

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: ZERO TOLERANCE OF SEXUAL ABUSE AND SEXUAL HARASSMENT P-100

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
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APPROVED BY: Detentions Bureau Chief Deputy Cindy Cisneros

REFERENCE: Prison Rape Elimination Act of 2003 (PREA) 42 U.S.C. 15601, et. seq., Kern County Administration Policy and Procedures Manual Exhibit "B", DBPPM-300 Fraternalization, PC289.6, DBPPM P100 - 800.

POLICY

The Kern County Sheriff's Office (KCSO) is committed to zero-tolerance of any form of sexual abuse and sexual harassment. The purpose of this policy is to set forth KCSO's zero tolerance policy toward all forms of sexual abuse, sexual harassment and retaliation for reporting or cooperating with investigations. It will also outline KCSO's commitment to preventing, detecting and responding to sexual abuse and harassment.

The Detentions Bureau is committed to enforcing the standards set forth by the Prison Rape Elimination Act (PREA). In support of KCSO's zero-tolerance of sexual abuse of incarcerated people, a Detentions Bureau PREA Coordinator and Agency PREA Compliance Manager with sufficient authority to develop, implement, and oversee efforts to comply with the PREA standards have been designated. The Administrative Sergeant of each jail facility has been designated as a Facility PREA Compliance Manager to coordinate the PREA compliance efforts for their respective facilities.

All Detentions Bureau staff, detentions staff assigned to a sub-station jail, medical and mental health staff, contractors, and volunteers are expected to know and adhere to this policy and its directives.

Reports of sexual abuse, or harassment of one incarcerated person by another incarcerated person, or retaliation towards an incarcerated person by another incarcerated person for reporting or cooperating in an investigation of sexual abuse or harassment will be investigated and referred for prosecution when appropriate in accordance with the PREA reporting policy, Section P-450 of the DBPPM.

The following are prohibited and will be thoroughly investigated:

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- Sexual abuse or harassment of an incarcerated person by any KCSO staff member, volunteer or contractor;
- Retaliation towards any incarcerated person, staff member, volunteer, or contractor for reporting sexual abuse and/or sexual harassment;
- Retaliation towards any incarcerated person, staff member, volunteer, or contractor for cooperating in an investigation.

Substantiated allegations may result in discipline up to and including termination of employment, cancellation of contract and/or criminal prosecution of staff or incarcerated persons.

[For additional PREA policies see DBPPM, Section P: Prison Rape Elimination Act]

DEFINITIONS:

Sexual abuse of an incarcerated person by another incarcerated person 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:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- 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.

Sexual abuse of an incarcerated person by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the incarcerated person:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;

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- 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;
- 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;
- 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;
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above;
- Any display by a staff member, contractor, or volunteer of their uncovered genitalia, buttocks, or breast in the presence of an incarcerated person; and
- Voyeurism by a staff member, contractor, or volunteer (see voyeurism definition below).

Voyeurism by a staff member, contractor or volunteer means an invasion of an incarcerated person's privacy by staff for reasons unrelated to official duties, such as;

- Peering at an incarcerated person who is using a toilet in their cell to perform bodily functions;
- Requiring an incarcerated person to expose their buttocks, genitalia, or breasts outside of the scope of an authorized body cavity search; and
- Taking images of all or part of an incarcerated person's naked body or of an incarcerated person performing bodily functions.

Sexual harassment includes:

Repeated and/or unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature, by one incarcerated person toward another; and

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Repeated verbal comments or gestures of a sexual nature to an incarcerated person 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.

See Policy DBPPM M-300 for more information on KCSO's Fraternalization policy

DIRECTIVE #1

Physical contact with an incarcerated person by an employee in the performance of lawful duties such as "pat down" searches, escorting, restraining, providing emergency first aid or any other approved contact directly related to assigned duties, does not constitute sexual contact.

DIRECTIVE #2

Viewing of the breast, buttocks, or genitals of an incarcerated person by staff in the performance of lawful duties such as authorized visual body cavity searches, monitoring of cameras, inadvertent viewing while conducting routine security checks or during a medical examination by a health care professional does not constitute voyeurism.

DIRECTIVE #3

All sexual activity and/or harassment between incarcerated persons is strictly prohibited and will be thoroughly investigated. All criminal acts will be submitted for prosecution. Any non-criminal act of sexual activity and/or harassment whether the act was consensual or not, between incarcerated persons is a violation of facility rules and will result in appropriate facility disciplinary action.