



**SUBJECT:** Prison Rape Elimination Act

**TO:** Members of the Department

This Order establishes department policy and member responsibilities for the following:

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## **64.1 PRISON RAPE ELIMINATION ACT (PREA)**

In accordance with the [Prison Rape Elimination Act of 2003](#) (PREA), 42 USC 15601 *et seq.*, and the [PREA National Standards for Lockups](#) (PREA Standards), 28 CFR Part 115, this Order establishes the department's policy regarding preventing, detecting, and responding to all forms of sexual abuse and sexual harassment in any departmental facility which contains a lockup operated by the department.

### **64.1.1. DEFINITIONS**

- A. Contractor: A person who provides services on a recurring basis pursuant to a contractual agreement with the department.
- B. Detainee: Any person detained in a lockup, regardless of adjudication status.

- C. Enforcement Member: Members of the department with full or limited enforcement powers including enlisted, Motor Carrier, and Capitol Security officers.
- D. Exigent Circumstances: Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- E. Facility: A place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by the department for the confinement of individuals.
- F. Gender Nonconforming: A person whose appearance or manner does not conform to traditional societal gender expectations.
- G. Inmate: Any person incarcerated or detained in a prison or jail.
- H. Intersex: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- I. Juvenile: Any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.
- J. Lockup: A facility that contains holding cells, cell blocks, or other secure enclosures that are:
  - (1) Under the control of the department; and
  - (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.
- K. Medical Practitioner: A health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- L. Member: All personnel employed by the department, civilian and enlisted.
- M. Resident: Any person confined or detained in a juvenile facility or in a community confinement setting.
- N. Sexual Abuse Includes:
  - (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
    - 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:
      - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
      - ii. Contact between the mouth and the penis, vulva, or anus;

- iii. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
  - iv. 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.
- (2) Sexual abuse of an inmate, detainee, or resident by a department member, contractor, or volunteer.
- a. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:
    - i. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
    - ii. Contact between the mouth and the penis, vulva, or anus;
    - iii. 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;
    - iv. 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;
    - v. 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;
    - vi. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (i)-(v) of this section;
    - vii. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
    - viii. 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, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

- O. 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; and
  - (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.
- P. Substantiated Allegation: An allegation that was investigated and determined to have occurred.
- Q. Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- R. Unfounded Allegation: An allegation that was investigated and determined not to have occurred.
- S. 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.
- T. Volunteer: An individual who donates time and effort on a recurring basis to enhance the activities and programs of the department.
- U. Youthful Detainee: Any person under the age of 18 who is under adult court supervision and detained in a lockup.

#### 64.1.2. PREVENTIVE AND RESPONSIVE PLANNING

- A. Zero Tolerance of Sexual Abuse and Sexual Harassment
  - (1) The department has a zero-tolerance policy regarding all forms of sexual abuse and sexual harassment in all of its facilities. This policy includes sexual abuse and harassment by an arrestee, contractor, volunteer, or member. All complaints of sexual abuse and sexual harassment shall be thoroughly investigated.
  - (2) All members shall ensure that an administrative or criminal investigation is completed for any allegations of sexual abuse and sexual harassment that is brought to their attention. All investigations shall be handled in accordance with this Order and other Official Orders and department policy.
  - (3) The Director shall designate an enlisted member at the rank of Inspector or higher to serve as the department's PREA Coordinator. The PREA Coordinator shall be responsible for the development, implementation, coordination, and oversight of the department's compliance with the PREA Standards.
- B. Supervision and Monitoring
  - (1) The PREA Coordinator, in consultation with the commanders of all work sites that contain lockups, shall develop and document a minimum staffing plan for each work site that provides for adequate levels of staffing and, where applicable, video monitoring, to protect detainees against sexual abuse and sexual harassment. In

calculating adequate staffing levels and determining the need for video monitoring, the following shall be considered:

- a. The physical layout of each lockup;
  - b. The composition of the detainee population;
  - c. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
  - d. Any other relevant factors.
- (2) In circumstances where the staffing plan is not complied with at a work site, the work site commander shall complete a document and justify all deviations from the plan in a memorandum. The memorandum shall be forwarded through channels to the PREA Coordinator.
  - (3) When necessary, but no less frequently than once a year, the PREA Coordinator and commanders of all work sites that contain lockups shall assess, determine, and document whether adjustments are needed to:
    - a. The staffing plan;
    - b. Prevailing staffing patterns;
    - c. The work site's deployment of video monitoring systems or other monitoring technologies; and
    - d. The resources the work site has available to commit to ensure adequate staffing levels.
  - (4) When a detainee is placed in a lockup there shall be at least one enforcement member available to monitor the lockup. Monitoring the lockup can consist of an actual sight line view of the lockup or being in view of a monitor providing live video of the lockup.
  - (5) If vulnerable detainees are identified pursuant to the screening required by Section 64.1.4 of this Order, enforcement members shall provide such detainees with heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by an enforcement member sufficiently proximate to intervene, unless no such option is determined to be feasible.

#### C. Juvenile and Youthful Detainees

Juvenile and youthful detainees shall be held separate of sight, sound, and physical contact with adult detainees and in accordance with Official Order No. 31.

#### D. Limits to Cross-Gender Viewing and Searches

- (1) Strip searches and body cavity searches shall be handled in accordance with Official Order No. 14.
- (2) In accordance with Official Order No. 14, a Report of Strip or Body Cavity Search, UD-058, shall be completed when either a body cavity or strip search is conducted.

- (3) Except in exigent circumstances or when incidental to routine lockup checks, members who are the opposite gender of a detainee shall not view the breasts, buttocks, or genitalia of a detainee while the detainee is showering, performing a bodily function, or changing clothing. Members who are the opposite gender of a detainee shall announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.
- (4) Members shall not search or physically examine a transgender or intersex detainee for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

E. Detainees with Disabilities or who are Limited English Proficient

- (1) The PREA Coordinator shall ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) and detainees who are limited English proficient have an equal opportunity to participate in or benefit from all aspects of the department's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.
- (2) When necessary to ensure effective communication with detainees who are deaf, hard of hearing or limited English proficient, an interpreter who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, shall be provided to such detainees.
- (3) Enforcement members shall provide detainees with written materials in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. When appropriate, enforcement members may read these materials to detainees.
- (4) Members shall not use detainee interpreters, detainee readers, or other types of detainee assistants, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's safety, the performance of member duties as required by Section 64.1.6.D of this Order, or the investigation of the detainee's allegations.

F. Hiring and Promotion Decisions

- (1) The department shall not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor who may have contact with detainees, who:
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in [42 U.S.C. 1997](#)); or
  - b. Has been convicted of engaging or attempting 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; or

- c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (1) (b) of this section.
- (2) The department shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with detainees.
- (3) Before hiring new members who may have contact with detainees, the department shall:
  - a. Perform a criminal background records check; and
  - b. Consistent with federal, state, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
- (4) The department shall perform a criminal background record check before enlisting the services of any contractor who may have contact with detainees.
- (5) The department shall either conduct a criminal background record check at least every five years of current members and contractors who may have contact with detainees or have in place a system for otherwise capturing such information for current members.
- (6) The department shall ask all applicants and members who may have contact with detainees directly about previous misconduct described in paragraph (1) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of performance appraisals of current members. In addition, members shall have a continuing affirmative duty to disclose any such misconduct.
- (7) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
- (8) Unless prohibited by law, the department shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former member upon receiving a request from an institutional employer for whom such former member has applied to work.

#### G. Upgrades to Facilities and Technologies

- (1) When designing or acquiring any new work site that will contain a lockup and in planning any substantial expansion or modification of existing work sites that contain a lockup, the department shall consider the effect of the design, acquisition, expansion, or modification upon the department's ability to protect detainees from sexual abuse.
- (2) When installing or upgrading a video monitoring system, electronic surveillance system, or other monitoring technology, the department shall consider how such technology may enhance the department's ability to protect detainees from sexual abuse.

#### H. Evidence Protocol and Forensic Medical Examinations

- (1) When a sexual abuse complaint is alleged, all evidence shall be collected and protected. Property shall be handled in accordance with Official Order No. 62.

- (2) When a juvenile detainee makes a sexual abuse allegation, a forensic interview shall be completed by an enforcement member that has received specialized training in Michigan's Juvenile Forensic Interviewing Protocol.
- (3) When a sexual abuse allegation is made, a forensic medical examination shall be offered to all victims, without financial cost, when evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), when possible. If SAFEs or SANEs cannot be made available, the examination may be conducted by another qualified medical practitioner. Enforcement officers shall document their efforts to provide SAFEs or SANEs.
- (4) If a detainee is transported for a forensic examination to a medical facility that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available, consistent with security needs.

I. Investigations

- (1) The department shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
- (2) This Order shall be the department's policy governing the conduct of administrative or criminal investigations of sexual abuse or sexual harassment which occur in any lockup, regardless of whether the lockup is under the control of the department.

64.1.3. TRAINING AND EDUCATION

- A. All members and volunteers who may have contact with detainees shall receive training to be able to fulfill their responsibilities under the department's sexual abuse prevention, detection, and response policies and procedures, including training on:
  - (1) The department's zero-tolerance policy and the detainees' right to be free from sexual abuse and sexual harassment;
  - (2) The dynamics of sexual abuse and sexual harassment in confinement settings, including which detainees are most vulnerable in lockup settings;
  - (3) The right of detainees and members to be free from retaliation for reporting sexual abuse or sexual harassment;
  - (4) How to detect and respond to signs of threatened and actual abuse;
  - (5) How to detect and respond to victims of sexual abuse;
  - (6) How to effectively and professionally communicate with all detainees; and
  - (7) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- B. All members and volunteers who may have contact with detainees shall receive annual refresher information to ensure they know the department's current sexual abuse and sexual harassment policies and procedures.
- C. Enforcement members shall notify all of their detainees of the department's zero-tolerance policy regarding sexual abuse and sexual harassment. This shall be accomplished by providing the detainee with the department's PREA pamphlet. The PREA pamphlet also



contains information on how a detainee or third party may file a report of sexual abuse or sexual harassment.

- D. Upon entering a lockup, all contractors who work in the lockup shall be informed of the department's zero-tolerance policy regarding sexual abuse and sexual harassment.
- E. Enforcement members responsible for conducting sexual abuse investigations shall receive training in conducting such investigations in confinement settings. This training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
- F. All departmental training required by this Order shall be documented by using MI-TRAIN.

#### 64.1.4. SCREENING

##### A. Screening for Risk of Victimization

Prior to placing any detainees together in a holding cell, enforcement members shall consider whether, based on the information before them, a detainee may be at a high risk of being sexually abused and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee.

#### 64.1.5. REPORTING

##### A. Detainee Reporting

(1) Detainees may report sexual abuse and sexual harassment, retaliation by other detainees or members for reporting sexual abuse and sexual harassment, and member neglect or violation of responsibilities that may have contributed to such incidents by:

- a. Calling the Michigan Tip Line, 1-855-642-4847
- b. Calling Michigan Department of Civil Rights, 800-482-3604
- c. Visiting [www.michigan.gov/michtip](http://www.michigan.gov/michtip)

(2) Detainees may also make a report to any member.

(3) Members shall accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports.

##### B. Member Reporting

(1) Members may report sexual abuse and sexual harassment of detainees by contacting the Professional Standards Section.

##### C. Third Party Reporting on Behalf of Detainee

(1) Third-party reports of sexual abuse or sexual harassment alleged to have occurred in a lockup may be made on behalf of a detainee in the following ways:

- a. Making a report to any law enforcement agency
- b. Calling the Michigan Tip Line, 1-855-642-4847

- c. Calling Michigan Department of Civil Rights, 800-482-3604
- d. Visiting [www.michigan.gov/michtip](http://www.michigan.gov/michtip)

(2) Third-party reports may also be made to any member.

#### 64.1.6. RESPONSE TO DETAINEE REPORT

##### A. Member Reporting Duties

- (1) Members shall immediately report to their direct supervisor or their designee, any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a lockup; retaliation against detainees or members who reported such an incident; and any member neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- (2) Apart from reporting as required in paragraph (1) of this section, members shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.
- (3) If the alleged victim is under the age of 18 or considered a vulnerable adult as defined in [MCL 750.145m](#), the investigating enforcement member shall report the allegation to the Michigan Department of Health and Human Services.
- (4) The department shall ensure all allegations of sexual abuse, including third-party and anonymous reports, are investigated.

##### B. Protection of Detainee

- (1) When a member learns that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee.

##### C. Reporting to Outside Facilities

- (1) Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the member who received the allegation shall notify the work site commander. The work site commander shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
  - a. This notification shall be made as soon as possible, but no later than 72 hours after receiving the allegation.
  - b. The work site commander shall document that he or she provided such notification in an incident report. The work site commander shall also provide the PREA Coordinator with written documentation of any such notification.

##### D. First Response to Allegation

- (1) Upon learning of an allegation that a detainee was sexually abused, the first enforcement member to respond to the report shall be required to:
  - a. Separate the alleged victim and abuser;
  - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

- c. If the abuse occurred within a time period that still allows for the collection of physical evidence, 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; and
    - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
  - (2) If the first member to respond is not an enforcement member, the member shall request that the alleged victim not take any actions that could destroy physical evidence and then notify an enforcement member.
  - (3) If a victim is transferred from the lockup to a jail, prison, or medical facility, the transferring enforcement member shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise. The transferring enforcement member shall document in the incident report a notification made under this section or the reason for not making a notification.
- E. Preservation of Ability to Protect Detainees from Contact with Abusers
  - (1) Neither the department nor any other governmental entity responsible for collective bargaining on the department's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the department's ability to remove alleged member sexual abusers from contact with detainees pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
  - (2) Nothing in this section shall restrict the entering into or renewal of agreements that govern:
    - a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of Sections 64.1.7.D and 64.1.8.A; or
    - b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the member's personnel file following a determination that the allegation of sexual abuse is not substantiated.
- F. Protection Against Retaliation
  - (1) Detainees and members who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other detainees or members.
  - (2) Commanders of work sites that contain lockups shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged members or detainee abusers from contact with victims, and emotional support services for members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
  - (3) The department shall monitor the conduct and treatment of detainees or members who have reported sexual abuse and of detainees who were reported to have suffered sexual abuse. Work site commanders shall act promptly to remedy any such retaliation.

- (4) If any other individual who cooperates with an investigation expresses a fear of retaliation, the department shall take appropriate measures to protect that individual against retaliation.
- (5) The department's obligation to monitor shall terminate if the department determines that the allegation is unfounded.

#### 64.1.7. INVESTIGATIONS

##### A. Criminal and Administrative Investigations

- (1) Enforcement members shall conduct investigations into allegations of sexual abuse and sexual harassment promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports.
- (2) Where sexual abuse is alleged, the department shall use enforcement members who received training in sexual abuse investigations pursuant to Section 64.1.3.F.
- (3) Enforcement members shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrators.
- (4) When the quality of evidence appears to support criminal prosecution, the department shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (5) 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 detainee or staff. Use of a polygraph examination on a victim of sexual assault is prohibited by [MCL 776.21](#).
- (6) During administrative investigations, enforcement members shall attempt to determine whether a member's actions or failures to act contributed to the abuse.
- (7) Administrative investigations shall be documented by enforcement members in incident reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- (8) Criminal investigations shall be documented by enforcement members in an incident report that contains a thorough description of physical, testimonial, and documentary evidence and attach copies of all documentary evidence where feasible.
- (9) Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
- (10) The departure of the alleged abuser or victim from employment with the department or control of the lockup shall not provide a basis for terminating an investigation.
- (11) When outside agencies investigate sexual abuse, the department shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

B. Retention of Reports

The department shall retain all written reports required by paragraphs A (7) and A (8) of this section for as long as the alleged abuser is incarcerated in a department lockup or employed by the department, plus five years.

C. Evidentiary Standards for Administrative Investigations

The department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

64.1.8. DISCIPLINE

A. Member Discipline

- (1) Employees shall be subject to disciplinary sanctions up to and including termination for violating the department's sexual abuse or sexual harassment policies.
- (2) Termination shall be the presumptive disciplinary sanction for members who have engaged in sexual abuse.
- (3) Disciplinary sanctions for violations of this Order relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history, and the sanctions imposed for comparable offenses by other members with similar histories.
- (4) All terminations for violations of this Order, or resignations by members who would have been terminated if not for their resignation, shall be reported to any relevant licensing bodies.

B. Contractor and Volunteer Corrective Action

- (1) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees, a criminal investigation by a department member shall be initiated (unless the activity was clearly not criminal), and the sexual abuse shall be reported to relevant licensing bodies.
- (2) The department shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees, in the case of any other violation of this Order by a contractor or volunteer.

C. Referrals for Prosecution for Detainee-on-Detainee Sexual Abuse

When there is probable cause to believe that a detainee sexually abused another detainee in a lockup, the investigating enforcement member shall refer the matter to the appropriate prosecuting authority.

64.1.9. MEDICAL AND MENTAL CARE

A. Access to Emergency Medical Services

- (1) Detainee victims of sexual abuse in lockups shall receive timely, unimpeded access to emergency medical treatment.

- (2) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

#### 64.1.10. DATA COLLECTION AND REVIEW

##### A. Sexual Abuse Incident Reviews

- (1) The district commander or his or her designee shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- (2) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
- (3) The review team shall include the district commander, assistant district commander and district detective first lieutenant or their designee, with input from line supervisors and investigating enforcement members.
- (4) The review team shall:
  - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the lockup;
  - c. Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - d. Assess the adequacy of staffing levels in that area during different shifts;
  - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (4) (a) through (4) (e) of this section, and any recommendations for improvement and submit such report to the work site commander of the appropriate lockup and the PREA Coordinator.
  - g. The recommendations for improvement shall be implemented at the lockup, or the reasons for not doing so shall be documented by the work site commander and forwarded through channels to the PREA Coordinator.

##### B. Data Collection

- (1) The department shall collect accurate, uniform data for every allegation of sexual abuse at lockups under its direct control using a standardized report and set of definitions.
- (2) The department shall aggregate the incident-based sexual abuse data at least annually.

- (3) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for lockups.
- (4) The department shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- (5) The department shall also obtain incident-based and aggregated data from any private agency with which it contracts for the confinement of its detainees.
- (6) Upon request, the department shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

C. Data Review for Corrective Action

- (1) The PREA Coordinator shall review data collected and aggregated pursuant to Section 64.1.10.B in order to assess and improve the effectiveness of the department's sexual abuse prevention, detection, and response policies, practices, and training, including:
  - a. Identifying problem areas;
  - b. Taking corrective action on an ongoing basis; and
  - c. Preparing an annual report of his or her findings and corrective actions for each lockup, as well as the department as a whole.
- (2) The annual report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the department's progress in addressing sexual abuse.
- (3) The annual report shall be approved by the Director and made readily available to the public through its website or, if it does not have one, through other means.
- (4) The department may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a lockup, but must indicate the nature of the material redacted.

D. Data Storage, Publication, and Destruction

- (1) The department shall ensure that data collected pursuant to 64.1.10.B is securely retained.
- (2) The department shall make all aggregated sexual abuse data from lockups under its direct control readily available to the public at least annually through its website.
- (3) Before making aggregated sexual abuse data publicly available, the department shall remove all personal identifiers.
- (4) The department shall maintain sexual abuse data collected pursuant to Section 64.1.10.B for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise.

**64.2 REVISION RESPONSIBILITY**

Responsibility for continuous review and revision of this Order lies with the Field Services Bureau, in cooperation with the Office of the Director.

DIRECTOR