

## Chapter 9 - Custody

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Mendocino County Sheriff's Office for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this office performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Mendocino County Sheriff's Office prior to being released or transported to a housing or other type of facility.

### 900.2 POLICY

The Mendocino County Sheriff's Office is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release. The holding cells shall only be used by deputies who have received training as described in Policy 900.12.

### 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

#### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Mendocino County Sheriff's Office, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- (c) Any individual who is seriously injured.

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- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
  - 1. If the deputy taking custody of an individual believes that he/she may be a suicide risk, the deputy shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Deputies taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

### 900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized office member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female office member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

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Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

### **900.3.3 STAFFING PLAN**

The Sheriff or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Corrections Standards Authority (CSA) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by CSA staff. The review and recommendations of the CSA biennial review shall be forwarded to the County, as required by 15 CCR 1027.

### **900.3.4 ENTRY RESTRICTIONS**

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Shift Supervisor.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

## **900.4 INITIATING TEMPORARY CUSTODY**

The deputy responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The deputy should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving deputy should ask the arresting deputy if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the County jail or the appropriate mental health facility.

The deputy should promptly notify the Shift Supervisor of any conditions that may warrant immediate medical attention or other appropriate action. The Shift Supervisor shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

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### 900.4.1 SCREENING AND PLACEMENT

The deputy responsible for an individual in custody shall (15 CCR 1050):

- (a) Advise the Shift Supervisor of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
  - 1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
  - 2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
    - (a) Continuous, direct sight and sound supervision.
    - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
  - 3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
  - 4. Ensure males and females are separated by sight and sound when in cells.
  - 5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

### 900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Field Operations Division Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to office members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.

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- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

### **900.5 SAFETY, HEALTH AND OTHER PROVISIONS**

#### 900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Mendocino County Sheriff's Office, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Mendocino County Sheriff's Office.

The Shift Supervisor should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Shift Supervisor should make periodic checks to ensure all log entries and safety and security checks are made on time.

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### 900.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
  - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

### 900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to office members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by a deputy.

Those who require medication while in temporary custody should not be at the Mendocino County Sheriff's Office. They should be released or transferred to another facility as appropriate.

### 900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk

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to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Shift Supervisor shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

### 900.5.5 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the individual's desire for further telephone access.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
  - 2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
  - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
  - 2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that he/she may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

### 900.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety.



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The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

### 900.5.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

### 900.5.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody or any other person shall be documented as stated in the Use of Force or On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Shift Supervisor will retain a record of these reports for inspection purposes (15 CCR 1044).

### 900.5.9 ATTORNEYS AND BAIL BONDSMEN

- (a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).
- (b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.
- (c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.
- (d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
- (e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

### 900.5.10 DISCIPLINE

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the

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appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

### **900.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Mendocino County Sheriff's Office unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### **900.6.1 PREGNANT ADULTS**

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

### **900.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Shift Supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Shift Supervisor shall attempt to prove or disprove the claim.

### **900.8 HOLDING CELLS**

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

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- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to office members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (e) Safety checks by office members shall occur no less than every 15 minutes (15 CCR 1027.5).
  - 1. Safety checks should be at varying times.
  - 2. All safety checks shall be logged.
  - 3. The safety check should involve questioning the individual as to his/her well-being.
  - 4. Individuals who are sleeping or apparently sleeping should be awakened.
  - 5. Requests or concerns of the individual should be logged.

### **900.9 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY**

The Field Operations Division Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Mendocino County Sheriff's Office. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Shift Supervisor, Sheriff and Investigative Services Division Commander
- (c) Notification of the spouse, next of kin or other appropriate person
- (d) Notification of the appropriate prosecutor
- (e) Notification of the County Counsel
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) In-custody death reviews (15 CCR 1046)
- (i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

### **900.10 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.

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- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Mendocino County Sheriff's Office unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - 1. The office member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, deputies should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

### 900.10.1 FORM REQUEST FOR PETITION TO SEAL RECORDS

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

### **900.11 ASSIGNED ADMINISTRATOR**

The Field Operations Division Commander will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment (15 CCR 1200)
- (e) Escapes
- (f) Evacuation plans

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- (g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032
- (h) Disaster plans
- (i) Building and safety code compliance
- (j) Civil and other disturbances including hostage situations
- (k) Periodic testing of emergency equipment
- (l) Emergency suspension of Title 15 regulations and notice to the Board of State and Community Corrections as required in 15 CCR 1012
- (m) Inspections and operations reviews
- (n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

### **900.12 TRAINING**

Department members should be trained and familiar with this policy and any supplemental procedures.

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Inmate segregation
- (d) Emergency procedures and planning, fire safety, and life safety.
- (e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Manager shall maintain records of all such training in the member's training file.

## Custodial Searches

### 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Mendocino County Sheriff's Office facility. Such items can pose a serious risk to the safety and security of office members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

### 902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

### 902.3 FIELD AND TRANSPORTATION SEARCHES

A deputy should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any office vehicle.

Whenever practicable, a custody search should be conducted by a deputy of the same sex as the person being searched. If a deputy of the same sex is not reasonably available, a witnessing deputy should be present during the search.

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### **902.4 SEARCHES AT SHERIFF'S FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Mendocino County Sheriff's Office facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

#### **902.4.1 PROPERTY**

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this office, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another office member. The inventory should include the case number, date, time, member's Mendocino County Sheriff's Office identification number and information regarding how and when the property may be released.

#### **902.4.2 VERIFICATION OF MONEY**

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The office member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

### **902.5 STRIP SEARCHES**

No individual in temporary custody at any Mendocino County Sheriff's Office facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on office members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

### 902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Mendocino County Sheriff's Office facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the Shift Supervisor shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The written authorization for the search, obtained from the Shift Supervisor.
  - 4. The name of the individual who was searched.



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## *Custodial Searches*

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5. The name and sex of the members who conducted the search.
  6. The name, sex and role of any person present during the search.
  7. The time and date of the search.
  8. The place at which the search was conducted.
  9. A list of the items, if any, that were recovered.
  10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.
- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Shift Supervisor shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.
- (i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

### 902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Shift Supervisor authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Shift Supervisor authorization does not need to be in writing.

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### **902.6 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Shift Supervisor and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.
- (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary office members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Shift Supervisor's approval.
  - 4. A copy of the search warrant.
  - 5. The time, date and location of the search.
  - 6. The medical personnel present.
  - 7. The names, sex and roles of any office members present.
  - 8. Any contraband or weapons discovered by the search.
- (f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

### **902.7 TRAINING**

The Training Manager shall ensure members have training that includes (28 CFR 115.115):

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- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

### **902.8 BODY SCANNER SEARCH**

If a body scanner is available, a body scan search should be performed on all inmates/arrestees upon entering the secure booking area of the facility. Members (Penal Code § 4030):

- (a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.
- (b) Should ask female inmates if they are pregnant prior to a body scan and should not knowingly use a body scanner on a woman who is pregnant.

## **CUSTODY OF PREGNANT INMATES**

### **903.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish consistent department procedures which conform to Penal Code § 3407 regarding treatment of pregnant inmates.

#### **903.1.1 IMPRISONMENT OF FEMALE PRISONERS**

Per California Penal Code Section 3407 (e) Upon confirmation of an inmate's pregnancy, she shall be advised, orally or in writing, of the standards and policies governing pregnant inmates, including, but not limited to, the he provisions of Penal Code Sections 3400 - 3409, the relevant regulations, and the correctional facility policies.

## Prison Rape Elimination

### 904.1 POLICY STATEMENT

The Mendocino County Sheriff's Office, in compliance with the Prison Rape Elimination Act of 2003, mandates zero tolerance toward all forms of sexual abuse, sexual harassment and sexual assault of any inmate in custody. There shall be zero tolerance for retaliation of any sort against anyone who reports or cooperates with the investigation of such acts. All allegations of incidents of sexual abuse that occur in the Mendocino County Correctional Facility shall be thoroughly investigated, documented and reported in accordance with the mandates set forth in the 2003 Prison Rape Elimination Act (PREA) and the Department of Justice National PREA Standards.

The Mendocino County Sheriff's Office is committed to maintaining a program of education, prevention, detection, investigation, criminal and administrative sanctions against perpetrators, data collection, treatment and support for any inmate who is a victim of sexual abuse. Those contracted, employed by, or volunteering for the Sheriff's Office are subject to punitive sanctions for any violation of this policy.

### MANDATES

42 U.S.C. 1997

Prison Rape Elimination Act of 2003

Department of Justice National PREA Standards

Sheriff's Office Policy Manual section 340 -- Standards of Conduct

Sheriff's Office Policy Manual section 328 -- Discriminatory Harassment

### 904.2 DEFINITIONS

**Contractor** A person who provides services pursuant to a contractual agreement.

**Detainee** Any person detained in a lockup, regardless of adjudication status.

**Inmate** Any person incarcerated or detained in a prison or jail.

**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 (28 CFR 115.5).

**Jail** A confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

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**Lockup** A facility that contains holding cells, cell blocks, or other secure enclosures that are: Under the control of a law enforcement, court, or custodial officer; and 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.

**PREA** The Prison Rape Elimination Act of 2003 was signed into law by President George W. Bush. The purpose of this law is to protect inmates at all levels from sexual assault, sexual harassment and all forms of sexual abuse from other inmates and facility staff.

**PREA Coordinator** An upper-level manager with authority, designated to develop, implement, oversee and maintain efforts to comply with PREA standards.

**PREA Compliance Manager** An upper level manager responsible for the coordination of a facility's efforts to comply with PREA standards.

**PREA related incident** Any sexual abuse, sexual assault and/or sexual harassment of an inmate.

**Retaliation** Any negative act by any person toward or against another for reporting or cooperating with an investigation involving sexual abuse, sexual assault or sexual harassment.

**Sexual Abuse** Sexual abuse includes (28 CFR 115.6):

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident. 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:

- 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 inmate, detainee, or resident by a staff member, contractor, or volunteer. 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:

- 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 in paragraphs (1) through (5) of this definition;
- 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
- Voyeurism by a staff member, contractor, or volunteer

Sexual abuse as defined by the California Penal Code.

**Sexual Harassment** Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one detainee, prisoner or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee, prisoner 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 (28 CFR 115.6).

**Staff Member** Any employee of the County of Mendocino.

**Transgender** A person whose gender identity and/or gender expression (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5)..

**Volunteer** An individual who donates time and effort to the benefit of the Sheriff's Office activities and programs for inmates.

**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 body or of an inmate performing bodily functions.

### **904.3 GENERAL INFORMATION**

- (a) The purpose of the Department of Justice National PREA Standards is to prevent, detect, and respond to rape pursuant to the Prison Rape Elimination Act of 2003.

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- (b) The Sheriff's Office has appointed the Correction's Division Lieutenant as the PREA Coordinator who shall be provided with sufficient time and authority to coordinate, develop, implement, oversee and maintain efforts to comply with all PREA standards.
- (c) The Sheriff's Office has appointed the Correction's Division Classification Sergeant as the PREA Manager with the responsibility for the coordination of efforts to comply with PREA standards.
- (d) The Sheriff's Office will not enter into any contract, or renew any contract, for the confinement of Mendocino County inmates that does not include the agencies obligation to adopt, monitor and comply with PREA standards.
- (e) The Sheriff's Office will not enter into or renew any collective bargaining agreement or any other agreement that limits the Sheriff Office's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
  - 1. Nothing in this standard shall restrict entering into or renewal of agreements that govern:
    - (a) The conduct of the disciplinary process, as long as such agreements are not inconsistent with provisions of PREA mandates pursuant to 28 CFR 115.72 or 28 CFR 115.76 (adult prisons or jails), or 28 CFR 115.72 or 28 CFR 115.76 (lockups).
    - (b) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the employees personnel file following a determination that the allegation of sexual abuse is not substantiated.
- (f) All reports of sexual abuse/harassment or expressed fear of sexual abuse/harassment shall result in prompt action and documentation which shall include, but not be limited to:
  - (a) Medical and mental health attention.
  - (b) Immediate initiation of an investigation.
  - (c) Preservation of evidence.
  - (a) The Sheriff's Office shall ensure meaningful access and take reasonable steps in its effort to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited in their English proficiency.
  - (a) Written PREA informational and educational material provided to inmates shall be in formats or through methods, including the use of interpreters if necessary, that ensure effective communication with inmates and detainees who are limited in English proficiency.



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- (b) Inmate interpreters, inmate readers, or other types of inmate assistants shall not be used, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 28 C.F.R. § 115.64 or 28 C.F.R. § 115.164, or the investigation of the inmate's allegations.
- (a) There is no consensual sex between staff and inmates or detainees, or civilian staff supervising inmates. Any sexual abuse or sexual harassment between staff, contractor, or volunteer with an inmate or detainee is inconsistent with the policy and procedures of the Sheriff's Office and shall be investigated.
- (b) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates, and if applicable, reported to relevant licensing bodies.
  - 1. The Sheriff's Office shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of sexual abuse or sexual harassment policies by a contractor or volunteer.
- (c) Correctional Staff upon learning of an inmate's substantial risk of imminent sexual abuse will take immediate steps to protect the inmate.
- (d) When designing or acquiring any new facility and in planning any substantial expansion or modifications of existing facilities, the Sheriff's Office shall consider the effect of the design, acquisition, expansion, or modification upon the ability to protect inmates from sexual abuse.
- (e) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Sheriff's Office shall carefully evaluate and consider how such technology may enhance the Sheriff's Office ability to protect inmates from sexual abuse.

### **904.4 PROCEDURES**

#### **904.4.1 TRAINING**

- (a) All staff, including contractors and volunteers who may have inmate or detainee contact, shall receive basic PREA training every two years. This training shall occur for all new employees. In years when this training is not provided, refresher information shall be provided on current sexual abuse and sexual harassment policies. All training shall be documented through staff member, contractor or volunteer signature or electronic verification that staff members, contractors and volunteers understand the training they have received. The training, at a minimum, shall include the following topics (28CFR 115.31; 28 CFR 115.131):
  - (a) The Office's zero tolerance policy for sexual misconduct, sexual assault, and sexual harassment.

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- (b) The rights of inmates, staff, contractors and volunteers to be free from sexual misconduct, sexual abuse and sexual harassment.
- (c) The rights of inmates, staff, contractors and volunteers to be free from retaliation for good faith reporting of suspected or observed instances of sexual misconduct, sexual abuse or sexual harassment.
- (d) How staff and volunteers can fulfill their responsibilities under the Sheriff's Office sexual abuse and harassment prevention, detection, reporting and response policies.
- (e) The dynamics of sexual misconduct, abuse and harassment in confinement.
- (f) The common reactions of sexual misconduct, abuse and harassment in confinement.
- (g) How to detect and respond to signs of threatened and actual sexual misconduct, abuse or harassment.
- (h) How to avoid inappropriate relationships with detainees and inmates.
- (i) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex and gender nonconforming inmates.
- (j) Mandatory reporting requirement.
- (a) Training shall be provided annually in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
- (a) Specialized PREA training shall be provided to all medical and mental health care providers in addition to the training outlined in 904.4.1, subsection A, to include but not limited to sexual abuse/harassment detection, evidence preservation, professional responses to victims of abuse, and reporting sexual abuse/harassment allegations and/or suspicions.
- (a) Trained sexual assault detectives shall receive specialized training in conducting PREA related investigations in confinement settings, that includes the topics listed in 28 C.F.R. 115.134. The Investigations Bureau Lieutenant will forward copies of all PREA training records to the Corrections Division's training unit.
- (a) The Corrections Division's training unit is the custodian of records for all PREA training for Corrections staff. The Professional Standards Bureau is the custodian of records for all PREA training for the Field Division. The Inmate Services Coordinator shall ensure training is completed and shall maintain training records for all volunteers who have contact with inmates. The Corrections Division Lieutenant shall ensure training is completed and shall maintain training records for all contractors who have contact with inmates. The training unit will audit the training files for medical staff, mental health staff, domestic violence and sexual assault detectives, contractors and volunteers.

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#### 904.4.2 INMATE EDUCATION

- (a) All inmates shall be given a PREA advisement during the booking process, to read and sign, pertaining to the Sheriff Office's zero tolerance policy towards all forms of sexual abuse and sexual harassment, and how to report such incidents of sexual abuse or sexual harassment. This signed advisement shall be maintained in the inmate's A-file. During the intake process, employees shall notify all detainees of the Sheriff Office's zero-tolerance policy regarding sexual abuse and sexual harassment.
- (a) All inmates shall be provided access to an inmate orientation handbook that explains the Sheriff Office's zero tolerance policy regarding sexual abuse. The handbook, which is available on the kiosk in each housing unit, informs inmates that any staff member can receive a report of sexual abuse and all reports of sexual abuse will be thoroughly investigated.
- (a) All housed inmates shall be provided a PREA informational brochure that describes, but not limited to, what sexual abuse is, ways to stay safe while incarcerated, a warning to potential abusers, why abuse should be reported and to whom, the availability of counseling, medical services and contact information for outside agencies that can provide further support.
- (a) Inmate education shall be provided to all housed inmates regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and Sheriff Office's policies and procedures for responding to such incidents.
- (a) The Corrections Facility has PREA education and reference materials available to inmates. These materials include, but are not limited to: posters placed in conspicuous locations throughout the facility, handbooks and brochures.

#### 904.4.3 RESPONSE TO A PREA INCIDENT

- (a) Correctional Staff shall take immediate steps to protect an inmate or detainee from sexual abuse and shall separate abusers from potential victims.
- (a) Correctional Staff shall preserve and protect the crime scene. Correctional Staff shall be required to request that the alleged victim not take any actions that could destroy physical evidence until appropriate steps can be taken to collect evidence.
- (a) If the first staff responder is not a Correctional Staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify Correctional Staff
- (a) The Sergeant shall request a patrol Deputy via Sheriff's Dispatch to respond to all PREA related crimes that occur in a facility.
- (a) A Patrol Deputy will refer any PREA related crime suspected of being a felony to a sexual assault detective who has been trained pursuant to section 904.4.1, subsection D., for investigation.
- (a) The on-duty Corrections Sergeant is responsible to ensure reasonable steps are taken to prevent the alleged abuser from taking any actions that could destroy physical

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evidence including, as appropriate, including but not limited to, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

- (b) Correctional Staff shall request mental health and/or medical staff to respond to all PREA related crime/incidents.
  - 1. On site medical staff shall be trained and will advise any alleged victim whose sexual abuse occurred within a time period that may still allow for the collection of physical evidence, not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
  - 2. Forensic medical evaluations will not be conducted at the Corrections facility. Any forensic medical evaluation necessary will be conducted at an off-site medical facility by qualified medical professionals.
- (c) The reporting Deputy will access the computer system to complete an incident report.
- (d) The on-duty Corrections Sergeant shall ensure staff members, contractors and/or volunteers submit an incident report, civilian incident or memorandum detailing their observations and the role they played in the incident.
- (e) The on-duty Corrections Sergeant shall ensure that copies of the incident reports and any memorandums are forwarded to the Patrol Deputy assigned to investigate the incident and the PREA Coordinator.

A trained sexual assault detective shall ensure all victims of sexual abuse shall be afforded the opportunity to have a Victims Rights Advocate made available to accompany and support the victim through the forensic medical examination process, the investigative interviews and emotional support, crisis intervention, information and referrals, shall be provided at no cost to the inmate or detainee.

- (f) When a victim of abuse returns from the hospital, the booking Deputy will notify classification of the inmate's return before being housed. In the absence of a Classification Deputy, a Sergeant shall make the appropriate housing decision. The booking Deputy will refer the inmate to medical and mental health practitioners to ensure that any necessary follow-up treatment services are provided.

### 904.4.4 REPORTING AND INVESTIGATIONS

- (a) Staff members, contractors and volunteers shall accept all allegations made verbally, in writing, anonymously, from third parties and promptly notify a supervisor or manager. All incidents of sexual abuse, sexual assault and sexual harassment upon inmates shall be investigated promptly, thoroughly, objectively and forwarded through the chain of command. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution. The departure of the alleged abuser or victim from employment, control or custody shall not provide a basis for terminating an investigation.

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- (a) The administrative investigation will be subordinate to the criminal investigation. The standard used to substantiate allegations of sexual abuse in the administrative investigation shall be no higher than a preponderance of the evidence.
- (a) The Sheriff's Office shall maintain all written reports and investigations to include internal affair investigations for all sexual abuse investigations for a minimum of ten years. However, if the alleged abuser is incarcerated or employed by the Sheriff's Office, it shall retain the records an additional five years from the time they are released from the facility (inmate) or end their employment with the Sheriff's Office (employee).
- (b) 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 an inmate or staff.
- (c) The Sheriff's Office shall cooperate fully with any outside investigations of sexual abuse and endeavor to remain informed about the process and disposition of any such investigation.
- (d) Third parties are encouraged to report all allegations of sexual abuse or harassment by phone (707)463-4411 or (707)463-4423 and request to speak with a correctional supervisor. Allegations can also be submitted on a citizen's complaint form. Citizen complaint forms can be obtained from the business lobby, be mailed upon request or by downloading the form from the Sheriff's Office website.
- (a) All staff members, contractors and volunteers have an affirmative duty to report to a supervisor or manager all allegations, suspicions, or knowledge of sexual abuse, sexual harassment, sexual assault or any sexual misconduct involving inmates that takes place within any Sheriff's Office facility or within any other jurisdiction or agency.
- (a) Any staff member, volunteer or contractor who has knowledge, information or suspects retaliation against anyone who reports sexual abuse, cooperates with an investigation or that a staff member violated their responsibilities that may have contributed to an incident shall immediately notify a supervisor or manager. This notification may be made in private, but shall occur immediately upon obtaining knowledge. There is no requirement for any employee to use the chain of command.
- (a) Apart from reporting sexual abuse to a supervisor or manager, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
- (a) Medical and mental health practitioners unless otherwise precluded by Federal, State, or local law shall be required to report all allegations of sexual abuse or retaliation. Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. All inmates must be

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informed of the medical or mental health practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

- (a) If the alleged victim is considered a vulnerable adult under a State or local vulnerable persons statute, the Office shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.
- (a) A patrol deputy shall be called to respond to all PREA related crimes that occur within the Corrections Division. A patrol deputy shall refer all felony PREA related crime investigations to a sexual assault detective who has been trained pursuant to section 904.4.1, subsection D. The sexual assault detective shall conduct investigations in compliance with all applicable PREA standards.
- (a) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (a) Staff members, contractors and volunteers accused of harassment or abuse of an inmate shall not have any contact with the reporting staff member or others involved in the investigation. Any form of retaliation shall be subject to punitive action.
- (a) Inmates or detainees may privately (if they so choose) report sexual harassment, abuse, or assault, retaliation for reporting, or staff indifference to any employee, volunteer or contractor.
  1. These reports can be made verbally or in writing through inmate request forms, letters, or any other medium. These reports can be made by third parties on behalf of the inmate.
  2. An inmate or detainee who alleges sexual abuse shall not be required to submit to a polygraph or any other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- 3. Retaliation reports filed against other inmates or detainees shall be investigated.
  4. Reports of retaliation by staff shall be documented in a memorandum and forwarded to the Corrections Division Commander or designee.
  5. Inmates can confidentially and anonymously report sexual abuse to Project Sanctuary, using inmate telephones by dialing (707)462-9196. Project Sanctuary will comply with mandatory reporting requirements by reporting sexual abuse directly to a Corrections Sergeant.

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- (a) Inmates who do not speak English may request a translator upon contacting Project Sanctuary.
- (b) Inmates who are hearing impaired shall be provided a TDD machine and may dial Project Sanctuary using a direct telephone number.

6. Staff members shall accept reports made verbally, in writing, anonymously and from third parties, such as advocates or family members. All such reports shall be immediately documented and the employees' immediate supervisor notified. The PREA Coordinator, the PREA Compliance Manager and the Corrections Division Commander shall be notified, and an investigation shall immediately commence.

7. Inmates are not detained solely for civil immigration purposes but are provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security upon request. Refer to Policy and Procedure 1651-00 Department of Homeland Security.

- (a) Staff members shall accept reports made verbally, in writing, anonymously and from third parties, such as advocates or family members. All such reports shall be immediately documented and the employee's immediate supervisor notified. The PREA Coordinator, the PREA Compliance Manager and the Facility Manager shall be notified, and an investigation shall immediately commence.
- (a) If the person who receives the report is a non-custody employee, he or she shall immediately notify any custodial supervisor.
- (a) Reports can be made through the Sheriff's Office website by downloading, completing and submitting a citizen's complaint form. A PREA related citizen's complaint form submitted anonymously will be accepted.
- (a) PREA related crimes that involve inmates that are elderly or suffer from any disability will be referred to the Detective's Unit for investigation.
- (a) Copies of all completed PREA related incident and investigation reports shall be forwarded to the PREA Coordinator.
- (a) Upon completion of an investigation involving an inmate's allegation they were sexually abused in a Sheriff's Office facility, the inmate shall be informed as to the final determination of the investigation (Sustained, Not Sustained, Inconclusive or Unfounded). If an outside agency conducts the investigation, the Sheriff's Office shall request the relevant information from the investigative agency in order to inform the inmate.
- (a) All investigations shall include efforts to determine whether staff actions or failures to act contributed to the abuse.
- (a) If an allegation is substantiated that a staff member committed a sexual assault against an inmate, the Sheriff's Office shall inform the inmate by memorandum whenever:

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- (a) The staff member is no longer assigned to the inmate's housing area.
  - (b) The staff member is no longer employed or assigned to the facility.
  - (c) The staff member has been indicted or criminally charged related to abuse within the facility.
  - (d) The Sheriff's Office learns that a staff member has been convicted on a charge related to sexual abuse within the facility.
  - (e) The Sheriff Office's obligation to report under this standard shall terminate if the inmate is released from custody.
- (a) Following an allegation by an inmate that he was abused by another inmate, the victim shall be informed by memorandum whenever:
    - (a) The alleged abuser has been indicted or criminally charged on charges related to sexual abuse within the facility; or
    - (b) The alleged abuser has been convicted on a charge related to abuse within the facility.
  - (c) The Sheriff Office's obligation to report under this standard shall terminate if the victim is released from custody.
- (a) Inmates can report sexual abuse they experienced while confined at another facility. Upon report of an allegation of an inmate being sexually abused while confined at another facility, the Corrections Division Commander or their designee shall notify in writing the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such notifications shall be provided and documented as soon as possible, but no later than 72 hours after receiving the allegation.
  - (a) When informed by another agency that an inmate or detainee in Sheriff's Office custody was sexually abused while incarcerated, the allegation shall be investigated promptly, thoroughly, objectively and forwarded through the chain of command. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
  - (a) Upon receipt of a completed investigation, the PREA Coordinator shall document the incident using a U.S. Department of Justice Bureau of Justice Statistics (USDOJ BJS) form SSV-1A and maintain the copy for use in the report submitted annually to USDOJ BJS. A copy shall be retained for no less than ten years.
  - (a) The PREA Coordinator shall compile all information pertaining to allegations and substantiated incidents of sexual assaults, sexual abuse, and sexual harassment on inmates and detainees, annually. This information shall be submitted to the USDOJ BJS using form SSV-3. This form shall be submitted to the USDOJ BJS electronically. A copy of the SSV-3 as well as copies of all reports included in the SSV-3 shall be forwarded to the Corrections Division Commander and the PREA Compliance Manager. A copy of this data shall be maintained for no less than ten years.
  - (a) The PREA Coordinator shall create an annual report using the data collected during the previous year and submit the report to the Sheriff for review. Once approved, this



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report shall be placed on the Sheriff's Office web site for public viewing. Names of all involved parties shall be redacted.

### 904.4.5 ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH CARE SERVICES

- (a) Inmate and detainee victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by medical and mental health practitioners according to their professional judgment.
- (a) Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services shall be provided to the victim without financial cost, regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

### 904.4.6 ACCESS TO ONGOING MEDICAL AND MENTAL HEALTH CARE SERVICES

- (a) Any inmate who reports being victimized by sexual abuse or subject to a PREA related incident shall be referred by a Correctional Deputy to medical and/or mental health practitioners for evaluation and treatment consistent with the community level of care. 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.
- (a) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- (a) Inmate victims of sexually abusive vaginal penetration (while in custody) shall be offered pregnancy tests. If pregnancy results, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.
- (a) Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

### 904.4.7 VICTIM ADVOCACY

- (a) All victims of sexual abuse shall be afforded the opportunity to have a Victims Rights Advocate made available to accompany and support the victim through the forensic medical examination process, the investigative interviews and shall provide emotional support, crisis intervention, information and referrals, at no cost to the inmate.
- (a) The following Victim Rights Agencies addresses and telephone numbers are provided to all inmates:
  - 1. Project Sanctuary
  - 2. Parents Family and Friends of Lesbians and Gays.
  - 3. National Human Trafficking Hotline

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### 904.4.8 PROTECTION AGAINST RETALIATION

- (a) The Sheriff's Office shall take immediate appropriate measures to protect anyone who expresses a fear of retaliation because they reported or cooperated with an investigation of sexual abuse.
- (a) Multiple protection measures shall be employed against any forms of retaliation, such as housing transfers or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- (a) For at least 90 days following a report of sexual abuse, the PREA Coordinator shall monitor the conduct and treatment of inmates, or staff who reported the sexual abuse, and of inmates who were reported to have suffered sexual abuse to determine if there are indicators to suggest possible retaliation intentions by inmates or staff, and shall act promptly to remedy any such retaliation.
- (a) The PREA Coordinator may delegate this responsibility to any correctional staff member.
- (a) Monitoring activities may include, but is not limited to, inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff.
- (b) The PREA Coordinator or his designee shall continue such monitoring beyond 90 days if initial monitoring indicates a continuing need.
- (a) The PREA Coordinator shall coordinate with classification staff to ensure inmates who report sexual abuse are monitored by periodic status checks. The frequency and duration of the status checks shall be determined on a case-by-case basis.
- (a) Monitoring shall terminate if it is determined an allegation is unfounded.

### 904.4.9 DISCIPLINARY SANCTIONS FOR STAFF

- (a) Employees shall be subject to disciplinary actions up to and including termination of employment for any violations of sexual abuse or harassment policies.
- (a) Termination shall be the presumptive disciplinary action for employees who have engaged in sexual abuse.
- (a) Disciplinary action for violations of Sheriff's Office and County of Mendocino policies, and rules relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- (a) All terminations for violations of sexual abuse or sexual harassment policies, or resignations by employees who would have been otherwise terminated, if not for their resignation, shall be reported to law enforcement agencies for any offenses outside the jurisdiction of the Sheriff's Office, unless the activity was clearly not criminal, and to any relevant licensing bodies.

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### 904.4.10 SEXUAL ABUSE INCIDENT REVIEWS

- (a) The PREA Coordinator 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. Such review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include the Corrections Division Commander and the PREA Manager or their designees, with input, as necessary, from line supervisors, investigators, and medical and/or mental health practitioners.
- (a) 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, gang affiliation or was motivated or otherwise caused by other group dynamics at the facility.
  - (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
  - (d) Assess the adequacy of staffing levels in the housing locations during different shifts.
  - (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- (a) The PREA coordinator shall prepare a report of the review's findings and any recommendations for improvement. Recommendations for improvements shall be made and any reasons for not implementing the recommendations shall be explained. The final report shall be submitted to the Corrections Division Commander and the PREA Compliance Manager.

### 904.4.11 DATA COLLECTION AND ANNUAL REPORT

- (a) The Sheriff's Office shall collect accurate, uniform data for every allegation of sexual abuse at the Mendocino County Correctional Facility using a standardized instrument and set of definitions.
- (a) The Sheriff's Office will obtain incident based and aggregated data from any agency contracted to provide confinement for Mendocino County inmates.
- (a) All managers and supervisors shall forward all PREA data to the PREA Coordinator, while maintaining a copy for their files. This data shall be securely maintained.
- (a) The PREA Coordinator shall aggregate the incident-based sexual abuse data on an annual basis using the most recent version of the Survey of Sexual Violence form from the Department of Justice.
- (a) Upon request, the Sheriff's Office will provide all data from the previous calendar year to the Department of Justice no later than June 30.

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- (a) The information from all the incidents in the prior calendar year will be reviewed and compiled into an annual report. The report shall also include corrective actions for the Sheriff's Office as a whole, along with a comparison to the previous year's data and submitted to the Sheriff for review. Upon approval of the Sheriff, the report shall be posted on the Sheriff Office's website annually after all necessary redactions have been made pursuant to California Penal Code 293.
- (a) All documents pertaining to investigations shall be securely retained by the PREA Coordinator for no less than ten (10) years.

### 904.4.12 AUDITS

- (a) The PREA Coordinator shall annually review and document the facility's compliance with PREA standards, which shall also include the staffing plan to ensure adequate levels of staffing and where applicable, video monitoring systems to protect inmates from sexual abuse and sexual harassment. The review shall assess, determine and document any discrepancies and where adjustments are needed to:
  - 1. Staffing Plan.
  - 2. Facility deployment of video monitoring systems and other monitoring technologies.
  - 3. Resources available to commit to ensure adherence to the staffing plan.
- (b) All facilities under the Sheriff Office's control shall be individually audited by an outside auditor who has been certified by the Department of Justice, once every three years. The auditor shall be provided all relevant policies and procedures, reports, internal and external audits and accreditations for the facility being audited.
  - (a) During the audit, the auditor shall have access to all areas of the facility and supplied any relevant documentation requested.
  - (b) The auditor shall have access to inmates, staff, and administrators. Staff will be expected to cooperate fully during this audit.
  - (a) The results of all PREA audits will be documented via memorandum to the Sheriff via the chain of command.

### 904.4.13 HIRING AND PROMOTIONAL PROCESS

- (a) Hiring. The Sheriff's Office shall abide by the following rules when hiring or contracting with individuals who will have contact with inmates.
  - 1. The Sheriff's Office shall not hire or promote anyone who may have contact with inmates or detainees, and shall not enlist the services of any contractor or volunteer who may have contact with inmates or detainees, who:
    - (a) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or any other institution.

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- (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 refused
- (c) Has been civilly or administratively adjudicated to have engaged in the activity described above.

2. All incidents of sexual harassment shall be considered when determining whether to hire or enlist the services of any contractor, volunteer, or staff member who may have contact with an inmate or detainee.

3. Before hiring or contracting with, all employees, contractors, and volunteers shall be subject to a criminal background check. Consistent with Federal, State, and local law, the Office shall make its best effort 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. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for disqualification.

B. Current Employees. The agency is notified by the Department of Justice anytime an employee is fingerprinted as a result of any arrest.

C. Promotions. The Sheriff's Office shall abide by the following rules when promoting employees who will have contact with inmates

1. The Sheriff's Office shall not promote anyone who may have contact with inmates or 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).
- (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 (C) (1)(b) of this section.

2. The Sheriff's Office shall consider any incidents of sexual harassment in determining whether to promote an individual.

3. The Sheriff's Office shall ask all applicants and employees who may have contact with inmates or detainees directly about previous misconduct described in paragraph 5.0 (A) of this section in written applications or interviews for promotions. The Sheriff's Office shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

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4. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
  - (a) Former Employees. The Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work only upon receipt of a signed waiver from the former employee.