

MOHAVE COUNTY PROBATION DEPARTMENT DETENTION POLICY

CHAPTER:	Safety, Security and Control
TITLE:	PREA (Prison Rape Elimination Act) Policy
DATE:	October 5, 2017 (Updated)
APPLICABILITY:	Detention Staff
AUTHORITY:	Arizona State Detention Standards, Section 111.A.20-1-22; Prison Rape Elimination Act of 2003, A.R. S. §§ 13-1405, 13-1404, 13-1406, 13-1410, 13-1419, 13-3620; Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities; Elaine Maestas, Director of Juvenile Court Services.
POLICY:	Our policy is to ensure compliance with the Prison Rape Elimination Act (PREA) by establishing a zero-tolerance for sexual assault and sexual harassment within juvenile detention centers.

DEFINITIONS:

Sexual Activity: Any completed, attempted, threatened or requested touching of the genitalia, anus, groin, breast, inner thigh, pubic area or buttocks with the intent to arouse or gratify sexual desire. Any act of exposing the genitalia, anus, groin, breast, inner thigh, pubic area or buttocks with the intent to arouse or gratify sexual desire. Any act of photographing, videotaping, filming, digitally recording or otherwise viewing, with or without a device, a juvenile or offender with the intent to arouse or gratify sexual desire, either: while the juvenile is in a state of undress or partial dress or while the juvenile is urinating or defecating.

Sexual Assault: Any sexual touching or contact which is non-consensual forced or coerced in any manner, including but not limited to rape, sodomy or unlawful touching.

Sexual Conduct with a Minor: Intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under 18 years of age.

Sexual Contact Includes, but is not limited to, all forms of sexual contact, intentional sexual touching or physical contact of a sexual manner, either directly or through clothing, of the genitalia, anus, groin, breasts, inner thighs, or buttocks, with or without the consent of the person. Any unwanted touching with intent to arouse, humiliate, harass, degrade, or gratify the sexual desire of any person.

Sexual Misconduct: Any behavior or act of a sexual nature by an employee directed to a person under the care, custody, or supervision of the department or agency.

Sexual Abuse: Includes, but is not limited to, subjecting another person to any sexual act or contact by force, persuasion, inducement, or enticement; any sexual act or contact in which an employee participates or forces any offender to engage in; subjecting another person who is incapable of giving consent by reason of their custodial status, physical state or mental state, rape, sexual molestation, prostitution or other form of sexual exploitation.

STANDARDS:

The Mohave County Juvenile Detention Center has a zero-tolerance policy for the incidence of sexual assault sexual abuse, sexual misconduct within the juvenile detention center.

Third party reporting information and report forms are available in the lobby which details various confidential reporting methods for staff, volunteers, visitors, counselors, attorneys and all other outside entities. Juvenile detention staff can also call law enforcement, The Department of Child Safety or other entities to privately report sexual abuse or sexual harassment.

The director of juvenile court services shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee facility efforts to comply with the PREA standards.

Juvenile Detention Supervisors or Juvenile Detention Officer II will conduct random, unannounced rounds of the detention facility during every shift to identify and deter staff sexual abuse and sexual harassment in all areas of the facility.

- a. Unannounced rounds shall include face-to-face contact with each detained youth and staff member.
- b. All unannounced rounds will be documented on the PREA Unannounced Round form and placed in the binder in control.
- c. Staff are prohibited from alerting each other that unannounced rounds are occurring unless such announcement is related to the legitimate operational functions of the facility.
- d. The Juvenile Court Director or designee shall verify and validate that the rounds are completed accurately through the comparison of video and written record.

Each wing is equipped with a door chime which serves to announce an officer of the opposite gender's presence in the wing.

The detention administrator may discipline a juvenile for inappropriate physical contact with detention personnel only upon a finding that the staff member did not consent to such contact.

Juveniles are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.

Detention personnel shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for detention personnel who has engaged in sexual abuse. All terminations and resignations by staff for criminal activity shall be reported to law enforcement agencies, and to any relevant licensing bodies.

The director of juvenile court services shall protect all juveniles and detention personnel who report sexual abuse or sexual harassment or cooperate with investigations from retaliation by other juveniles or staff by:

- Placing juveniles who reported sexual abuse or harassment on increased room checks as part of the department's monitoring procedures;
- Employing multiple protection measures, such as housing changes or transfers for victims or abusers;
- Designating detention personnel or departments charged with monitoring retaliation;
- Monitoring for 90 days or longer if needed after a report of alleged abuse the conduct or treatment of juveniles or detention personnel who reported the sexual abuse for any indication that may suggest possible retaliation and shall act promptly to remedy any such retaliation, and;
- Terminating the monitoring if the director of juvenile court services determines that the allegation is unfounded.

The director of juvenile court services shall ensure detention personnel not conduct compelled interviews without the county attorney's approval to ensure such interviews do not jeopardize subsequent criminal prosecution.

The director of juvenile court services shall ensure detention personnel not terminate an investigation solely because the source of the allegations recants the allegations, or the victim or alleged aggressor leaves the facility.

The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as a detainee or staff. The director of juvenile court services shall not require a juvenile who alleges sexual abuse to submit to a polygraph examination or other truth-telling devices as a condition for proceeding with the investigation of such an allegation.

Disciplinary sanctions for violations of agency policies on sexual abuse or sexual harassment shall be consistent with

- The nature and circumstances of the acts committed
- The detention employee's disciplinary history

- Comparable offenses by other staff with similar histories

Upon receiving an allegation of sexual abuse or sexual harassment, the director of juvenile court services shall report the allegation to the presiding juvenile judge or to the victim's judge of record and shall ensure the designate state or local services is notified in accordance with applicable state or local mandatory child abuse reporting laws.

The detention administrator or appropriate investigative personnel shall report the allegation to the parents or legal guardians of the victim unless the facility has official documentation showing they should not be notified, such as when parental rights have been terminated, the parents or legal guardians are the accused perpetrator, or when notifying the parents or legal guardian would place the victim in specific identifiable danger.

INVESTIGATIONS:

Upon learning of an allegation that a juvenile was sexually abused, the first detention personnel to respond to the report shall be required to:

- Separate the alleged victim and abuser;
- Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
- The director of juvenile court services shall provide an effective interpreter (non-resident) to assist in communicating information that may impact the victim's safety, performance of first responders duties or the investigation of the victims allegation;
- Report immediately to designated supervisor and/or detention administrator, and;
- Not reveal or discuss any information related to the sexual abuse report to anyone other than designated supervisors or officials.

Should the first detention personnel to respond to the report of sexual abuse or harassment not be an officer they shall be required to:

- Request that the alleged victim not take any actions that could destroy physical evidence.
- Immediately notify a detention officer or the juvenile detention administrator of the allegation.

Following an investigation into a juvenile's allegation of sexual abuse suffered at facility, the director of juvenile court services shall inform the juvenile as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Preponderance of the evidence is to be the standard determining whether allegations of sexual abuse or

sexual harassment are substantiated. If another agency conducted the investigation, the director shall request the relevant information in order to inform the juvenile. The director's obligation to report to the juvenile shall terminate if the juvenile is released from the agency's custody. When allegations are substantiated or unsubstantiated, the director shall notify (and document such notification) the juvenile whenever;

- The detention personnel is no longer posted within the juvenile's unit
- The detention personnel is no longer employed at the facility
- The staff member has been indicted on a charge related to sexual abuse within the facility
- The staff member has been convicted on a charge related to sexual abuse within the facility

Following a resident's allegation that he or she has been sexually abused by another resident in the detention facility, the director shall inform the alleged victim whenever;

- The alleged abuser has been indicted on a charge related to sexual abuse within the facility
- The alleged abuser has been convicted on a charge related to sexual abuse within the facility

A sexual abuse incident review shall be conducted at the conclusion of every sexual abuse investigation for all incidents found to be substantiated or unsubstantiated. The review shall be conducted no later than 30 days of the conclusion of the investigation. The review team shall include but not be limited to the director and the detention administrator, with input from detention officers, supervisors, investigators, and medical or mental health practitioners. The review team shall:

- Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- Determine whether detention personnel actions or failures to act contributed to the abuse
- Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; LGBTQ, or intersex identification, status, or perceived status; or, by other group dynamics at the facility ;
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts;
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff, and;
- Prepare a report of its findings and any recommendations for improvement, and submit the report to the presiding juvenile court judge.

Based on the results of the findings, the director of juvenile court services shall implement the recommendations for improvement, or shall document its reasons for not doing so. Any records associated with claims of sexual assault, including incident reports, investigative reports, juvenile information, medical reports and case disposition shall be maintained in a confidential manner and retained in accordance with Arizona state record retention schedules.

The director of juvenile court services shall ensure all incidents of sexual assault are reviewed at the conclusion of the investigation to assess and improve prevention and response efforts.

PRISON RAPE ELIMINATION ACT (PREA):

General Understanding: The Prison Rape Elimination Act of 2003 (also known as PREA), issued a call for correctional agencies nationwide to address prisoner sexual assault. This legislation required correctional administrators to identify, prevent, intervene and prosecute these incidents, and to ensure programs and services to meet the needs of victims and perpetrators.

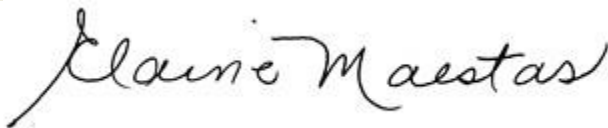
Purpose: Its purpose is to identify, prevent, intervene and prosecute incidents of sexual abuse or sexual assault and to ensure programs and services are available to meet the needs of victims and perpetrators.

Why it's important: The Prison Rape Elimination Act of 2003 was unanimously passed by both Houses of Congress and quickly signed by the President in September 2003. The Act explicitly describes the multitude of social, health and punishment problems that result from prison rape. Foremost among these is recurrence of violent, prison-learned behavior by both victims and perpetrators once they are back in the community. Violent attitudes and behaviors that take place after release from the institution present a significant public safety threat to the free community.

Further, the spread of HIV and AIDS within the corrections system results in physical and psychological terror for victims of prison rape. Infected individuals eventually return to their homes in the free community, endangering the lives of intimates and damaging the efforts by public health organizations to contain these and other similarly contagious diseases.

As stated in the Act, preventing prison rape protects taxpayer investments that have been made in health care, disease prevention and other initiatives designed to ensure the health and safety of inmates and individuals in the free community. In the meantime, the cost of health care and confinement are increasing, the size of prisoner and parole populations are increasing, and the size of state budgets to manage disease and other needs of citizens are decreasing. The problem of prison rape affects the safety and health of prisoners and staff inside the prison, and the safety and health of our communities outside the prison.

Finally, sexual assault is brutal and creates an atmosphere of terror. The threat or occurrence of rape compromises the safety of both inmates and staff and, like other forms of institutional violence, contribute to a dangerous environment. French and Gendreau (2006) found that prison misconduct seems to reflect a propensity for antisocial behavior that cuts across social situations. Victims may engage in destructive behavior to psychologically or physically escape from sexual assaults. This behavior can include assaults on staff. Research conducted with sexual assault victims in the community indicates that victimization results in increased rates of substance abuse, suicide attempts, depression and post-traumatic stress disorder. (NATIONAL INSTITUTE OF JUSTICE, JUNE 2010 Kim English, Heil, Dumon)



Approved: _____

Elaine Maestas, Director of Juvenile Court Services