

# SOLANO COUNTY SHERIFF'S OFFICE

## Custody Division Procedures

13.016

**Chapter:** Medical and Health Care Services

**Subject:** Sexual Assaults in Custody

**Date Issued:** May 10, 2017

**Revised:** October 20, 2017

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**References:** General Order 5.041, ACA 4D-22-6, 4D-22-7; Prison Rape Elimination Act 115.21,22,51,53,54,61-65,82,83,86,88-89; Penal Code 220,243.4,261-289,314,637.4(a)

### I. PURPOSE

To protect the physical and mental welfare of persons in the custody of the Solano County Sheriff's Office, provide a standardized procedure for identifying and meeting the service needs of victims of sexual assault inmates, and to standardize procedures for conducting the investigation and processing a case for prosecution.

All inmates who are victims of sexual assault will be referred to the jail medical staff for evaluation and referral for services. All sexual assaults will be investigated in accordance with General Order 5.041.

### II. DEFINITIONS

- A. **Crisis Intervention:** Immediate delivery of services related to a specific acute need. The services provided may include assessment, treatment, referral, follow-up and evaluation.
- B. **Intersex:** A person who's 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 sexual development.
- C. **Sexual Abuse:** Sexual abuse can be committed by an inmate, volunteer, contractor or staff member against an inmate. It is a broader term which is inclusive of sexual assault, but also includes consensual sexual contact of any kind from other inmates, contractors, volunteers or staff. Also included is sexual battery as defined in 243.4 of the California Penal Code (PC), an attempt to engage in any of the above acts, any act as defined by section 314 PC; or any act of voyeurism as defined below.

- D. **Sexual Assault:** Any threatened or completed sexual act forced upon another against his/her will. Forced sexual assault would include situations in which the inmate was coerced into a sex act.
- E. **Sexual Harassment:** Repeated and unwelcome sexual advances, verbal comments or gestures of a sexual nature, or requests for sexual favors to an inmate or detainee, demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures by another inmate or detainee, staff member, contractor, or volunteer.
- F. **Transgender:** A person whose gender identity or gender expression is different from the person's assigned sex at birth.
- G. **Voyeurism:** An invasion of privacy of an inmate or detainee 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.

### III. PROCEDURE:

- A. **Inmate Identification:** While some inmates who have been sexually assaulted may be easily identified, many will require some sensitive investigation to verify an assault occurred, as most inmates do not want anyone to know they have been assaulted. Staff may hear of an inmate being threatened, having become a victim to a sexual assault, or observe unexplained injuries. Other signs may include changes in physical behavior due to injuries, or abrupt personality changes such as withdrawal or suicidal behavior. The following guidelines may be used to provide assistance to a suspected inmate victim:
  - 1. Staff should question a suspected inmate without jeopardizing the inmate's safety, identity, and/or confidence by removing them from the immediate area.
  - 2. Ask the suspected inmate open-ended questions in an attempt to give him/her the opportunity to talk about the assault.
  - 3. If there are no indications of harassment or an assault, advise the inmate he/she can contact a custody staff member, the medical or mental health staff, or the Safequest Sexual Assault Hotline at #93 or (707) 422-7345 in the event of an assault or harassment.
  - 4. If an inmate claims to have been sexually harassed or assaulted, it

is important that all contacts with the inmate be professional and nonjudgmental. Advise the inmate of services available and determine what services the inmate needs. It is important for the inmate's safety and health that these services are provided as soon as possible.

5. The incident shall be documented in JMS.

**B. Inmate Reporting:** Inmates who believe they are victims, may report sexual abuse or sexual harassment in the following ways:

1. To any custody staff member.
2. To any civilian staff member, including medical staff, mental health staff, clergy, program staff, contractor, volunteer etc.
3. To any third party, including, but not limited to, an agency not affiliated with the Solano County Sheriff's Office, such as the Safequest Sexual Assault Crisis line, which any inmate can access by dialing #93 on any inmate telephone available 24 hours a day. These lines are not recorded and reports are confidential at the inmate's request. Signage shall be posted advising inmates that such calls are not monitored. Inmates may also call Safequest Sexual Assault Hotline (707) 422-7345. Inmates who have been assaulted may request anonymity at any time. Trained crisis line workers will answer the calls and have the capability to arrange three-party conference calls with a translator or social worker.
4. Inmates may also report sexual harassment or abuse via inmate request card and/or inmate medical request card, grievance, letter or any other medium.
5. Staff shall accept all forms of reports, to include, but not limited to; verbally, in writing, anonymous and from third parties. All reports shall be documented without delay, regardless of whether or not the inmate requests to remain anonymous.
6. Staff members reporting sexual abuse, assault, or harassment, by another staff member, should report it to their immediate supervisor and may do so privately if necessary.
7. If an inmate calls the Sexual Assault Crisis number on an inmate telephone, the representative from the crisis center will notify the facility commander. The representative will advise if the report is anonymous or not. Anonymous reports will only have limited information, which shall be documented in an Incident Report and forwarded to the PREA manager at the facility.
8. Mental Health professionals assigned within Solano County jail facilities may also perform some of the above services for the inmate, if the inmate does not wish to contact the Sexual Assault

Center. If an inmate reports an assault to mental health, as a mandated reporter, the staff member is required to report the assault to the Sheriff's Office. An appropriate investigation will immediately commence. The on-site Mental Health staff will handle all necessary follow-up care at the facility.

9. Jail medical and mental health professionals are required to inform inmates of their duty to report, and the limitations of confidentiality at the initiation of any services provided.

C. **Staff Reporting:** Staff who becomes aware of sexual abuse or harassment by another staff member shall immediately report the abuse or harassment. Furthermore, all staff shall immediately report any knowledge, suspicion, or information regarding retaliation against inmates or staff who report such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Failure to do so is akin to committing the act and subjects the staff member with knowledge of the act to discipline. Staff may report these acts in the following ways:

1. Verbally to a supervisor or facility commander.
2. In writing via memorandum to Internal Affairs.
3. Verbally via telephone, to Internal Affairs.

D. **Intervention and Investigation:** Custody Staff will work in support of Sheriff's Office Investigations personnel to protect the victim and to preserve the scene and potential evidence associated with all PREA incidents. Sheriff's Office Investigations personnel are responsible for conducting all PREA investigations and subsequent follow-up with victim. It is important that all contact with sexual assault inmates be professional and nonjudgmental.

1. When the agency learns that an inmate is in substantial risk of imminent sexual abuse, the agency shall take immediate action to protect the inmate.
2. 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 inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation.
3. Identify and separate the suspect and victims. Notify your immediate supervisor. Secure the crime scene and ask for assistance.

4. The sergeant will assign custody staff to protect the crime scene, gather witnesses and keep them separate until they can be interviewed by the Sheriff's Office Investigations personnel.
5. Identify and isolate the assailant(s) and any other duties related to the crime.
6. Identify and place the inmate/victim in a secure protective area with no access to running water, until he/she can be seen by medical staff and/or transport to the hospital. Request Medical staff to respond immediately.
7. If the assault occurred within a time period that still allows for the collection of physical evidence, explain to the inmate he/she is not to shower, wash, drink, eat, or defecate until he/she has been examined by Medical staff and/or transported to the hospital. The inmate should be asked if he/she has partaken in any of these activities prior to reporting. This information shall be communicated to responding investigative personnel and medical staff.
8. After a preliminary investigation has been conducted and documented, regardless if the inmate has made a decision to press charges or requests anonymity, the on-duty sergeant will notify Solano Dispatch to request a detective.
9. Request in-house medical staff to respond and/or escort the inmate to a medical examination room, as directed, for a medical evaluation. Medical staff may require the inmate be transported to the hospital for a forensic sexual assault examination, if appropriate. The inmate shall be advised that there is no cost to them for any medical treatment pertaining to the assault, including the forensic medical exam.
  - a. The inmate may not want to report the name of the assailant(s) or cooperate with the investigation, but he/she is, nevertheless, entitled to protection, as well as medical and mental health treatment and support services, at no cost to him/her.
  - b. The inmate shall be offered the services of a victim advocate and if the inmate does request a victim's advocate, the advocate is to be permitted to be with the inmate throughout the investigatory process. Access to the inmate shall be made available upon return to the facility as well. The advocate's role during this process is to provide emotional support, crisis intervention, information, and referrals.
  - c. As with any other criminal investigation, information related to cases of sexual assault or harassment is confidential and shall only be discussed with those involved in the case.

- E. **Civilian Staff Intervention:** An inmate may notify a civilian staff member if a sexual assault or harassment has occurred. If this occurs, the following guidelines are to be followed:
1. If an inmate claims to have been sexually abused or harassed, contact custody staff or sergeant immediately. It is important that all contacts with the inmate be professional and nonjudgmental.
  2. Ascertain the inmate's immediate physical well-being and contact medical staff as needed. Keep the inmate under observation until custody staff arrives. While maintaining observation of the inmate, communicate to the inmate the necessity to avoid the following activities until the deputy arrives (this is vital in the event physical evidence is still present):
    - a. Changing clothes
    - b. Using the toilet
    - c. Washing/Showering
    - d. Eating/Drinking
  3. Ensure the inmate's safety and notify the nearest custody staff member.
- F. **Securing the Assailant(s):**
1. Identify and, if possible, isolate the suspect. Make sure he/she is not placed with any other inmates. The suspect should be placed in an area with no access to water (i.e. visiting booth).
  2. In the event that no location is available without access to water, an officer will be assigned to provide direct visual supervision to ensure the inmate does not destroy evidence.
  3. If the assault occurred within a time period that still allows for the collection of physical evidence, the suspect shall not be allowed to shower, wash, drink, eat, brush his/her teeth, change clothes, or use the toilet. The suspect shall remain under constant and continuous observation and supervision to ensure none of these activities occur.
  4. Only at the request of investigative personnel, assist in the collection of the suspect's clothing for evidence. If clothing is wet, hang in a secure area until dry, then place each piece of clothing into a separate paper bag and mark it for identification. Give the suspect fresh clothing.
  5. Keep witnesses separate from the suspect. Unless otherwise directed, the investigating detective assigned to the case will conduct the interviews
  6. Advise the Classification Unit of the events via memorandum to

- ensure the suspect has no future contact with the inmate.
- 7. Author an Informational Report and document by way of the Jail Management System.
- 8. Provide investigations personnel with a copy of the Informational Report and attach an inmate housing roster in the area where the assault occurred.

**G. Preliminary Jail Assessment:**

- 1. When staff becomes aware of a sexual assault, jail medical staff shall be notified immediately for a preliminary medical assessment of the inmate's injuries. Determine the extent of the injuries. If injuries are life threatening, request EMS immediately.
- 2. If a sexual assault or attempted sexual assault has occurred, and the inmate consents, transportation to the hospital shall be provided so he/she may be seen by an emergency physician and a forensic medical exam may be performed.
- 3. It is important that all contact with a sexual assault inmate be professional and nonjudgmental. Staff members shall conduct themselves in a professional manner consistent with their training. Advise the inmate of available services that may be provided.
- 4. If the inmate refuses medical treatment, immediately notify the watch commander or supervisor in charge.
- 5. Contact the Classification Unit and advise of the assault or attempted assault.

**H. Transportation for Examination and Treatment:**

- 1. The medical staff will notify the appropriate custody supervisor to arrange transportation for the inmate to the indicated hospital. Sexual assault victims have the next priority for transport after acute medical cases
- 2. Contact Solano Dispatch to request transport to a hospital with appropriate emergency services for sexual assault, and make notification for an Investigations personnel response.
- 3. Information about the sexual assault is sensitive and, as with all medical information, is confidential and provided only to staff directly involved in the investigation or providing direct services to the inmate.

- I. **Return to Facility:** When the inmate is returned to custody, he/she is to be placed into a holding cell, alone.

1. The Receiving officer will notify medical staff when the inmate returns.
2. The nurse will medically evaluate the inmate and the Classification officer will then determine the proper housing area for the inmate.
3. Classification shall consider all options for maintaining the safety of the inmate, including, but not limited to; moving to another facility, removal from contact with the alleged abuser, reclassifying to protective custody, or change of housing assignment. This shall also include monitoring the inmate, witnesses, and the reporting party, if different from the inmate, for any form of retribution or retaliation, for a minimum of 90 days.

J. **Post Incident Notifications:** Inmates who are sexually abused or assaulted shall be notified in writing by the Sheriff's Office of the following:

1. When the abuser has been formally charged with a crime pertaining to the assault or abuse; and
2. When the abuser has been convicted of a crime related to the assault or abuse.

K. **Follow Up:**

1. Jail medical staff will perform all follow-up, including emergency contraception, sexually transmitted diseases and pregnancy testing. Medical and mental health staff and the sexual assault worker should coordinate delivery of follow-up services required during the remainder of the jail sentence or stay.
2. The primary concern is for the inmate's continued protection and providing counseling and medical follow-up for the post-trauma stages of the assault. Post incident emotional support services shall be made available for all victims to include those who fear retaliation for reporting or cooperating with the investigation.
3. Following an inmate's allegation that he or she has been sexually abused by another inmate, and if the inmate is still in custody, he/she will be informed by PREA coordinator or his/her designee whenever the following occurs:
  - a. When the District Attorney's Office files charges against the suspect.
  - b. When the suspect has been convicted on a charge related to the sexual abuse.
  - c. All notifications shall be documented via memorandum to the facility commander via the chain of command.
  - d. If the inmate is no longer in custody, no notifications are



- required.
4. A victim advocate will be provided upon request.
- L. **Post Release Referral:** Coordination between mental health staff and Solano Safequest will assist the inmate with referrals for continued intervention services and mental health services upon release from custody.

By order of

A handwritten signature in blue ink that reads "Gary T. Elliott Jr." with a stylized flourish at the end.

GARY T. ELLIOTT JR  
Undersheriff  
County of Solano