a report has not been written, the deputy will write the crime/incident report and forward the case to DIU for follow-up. If the incident was previously documented, deputies will write an ISR using the PREA dropdown and include the following information:

1. Reference to the original case number.
2. Synopsis of how they became aware of allegations and notifications they made.

C. Outside Jurisdiction, Institution, or Confinement Facility

The watch commander will assign a deputy to conduct the initial investigation to determine if a report has been written.

1. If the incident was previously documented, deputies will write an ISR using the PREA dropdown and include the following information:
 - a. Reference to the original case number.
 - b. Synopsis of how they became aware of allegations and notifications they made.
2. If the incident has not been previously documented:
 - a. JPMU will contact the agency/facility where the sexual abuse occurred and inform them of the allegation. The JPMU deputy will obtain the name and ID# of the employee contacted. In addition, obtain the facility commander's name, e-mail and or physical address for written notification.
 - b. The watch commander will assign a deputy to complete a "Courtesy" report in NetRMS, using the Offense code "990000 - ZZ - COURTESY REPORTS" to document the allegation and deputy actions. The deputy completing the administrative tab of the report should not use the assigned facility's location and beat number. The location and beat number should be from the originating location of the incident.
 - c. The assigned deputy will print the completed report, scan it, and send it to the facility commander, via e-mail.
 - d. The facility commander must notify, in writing, the facility commander of the facility where the sexual abuse is alleged to have occurred no later than 72 hours after receiving the allegation. (PREA 115.63)

D. Refer to the sexual abuse checklist attached to this policy.



Sexual Abuse Checklist

The below terms and definitions will play an important role when evaluating any **PREA** related incident.

Definitions of Sexual Violence:

Nonconsensual sexual acts: Contact of any person **without** their **consent**, or of a person who is **unable to consent or refuse**; and Contact between the penis and the vagina or the penis and the anus including penetration, however slight; Contact between the mouth and the penis, vagina or anus; Penetration of the anal or genital opening of another person by a hand, finger or other object.

Abusive sexual contacts: Contact of any person **without** their **consent**, or of a person who is **unable to consent or refuse**; and Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. Exclude incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit.

Date Reported: _____

Time Reported: _____

Reporting Source: _____
(Grievance, medical request, etc.)

To whom the report was made: _____

Reporting Party: _____
(Other than Victim)

Victim Name: _____
(If multiple victims, list on separate sheet of paper)

Interview Location: _____

Witnesses: _____

Time lapse between incident and reporting: _____

Location of Incident: _____

Date / Time of Incident: _____

Video Available: Yes No

To preserve evidence, determine if the incident occurred within 120 hours. Contact Detentions Investigation Unit (DIU) or Sexual Assault Unit (SAU) and they will decide if a Sexual Assault Response Team (SART) examination is needed. Because of the time sensitivity, this information needs to be relayed to DIU as soon as possible. If the incident occurred longer than 120 hours and there is no obtainable evidence (fluids etc.) simply document the facts of the case and actions of the deputy. No immediate notification to DIU/SAU is required. If you are unsure, immediately contact DIU/SAU as appropriate for direction.

Suspect(s) Name: _____
(If multiple suspects, list on separate sheet of paper)

Crime Scene Secured: Yes No

(Note the date, time and deputy securing the scene). Do not allow the victims and/or suspects to clean up in anyway, urinate, defecate, drink or eat. Deputies should not make any attempt to collect evidence (absent exigent circumstances) until directed by DIU or SAU.

Victim Separated: Yes No
(Do not allow victim to change clothes use restroom, wash, shower, eat or drink)

Witness Separated: Yes No **Suspect Separated:** Yes No

Time DIU Notified: _____

Time DIS Notified: _____ **Time SAU Notified:** _____

Notified via Communication Center *Notification of SAU will be at the discretion of DIU*

Reporting deputy will need to prepare a short synopsis of the incident and brief the responding DIU and/or SAU staff.

Synopsis/ DIU Brief: _____

293 PC Notifications: Yes No

(Note the date, time and deputy giving notification). Notification must be given either verbally or in writing:

"Pursuant to California Penal Code Section 293 and 293.5, you have a right to request that your name not become part of a public record pursuant to California Government Code Section 6254. Before criminal proceedings are initiated in your case, a prosecutor from the District Attorney's Office will fully explain the advantages and disadvantages of electing to keep your name out of public records."

Document notification of the victim in the narrative section of the report with the victim's response as follows:

'On (Date) at (Time) I advised (Victim's name) regarding their rights pursuant to California Penal Code Section 293 and 293.5. Their response was (.....).'"

When a victim of a sexual abuse requests their name be confidential, the deputy will fill out the victim information on the report. The very first sentence, above the synopsis should be bold typed and contain the sentence, ***'THE VICTIM IN THIS REPORT REQUESTS TO REMAIN CONFIDENTIAL PURSUANT TO CALIFORNIA PENAL CODE 293(a) AND CALIFORNIA GOVERNMENT CODE 6254.'***"

Report:

The crime report will be written by the deputy that the sexual abuse was reported to. The deputy will need to ensure the appropriate Penal Code Section(s) are charged based on the circumstances of the sexual abuse. The initial report should document the following:

- **Preliminarily interview the victim to obtain elements of the crime, explain SART Exam and ask victim if they will consent to a SART exam.**
- **When and where the sexual abuse took place.**
- **Specific details of how they were sexually abused.**
- **Can the victim identify the suspect and any possible witnesses?**
- **Does the victim complain of any injuries or pain, even if there are no visible injuries?**
- **What is the victim and suspect's condition and demeanor (apologetic, afraid, etc.)?**
- **Document torn/soiled clothing, bodily fluids, area in disarray.**
- **Document the initial evidence of injury (description, photographs, etc.).**
- **If necessary, take photographs of the scene making sure not to disturb anything.**
- **Document if victim has done anything that could affect evidence collection; i.e changed clothes, showered, brushed teeth, washed, used restroom, eaten or drank anything.**
- **Document if victim has disclosed to anyone else.**

References:

- Detentions P&P Section R.13
- Detentions P&P Section M.9
- Department P&P Section 6.33 Major Crimes
- Department P&P Section 6.71 Crime Case Reports
- Department P&P Section 6.125 Sexual Assault
- Department P&P Section 6.127 Prison Rape Elimination Act (PREA)