

<b>SANTA CRUZ COUNTY JUVENILE DETENTION SERVICES</b>	<b>Cross Reference:</b>
<b>Section: III A 20</b>  Detention Operations <b>SAFETY, SECURITY AND CONTROL</b> Prison Rape Elimination Act (PREA)	<b>ACA:</b> <b>NJDA:</b> <b>RULE:</b> PREA 28 C.F.R. 115 et. seq. <b>STATUTE:</b> A.R.S. §§13-1404, 13-1405, 13-1406, 13-1410, 13-1419 and 13-3620
<b>Policy:</b>  The purpose of this policy is to ensure juvenile detention officers in Santa Cruz County understand and comply with the Santa Cruz County Probation Department’s zero tolerance standard for the incidence of sexual assault between staff, volunteers, contract personnel and residents or resident and resident. This policy also focuses on the safety, health and welfare of resident sexual assault victims by providing an immediate response and support for their recovery.	<b>Effective Date:</b> November 21, 2011 <b>Revised:</b> September 2, 2014; February 5, 2016

**PROCEDURE:**

A 20.1 Policy Organization

The Santa Cruz County Probation Department’s Juvenile Detention Services Division (henceforth –the department) has a single policy covering the PREA in general (i.e., one policy to address staff sexual misconduct issues and youth-on-youth sexual assault).

The department oversees the juvenile detention facility but not the adult detention facility.

The department has a zero tolerance policy toward all forms of sexual abuse and sexual harassment. The preceding includes any incidence of sexual abuse and sexual harassment between staff, volunteers, contract personnel and residents or resident and resident.

The department shall make every effort to prevent incidences of sexual abuse and sexual harassment by hiring officers and making use of volunteers and contract personnel who the department knows or has reason to believe are responsible, law abiding citizens who have never been charged with or convicted for a sex related offense. Prevention efforts shall include having officers, volunteers and contract personnel go through training, on an annual basis, involving the PREA. Meanwhile, prevention efforts involving residents will be in the form of education from the moment they are introduced into the juvenile detention facility. At intake, residents shall be put on notice that sexual abuse and sexual harassment of any kind will not be tolerated. In addition, there are notices posted throughout the facility which speak to the zero tolerance policy and what is expected from residents who have been victimized or who believe they have been victimized.

When it comes to detecting sexual abuse and sexual harassment, detention officers shall remain vigilant at all times and immediately report, through the chain of command, any known, suspected or rumored situation involving sexual abuse and/or sexual harassment (regardless of whether it is adult and resident or resident and resident).

Detention officers shall be watchful and cognizant of the fact residents who are victims of sexual abuse or assault often display the following signs or characteristics:

- a) Uncharacteristic acting out in an effort to stay in separation;
- b) Refusal to shower, eat or be in certain less supervised areas;
- c) Increased medical complaints and attention seeking, particularly increased concerns regarding sexually transmitted diseases;
- d) Withdrawing or isolating themselves;
- e) Unexplained bruising;
- f) Development of depression or hopelessness;
- g) Lashing out in anger or frustration;
- h) Developing anxiety, fear or paranoia;
- i) Experiencing nightmares;
- j) Developing suicidal thoughts or feelings; and,
- k) Self abuse or suicidal behaviors.

Detention officers shall be watchful and cognizant of the fact residents who are aggressors often display the following signs or characteristics:

- a) May have a history of prior assaults;
- b) May be slightly older than the potential victim(s);
- c) May have been a victim of sexual assault;
- d) May have difficulty controlling anger;
- e) May have poor coping skills and/or strategies;
- f) May exhibit voyeuristic/exhibitionistic behavior;
- g) May have prior charges or convictions for stalking, voyeurism or sex crimes other than rape;
- h) May be known in the offender population;
- i) May use strong arm tactics, preceded by verbal harassment;
- j) May congregate with other aggressors and engage in friendly overtures and subtle intimidation in the showers, the recreation area or elsewhere; and,
- k) May engage in blatant sexual harassment such as taunting new youth and being verbally abusive toward other residents concerning their sexual history.

As for responding to incidences of sexual abuse and/or sexual harassment, the department mandates that a detention officer or any other employee (e.g., a probation officer, education program staff, etc.) or volunteer who is a witness to, has knowledge or is suspicious of any inappropriate relationship, sexual activity, assault and/or rape, immediately report the latter to the detention administrator. The preceding shall be done by telephone and/or in person. The detention officer, employee or volunteer shall then prepare and submit a written statement within eight hours of the initial report to the detention administrator, outlining clearly what is known by the detention officer, employee or volunteer. If the detention administrator is not available for some reason, the detention officer, employee or volunteer shall report these types of situations to the chief deputy probation officer immediately. A detention officer or court employee who knowingly fails to report an inappropriate relationship, sexual activity, assault and/or rape shall be subject to disciplinary action, up to and including, termination of employment. Non-court employees shall be reported to their immediate supervisor and law enforcement. Lastly, volunteers shall be reported to law enforcement and shall be banned from continuing to provide services at the juvenile detention center if any allegation of wrong doing is substantiated.

The department's chief deputy probation officer shall serve as the PREA coordinator. Said person shall make time and have authority to develop, implement and oversee the department's efforts to comply with the PREA standards. Since the department only operates one facility, there is no need to designate multiple PREA compliance managers.

The department does not make use of a contractor (i.e., a private agency or other entity) to provide juvenile detention services for Santa Cruz County. Thus, it is not necessary to have a requirement in policy that contracts or contract renewals include the contracting agency's obligation to adopt and comply with the PREA standards. For the same reason, it is not necessary for the department to have something in policy which states the department will engage in contract monitoring of a contractor to ensure compliance with the PREA standards.

## A 20.2 Definitions

### **General Definitions (as set forth in PREA standard 115.5)**

For the purposes of this policy, the term:

*Agency* means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

*Agency head* means the principal official of an agency.

*Community confinement facility* means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

*Contractor* means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

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

*Direct staff supervision* means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

*Employee* means a person who works directly for the agency or facility.

*Exigent circumstances* means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

*Facility* means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

*Facility head* means the principal official of a facility.

*Full compliance* means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

*Gender nonconforming* means a person whose appearance or manner does not conform to traditional societal gender expectations.

*Inmate* means any person incarcerated or detained in a prison or jail.

*Intersex* means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

*Jail* means 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 for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

*Juvenile* means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

*Juvenile facility* means a facility primarily used for the confinement of residents pursuant to the juvenile justice system or criminal justice system.

*Law enforcement staff* means employees responsible for the supervision and control of detainees in lockups.

*Lockup* means a facility that contains holding cells, cell blocks, or other secure enclosures that are:(1) Under the control of a law enforcement, court, or custodial officer; and(2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

*Medical practitioner* means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

*Mental health practitioner* means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

*Pat-down search* means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

*Prison* means an institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

*Resident* means any person confined or detained in a juvenile facility or in a community confinement facility.

*Secure juvenile facility* means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

*Security staff* means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

*Staff* means employees.

*Strip search* means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

*Substantiated allegation* means an allegation that was investigated and determined to have occurred.

*Transgender* means a person whose gender identity (*i.e.*, internal sense of feeling male or female) is different from the person's assigned sex at birth.

*Unfounded allegation* means an allegation that was investigated and determined not to have occurred.

*Unsubstantiated allegation* means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

*Volunteer* means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

*Youthful inmate* means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

*Youthful detainee* means any person under the age of 18 who is under adult court supervision and detained in a lockup.

### **Definitions related to Sexual Abuse (as set forth in PREA standard 115.6)**

For the purposes of this policy, the term:

*Sexual abuse* includes—(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

*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: (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and (4) 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* includes any of the following acts, with or without consent of the inmate, detainee, or resident: (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) 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; (4) 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; (5) 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; (6) 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; (7) 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 (8) Voyeurism by a staff member, contractor, or volunteer.

*Sexual harassment* includes—(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

*Voyeurism by a staff member, contractor, or volunteer* means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

The following are definitions of sexual acts, indecent exposure, public sexual indecency, etc. It is imperative detention officers be familiar with the various definitions so there is no doubt when it comes to what may constitute a criminal act (i.e., as it relates to staff and/or resident sexual misconduct or assault). For information involving the type of felony associated with each offense, officers are encouraged to look up the various statutes.

### **Definitions of Sexual Acts pursuant to A.R.S. §13-1401**

1. "Oral sexual contact" means oral contact with the penis, vulva or anus.
2. "Sexual contact" means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.
3. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.
4. "Spouse" means a person who is legally married and cohabiting.
5. "Without consent" includes any of the following:
  - (a) The victim is coerced by the immediate use or threatened use of force against a person or property.
  - (b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.
  - (c) The victim is intentionally deceived as to the nature of the act.
  - (d) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

### **Definition of Indecent Exposure pursuant to A.R.S. §13-1402**

A person commits indecent exposure if he or she exposes his or her genitals or anus or she exposes the areola or nipple of her breast or breasts and another person is present, and the defendant is reckless about whether the other person, as a reasonable person, would be offended or alarmed by the act.

### **Definition of Public Sexual Indecency pursuant to A.R.S. §13-1403**

A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

1. An act of sexual contact.
2. An act of oral sexual contact.
3. An act of sexual intercourse.
4. An act of bestiality.

A person commits public sexual indecency to a minor if the person intentionally or knowingly engages in any of the acts listed above and such person is reckless about whether a minor who is under fifteen years of age is present.

### **Definition of Sexual Abuse pursuant to A.R.S. §13-1404**

A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person who is fifteen or more years of age without consent of that person or with any person who is under fifteen years of age if the sexual contact involves only the female breast.

### **Definition of Sexual Conduct with a Minor pursuant to A.R.S. §13-1405**

A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen years of age.

### **Definition of Sexual Assault pursuant to A.R.S. §13-1406**

A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or

oral sexual contact with any person without consent of such person.

**Definition of Unlawful Sexual Conduct pursuant to A.R.S. §13-1409 (for adult probation department and juvenile court employees who through the course of employment directly provide treatment, care, control or supervision to a victim)**

An adult probation department employee or juvenile court employee commits unlawful sexual conduct if the employee knowingly coerces the victim to engage in sexual contact, oral sexual contact or sexual intercourse by either:

1. Threatening to negatively influence the victim's supervision or release status.
2. Offering to positively influence the victim's supervision or release status.

**Definition of Molestation of a Child pursuant to A.R.S. §13-1410**

A person commits molestation of a child by intentionally or knowingly engaging in or causing a person to engage in sexual contact, except sexual contact with the female breast, with a child who is under fifteen years of age.

**Definition of Continuous Sexual Abuse of a Child pursuant to A.R.S. §13-1417**

A person who over a period of three months or more in duration engages in three or more acts in violation of section 13-1405, 13-1406 or 13-1410 with a child who is under fourteen years of age is guilty of continuous sexual abuse of a child.

**Definition of Unlawful Sexual Conduct pursuant to A.R.S. §13-1419**

A person commits unlawful sexual conduct by intentionally or knowingly engaging in any act of a sexual nature with an offender who is in the custody of the state department of corrections, the department of juvenile corrections, a private prison facility, a juvenile detention facility or a city or county jail or with an offender who is under the supervision of either department or a city or county. For the purposes of this subsection, "person" means a person who:

1. Is employed by the state department of corrections or the department of juvenile corrections.
2. Is employed by a private prison facility, a juvenile detention facility or a city or county jail.
3. Contracts to provide services with the state department of corrections, the department of juvenile corrections, a private prison facility, a juvenile detention facility or a city or county jail.
4. Is an official visitor, volunteer or agency representative of the state department of corrections, the department of juvenile corrections, a private prison facility, a juvenile detention facility or a city or county jail.

**Definition of Voyeurism pursuant to A.R.S. §13-1424**

It is unlawful to knowingly invade the privacy of another person without the knowledge of the other person for the purpose of sexual stimulation.

It is unlawful for a person to disclose, display, distribute or publish a photograph, videotape, film or digital recording that is made in violation of this statute without the consent or knowledge of the person depicted.

**Definition of Commercial Sexual Exploitation of a Minor pursuant to A.R.S. §13-3552**

A person commits commercial sexual exploitation of a minor by knowingly:

1. Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.
2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain.
3. Permitting a minor under the person's custody or control to engage in or assist others to

engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.

4. Transporting or financing the transportation of any minor through or across this state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.

### **Definition of Sexual Exploitation of a Minor pursuant to A.R.S. §13-3553**

A person commits sexual exploitation of a minor by knowingly:

1. Recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.

2. Distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.

Officers should note that conversations or correspondence between officers, education program staff, volunteers, etc. and residents that are of a romantic or sexual nature are strictly prohibited. Just because a behavior may not rise to the level of a criminal act does not mean it is appropriate or permitted.

For the purposes of clarification, this policy applies to everyone who has a need and authorization to enter the juvenile detention center (e.g., detention officers, probation officers, surveillance officers, education program staff, janitorial staff, facilities maintenance staff, counselors, attorneys, parents, grandparents, etc.). Private correctional facilities are not covered for the reasons mentioned earlier. Lastly, juveniles under supervision in the community are not covered by this policy, since this policy only applies to juveniles being held at the juvenile detention center.

### **A 20.3 Resident Reporting**

Residents shall be provided with multiple internal ways of privately reporting sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment and staff neglect or violation of responsibilities which may have contributed to such incidents. Residents may report incidents or situations which occur to detention officers, education program staff, volunteers who provide services in the facility, the detention administrator, the chief deputy probation officer and the chief probation officer. A resident's request to speak with someone in private shall be honored right away and officers must arrange for the meeting in an area of the facility where cameras are recording the meeting (i.e., where there is video recording but not audio recording or eavesdropping through the intercom system). In addition to a face to face interaction with one of the aforementioned individuals about a situation, residents may write and submit a letter, speak with someone by telephone, file a report using a third party, etc. (whatever the resident prefers and/or is most comfortable with). Detention staff shall ensure a resident's request to get a letter to or speak with the detention administrator, a volunteer, etc., by way of telephone is accommodated as soon as possible but no more than four hours from the time of the request.

Residents may also report sexual abuse or sexual harassment to a public or private entity or office (through a face to face meeting request, by letter, by telephone, etc.) that is not part of the department. Said public or private entity or office must be able to receive and immediately forward resident reports of sexual abuse and sexual harassment to department officials, while allowing the resident to remain anonymous upon request. In Santa Cruz County, residents shall be allowed to make or submit reports to county management (i.e., to the county manager and/or to

the county's administrative services director).

Although no resident should ever be detained solely for civil immigration purposes by the department, a resident who requests to speak with consular officials or officials at the Department of Homeland Security shall be accommodated within a reasonable period of time (by being provided with the agency's contact information and access to a telephone where he or she is able to carry out a conversation in private).

Staff shall accept and process all reports of sexual abuse or sexual harassment, regardless if the reports are made verbally, in writing, anonymously or by third parties. Staff shall complete an incident report whenever a verbal report is received from residents or third parties. The incident report shall be completed within an hour and must be submitted to the detention administrator upon being completed. If the detention administrator is not on site, he or she shall be contacted by telephone to be made aware of the situation. All other reports shall also be submitted to the detention administrator immediately. If he or she is not on site, the detention administrator shall be contacted by telephone right away so that he or she may be aware of the situation and provide any needed instruction or direction. If the detention administrator cannot be reached, the chief deputy probation officer shall be contacted. In the event the aforementioned individual cannot be reached, staff shall call the chief probation officer.

Upon request from a resident, staff shall provide access to the tools which are necessary to make a written report. The preceding shall be done promptly and shall include a sheet (or sheets) of paper and a writing instrument designed for use in a secure care facility. The resident shall be given reasonable privacy when writing the report and staff shall ask the resident to make certain the report contains the resident's name, date, time and signature.

Residents with disabilities shall be afforded the same rights and privileges as any other resident when it comes to being able to access all aspects of the department's efforts to prevent, detect and respond to sexual abuse or sexual harassment. Specifically, the department shall take steps and make every reasonable effort to ensure residents who are deaf, hard of hearing, blind, have low vision and those with intellectual, psychiatric and speech disabilities are provided with the services and/or assistance they need to accomplish the latter. These residents, to the extent possible, will be afforded access to interpreters who can interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. They shall also be provided with access to medical staff and mental health specialists to assist them in any way possible.

The department shall make certain that written materials are provided in formats or through methods that ensure effective communication with residents who have disabilities, including those with limited intellectual abilities, limited reading skills, those who are blind or those who have low vision. In these instances, staff shall read and explain the materials to the residents, in their language of choice (English or Spanish), and provide examples to ensure the residents comprehend what is expected of them.

The department shall take reasonable steps to ensure residents who are limited English proficient have meaningful access to all aspects of the department's efforts to prevent, detect and respond to sexual abuse and sexual harassment. To the extent possible, particularly when it involves a language other than Spanish, efforts will be made to retain the services of interpreters who can interpret effectively, accurately and impartially, both receptively and expressively, using the necessary specialized vocabulary.

The department shall not rely on residents to serve as interpreters, readers or as any sort of assistant, except in exigent circumstances (such as when a delay in obtaining effective interpreter services could compromise a resident's safety and well-being, the performance of first responders or the investigation of a resident's allegations).

Copies of all reports filed by a resident in connection with a claim of sexual abuse or sexual harassment shall be provided to the detention administrator right away. The detention administrator shall be responsible for maintaining a log of all reports which are received along with copies of the reports. Said log and copies of reports shall be maintained in a binder which shall be located in a secure area of the detention administrator's office.

The department shall make certain an administrative and/or criminal investigation is conducted and completed every single time a resident makes allegations of sexual abuse and/or sexual harassment.

The detention administrator, chief deputy probation officer and chief probation officer shall ensure all allegations of criminal behavior and potentially criminal behavior involving sexual abuse or sexual harassment are referred to the Nogales Police Department immediately with a request for a criminal investigation. All such requests for a criminal investigation shall be documented by the detention administrator and be maintained in a PREA binder that will be located in the detention administrator's office (where said binder will be under lock and key).

The department shall publish on its website its policy involving PREA. Its policy requiring that an administrative and/or criminal investigation be completed for all allegations of sexual abuse and sexual harassment shall be featured prominently on the website. In addition, the department shall make a hard copy of the policy available to anyone upon request. The information available on the website shall clearly indicate the department shall report allegations of sexual abuse and sexual harassment to the Nogales Police Department immediately and that the Nogales Police Department shall fully investigate all allegations of criminal or potentially criminal behavior.

The department shall maintain a standing agreement with NurseWise, the crisis hotline operated by Cenpatico (the regional behavioral health authority for Santa Cruz County) so that residents who may be victims of sexual abuse or sexual harassment while in detention are provided with confidential emotional support services through one of its provider agencies (at this time, the agency would be Community Intervention Associates). Therapists who respond to the juvenile detention center for the aforementioned purpose shall be allowed into the facility, regardless of the day or time, and be given access to the resident in a way where they have privacy. The department shall have a copy of the agreement that is in place with NurseWise.

Residents may use the grievance procedures process which is in place to address and/or call attention to staff sexual misconduct and resident on resident sexual assault. There is no time limit when it comes to when a resident may file a grievance regarding an allegation of sexual abuse but residents shall always be encouraged to do so as quickly as possible (i.e., prior to a situation getting worse). The preceding contrasts with the policy on grievances that do not allege an incident of sexual abuse (which must be filed within a certain period of time). The following are various other things involving the grievance procedure as it relates to allegations of sexual abuse:

1. The department shall issue a final decision on the merits of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. It is important to note that computation of

- the 90 day period shall not include time used by residents in preparing an administrative appeal.
2. The department may extend the time to respond, up to 70 days, if the normal time to respond is deemed insufficient by the chief probation officer to make an appropriate decision.
  3. In cases where an extension is deemed necessary, the chief probation officer or his or her designee shall notify the resident in writing and provide a date by which a decision will be made.
  4. In the unlikely event a resident does not receive a response within the time allotted for a reply (during any level of the administrative process), including any properly noticed extension, the resident may consider the absence of a response to be a denial.
  5. The department shall allow third parties, including fellow residents, staff members, family members, attorneys and outside advocates to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse. In addition, the department shall permit said individuals to file a request on behalf of a resident.
  6. If a third party, other than a parent or legal guardian, files a request for an administrative remedy on behalf of a resident, the alleged victim must agree to have the request filed on his or her behalf, as a condition of processing the request. In addition, the department shall require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. In the event the resident decides against having the request processed on his or her behalf, the detention administrator shall document the resident's decision in the PREA compliance binder.
  7. A parent or legal guardian of a resident shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such resident. In these cases, the grievance shall not be conditioned upon the resident agreeing to have the request filed on his or her behalf. In other words, the parent or legal guardian may proceed even if the resident is not in agreement.
  8. Staff shall not require a resident to use any informal grievance process or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. All allegations of sexual abuse shall be taken seriously and efforts to downplay their importance, hide them from management or to process them in a manner inconsistent with this policy shall result in disciplinary action, up to and including termination.
  9. The department shall make certain a resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. Additionally, the department shall take the necessary steps to ensure the grievance is not referred to a staff member who is the subject of a complaint. The preceding shall be done by virtue of permitting the resident to submit his or her complaint to whomever he or she is comfortable. Said person shall then share the complaint with the detention administrator immediately. If the detention administrator is the subject of the complaint, the complaint shall be turned over to the department's chief deputy probation officer. The person receiving the initial complaint shall not ask questions, delve into the allegations nor share information about the complaint with others.
  10. An emergency grievance alleging a resident is subject to substantial risk of imminent sexual abuse may be filed. Upon receiving notice of an emergency grievance, the staff member receiving the complaint shall notify the detention administrator immediately. If the complaint involves the detention administrator, the chief deputy probation officer shall be contacted right away. Said complaint shall be reviewed immediately so that corrective action may be taken. Under these circumstances, a resident shall receive a response concerning the complaint within 48 hours, and the department shall issue a final decision involving the allegations within five calendar days.
  11. When it comes to emergency grievances, the detention administrator shall document the initial response and final determination with regard to whether or not the resident was in substantial risk of imminent sexual abuse, and the action that was taken by the department.
  12. If the department determines a resident filed a grievance alleging sexual abuse in bad faith (i.e., where the resident intentionally makes a false report and/or provides inaccurate information), the resident may be disciplined but only to the extent permitted by department policy. The

resident's actions and the discipline imposed shall be documented in the PREA compliance binder by the detention administrator.

13. The department shall receive third-party reports of sexual abuse and sexual harassment and shall publicly distribute information on how to report sexual abuse and sexual harassment on behalf of a resident. The preceding shall be done by posting notices with steps to follow in the public lobbies located at the probation office and juvenile detention center. In addition, the information shall be available through the department's webpage.

#### A 20.4 Staff and Agency Reporting

Staff may privately report the sexual abuse and sexual harassment of residents. Initial reports to the detention administrator or chief deputy probation officer may be made by way of telephone, face to face conversation, e-mail message, etc., but, ultimately, all reports will need to be reduced to writing and must be dated and signed (by the person casting or reporting the allegations). Naturally, it is imperative all reports be accurate, unembellished and specific.

All staff shall immediately report, without fail, any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurs in the detention facility, regardless of whether or not the person is part of the agency (e.g., it could be a volunteer, a law enforcement officer, education program staff, a detention officer, a probation officer, medical staff, etc. – where an incident may have occurred at the Santa Cruz County adult detention facility, the Santa Cruz County juvenile detention center, a state run correctional facility, etc.). In addition, all instances of retaliation against a resident or a staff member for reporting an incident of sexual abuse or sexual harassment shall also be reported immediately. Lastly, any person who knows or has reason to believe a staff member was negligent in his or her responsibilities and may have contributed to an incident or retaliation shall be reported immediately. All reports shall be made to the detention administrator and/or the chief deputy probation officer.

In addition to notifying the detention administrator and/or the chief deputy probation officer, all staff shall comply with mandatory child abuse reporting laws (such as A.R.S. §13-3620) whenever allegations of sexual abuse and/or sexual harassment surface.

Apart from reporting to designated supervisors and administrators and to designated state or local agencies, staff is prohibited from revealing or providing any information related to sexual abuse or sexual harassment to anyone, other than to the extent necessary, to make treatment, investigation and other security and management decisions.

Staff shall be mindful of the fact A.R.S. §13-3620 requires: “any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.” It is important to note that by definition (A.R.S. §8-201.2.a to be specific), abuse includes “inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-

1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.”

Medical and mental health practitioners (e.g., the correctional health nurses who work for the county, doctors who are asked to examine and/or provide services to residents, psychologists and counselors who provide services to residents, etc.) shall report any and all instances of known or suspected sexual abuse or sexual harassment to the detention administrator and the chief deputy probation officer immediately (in addition to the required state or local agencies as mandated by A.R.S. §13-3620. Failure to comply with mandatory reporting laws will jeopardize a medical and/or mental health practitioner’s ability to work with residents in the future.

Medical and mental health practitioners shall inform a resident, at the initiation of services, that medical and mental health practitioners have a statutory duty and/or obligation to report things such as sexual abuse and sexual harassment. Said professionals shall make the resident aware of the limitations of confidentiality.

Upon receiving any allegation of sexual abuse or sexual harassment, the detention administrator shall immediately notify the:

1. chief deputy probation officer and chief probation officer;
2. Nogales Police Department;
3. alleged victim’s parents/guardians (unless there is official documentation indicating the parents or guardians should not be notified);
4. alleged victim’s case worker if he or she is under the guardianship of the child welfare system; and,
5. resident’s attorney or other legal representative of record (e.g., a guardian ad litem).

The department does not have any designated investigators per se. Consequently, all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, will be referred to the Nogales Police Department for investigation purposes by the detention administrator and the chief deputy probation officer.

Upon receiving an allegation a resident was sexually abused while confined at another facility, the detention administrator shall notify the detention administrator of the facility or appropriate office of the agency where the alleged abuse occurred and notify the appropriate investigative agency. The latter shall be done as soon as possible but no more than 72 hours after receiving the allegation. The detention administrator shall document in the PREA compliance binder he or she complied with the notification requirements set forth in this section (by documenting the date and time the report was received and including the date and time notification was provided to the appropriate agency or entity and who he or she spoke with). Upon receiving notification of an allegation involving sexual abuse or sexual harassment, the detention administrator or agency office that receives such notification shall be responsible for ensuring the allegation or allegations are investigated pursuant to PREA standards.

#### A 20.5 Protection from Retaliation

Retaliation of any kind against a resident, education program staff, volunteer, detention officer, probation officer, parent/guardian, child welfare advocate, counselor, mental health aide, case manager, etc., who reports an incident of sexual abuse and/or sexual harassment is strictly

prohibited. The department will investigate fully all claims of retaliation and deal accordingly with anyone who engages in retaliation. Individuals who are employed by the department who engage in retaliation will be disciplined and said discipline may include being dismissed from employment. All non-employees will be reported to their immediate supervisor and may no longer be permitted to return to the juvenile detention center. Residents who engage in retaliation will be subjected to the consequences which are permissible under department policy.

The department will protect, to the extent possible, all residents and staff who report sexual abuse or sexual harassment. Likewise, it will protect, to the extent possible, those who cooperate with sexual abuse investigations from retaliation by other residents or staff. The detention administrator and chief deputy probation officer are the ones responsible for monitoring retaliation.

The department will make use of multiple protection measures to aid and comfort those who report sexual abuse or sexual harassment, as well as those who cooperate with investigations involving sexual abuse or sexual harassment. The protection measures include but are not limited to:

1. living unit and programming changes or adjustments for resident victims, reporters and abusers (i.e., where the victim and/or reporter are housed in a separate living unit from the abuser and do all programming activities [including school, recreation, exercise, etc.] separate and apart from the abuser);
2. removal of alleged staff or resident abusers from having any contact with victims and reporters (staff may be placed on administrative leave if employed by the department or they will be prohibited from having any contact whatsoever with a victim or reporter if they remain on duty, staff not employed by the department will be prohibited from coming into contact with a victim and reporter, resident abusers will be housed in a separate living unit and do all programming activities at a different time than their victims and reporters); and,
3. emotional support services for residents or staff who fear retaliation (the support will be in the form of having mechanisms in place to comfort them, answer any questions they may have, being visible in the facility and available to them, making use of the NurseWise crisis line and the warm line, giving them access to counselors upon request, making it clear through actions that sexual abuse and sexual harassment will not be tolerated by management and be dealt with immediately and aggressively, etc.).

The detention administrator and chief deputy probation officer shall monitor the conduct or treatment of:

1. residents or staff who reported sexual abuse;
2. residents who reportedly suffered from sexual abuse;

The preceding shall be done for at least 90 days following a report of sexual abuse. It will include but is not limited to reviewing resident disciplinary reports, housing or program changes, negative performance reviews or reassignments of staff, etc. Everything will be done to assist in ascertaining if there are changes which may suggest possible retaliation by residents or staff.

The department shall act promptly and swiftly to remedy any retaliation which is uncovered and shall continue monitoring for retaliation beyond 90 days if the initial monitoring indicates a continuing need. Monitoring shall also consist of doing periodic status checks with victims and reporters. Said checks shall be conducted at least once a week and shall be documented in the PREA compliance binder.

The department will take appropriate measures to protect any other individual who cooperates with an investigation and expresses fear of retaliation. Said measures to protect the individual from retaliation include but are not limited to: making it known to abusers, staff and everyone that retaliation in any form will not be tolerated, that referrals may be made to law enforcement to request charges be considered for any incident involving threatening, intimidating, etc.

In cases where the department determines an allegation of sexual abuse or sexual harassment is unfounded, the department's obligation to monitor ceases. Nonetheless, the detention administrator and staff shall be ever vigilant and proactive in its approach to combat sexual abuse or sexual harassment at the juvenile detention center.

#### A 20.6 Hiring and Staffing

As needed and as determined by the detention administrator, chief deputy probation officer and chief probation officer, the department may exercise its ability to remove alleged staff sexual abusers from having contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. Decisions shall be made based upon the individual circumstances and actions taken (such as placement on administrative leave) shall be in accordance with county policies. It is also worth noting that since Arizona is a right-to-work state, there will be no collective bargaining or collective bargaining agreements that would limit the department's ability to take action against a staff member who is accused of sexual abuse or sexual harassment.

The department shall not hire or promote anyone who may have contact with residents and from enlisting the services of any contractor who may have contact with residents who:

1. 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);
2. 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
3. has been civilly or administratively adjudicated to have engaged in the activity described in #2 above.

The department shall consider any incidents of sexual harassment in determining whether to hire or promote someone or to enlist the services of any contractor who may have contact with residents.

Prior to hiring new employees who will or may have contact with residents, the department shall:

1. perform a criminal background records check;
2. consult any child abuse registry maintained by the state or locality in which the employee would work; and,
3. make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or on any resignation during a pending investigation of an allegation of sexual abuse.

Prior to enlisting the services of any contractor who may have contact with residents, the department shall:

1. perform a criminal background records check; and
2. consult applicable child abuse registries.

The latter shall be done for each representative of the contractor who would have direct contact with a resident.

The department shall conduct a criminal background records check, every two years, for every current department employee who has direct contact with residents.

All applicants and employees who may have contact with residents shall be asked about previous misconduct in written applications or in interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of performance reviews of current employees. At a minimum, the specific questions shall be if the applicant or employee has:

1. 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);
2. 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
3. been civilly or administratively adjudicated to have engaged in the activity described in #2 above.

Staff in general and detention officers in particular have a continuing affirmative duty to disclose any such misconduct (i.e., the one outlined in #1 through #3 above). Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination.

Unless prohibited by law, upon receiving a request from an institutional employer for whom a former employee has applied to work, the department shall provide information on substantiated allegations of sexual abuse or sexual harassment involving the former employee.

The agency shall develop, implement and document a staffing plan which provides adequate levels of staffing and video monitoring to protect residents from sexual abuse. In determining adequate staffing levels and video monitoring needs, the department shall consider:

1. Generally accepted juvenile detention and correctional practices;
2. Any judicial findings of inadequacy;
3. Any findings of inadequacy from federal investigative agencies;
4. Any findings of inadequacy from internal or external oversight bodies (e.g., the Administrative Office of the Courts, the Arizona Department of Juvenile Corrections, the State of Arizona Auditor General's office, etc.);
5. All components of the facility's physical plant (including "blindspots" or areas where staff or residents may be isolated);
6. The composition of the resident population and any special or unique issues it may present;

7. The number and placement of supervisory staff;
8. Institution programs occurring on a particular shift;
9. Any applicable state or local laws, regulations or standards;
10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
11. Any other relevant factors.

The department shall comply with the staffing plan except during limited and discrete exigent circumstances and shall fully document deviations from the plan under such circumstances. The detention administrator shall be responsible for documenting in the PREA binder any and all deviations. Said documentation shall include the date, times and reasons for the deviations.

The staffing plan shall consist of maintaining ratios, with regard to officers who provide direct supervision, of a minimum of one officer for every eight residents during waking hours and one officer for every sixteen residents during sleeping hours, except during limited and discrete exigent circumstances (which are to be fully documented as stated previously).

Whenever necessary, but no less than once a year, the department's PREA coordinator, along with the detention administrator and chief probation officer, shall assess, determine and document whether adjustments are needed to:

1. The staffing plan which is in place;
2. Prevailing staffing patterns;
3. The department's deployment of video monitoring systems and other monitoring technologies; and
4. The resources the department has available to commit to ensure adherence to the staffing plan.

The department shall have security policies and protocols in place that support the prevention and detection of sexual abuse. They include but are not limited to the following:

1. Cameras throughout the facility (which feed into digital video recorders so that information which is recorded can be accessed and/or retrieved);
2. Posters and information in various sections of the facility emphasizing there is a zero tolerance policy involving sexual abuse;
3. Posters and information in various sections of the facility encouraging residents to report any incident of sexual abuse or sexual harassment right away;
4. Annual training on the topic of the PREA (for officers, education program staff, volunteers, etc.) and the department's policy on same;
5. Prohibitions involving officers or anyone else from going into a resident's assigned room by himself or herself whenever the resident is in the room; and
6. Prohibitions involving officers or anyone else from taking a resident into an unauthorized area or an area where there are no cameras (e.g., a staff restroom, shower areas, etc.).

The department's corporals and detention administrator shall conduct and document unannounced rounds, during both night and day shifts, to identify and deter staff sexual abuse and sexual harassment. Said rounds shall consist of a corporal or the detention administrator dropping by the facility, on a day or time he or she is not scheduled to work. The round shall consist of staying at the facility no more than thirty minutes. During this time, the corporal or detention administrator shall make face to face contact with every officer who is on duty and inquire how things are going. Said rounds, which shall be done four times a month (with 75% occurring during day shifts and 25% during night shift) shall be documented and maintained in the PREA

binder by the detention administrator. The detention administrator shall be responsible for scheduling said rounds with the corporals, and it is important to note the corporals and detention administrator are strictly prohibited from alerting other staff members when these supervisory rounds will be taking place (unless an announcement is warranted, in the opinion of the detention administrator, due to legitimate operational functions of the facility).

#### A 20.7 Viewing and Searches

Detention officers are strictly prohibited from conducting cross-gender strip, pat-down and visual body cavity searches (i.e., a search of the anal or genital opening), except in the case of emergency or when performed by medical practitioners. In the event exigent circumstances exist which require a cross-gender search, an incident report shall be completed within twenty-four hours by the officer(s) conducting the search. Said report shall be submitted to the detention administrator, and the report must clearly outline the need for the search, how the search was carried out, where the search was conducted, etc.

Residents shall be allowed to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia, except in case of emergency or when such viewing is incidental to routine cell checks (although every effort shall be made by officers to prevent and avoid such situations).

Detention officers of the opposite gender as the residents in a living unit shall be particularly careful about staying away from areas where said residents may be showering, performing bodily functions or changing clothing. Only officers of the same gender as the residents who are showering, performing bodily functions, changing clothing, etc., shall supervise and/or monitor the residents in question. In addition, every time an officer enters a living unit that houses juveniles of the opposite gender as the officer, the officer must announce his or her presence immediately upon entering the unit (regardless of the day or time). The officer must say, without yelling but loud enough for juveniles in the unit to be able to hear, “male officer in the unit” (when entering the female unit) or “female officer in the unit” (when entering the male unit).

Detention officers are strictly prohibited from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident’s genital status. If the resident’s genital status is unknown, it is to be determined during conversations with the resident or by medical staff (i.e., by reviewing medical records or, if necessary, through a medical examination conducted in private).

The department shall arrange to have detention officers trained on how to conduct cross-gender pat-down searches and searches of transgender and intersex residents. The training shall focus on ensuring all searches are conducted professionally, respectfully and in the least intrusive manner possible, while satisfying security needs.

#### A 20.8 Staff, Volunteer and Contractor Training

All employees (which includes but may not be limited to detention officers, medical staff and education program staff) who have or may have contact with residents must receive training, on an annual basis, on the department’s zero tolerance policy for sexual abuse and sexual harassment. Said training shall include guidance and/or instructions on what employees shall do to prevent, detect, report and respond to sexual abuse and sexual harassment.

All employees (which include but may not be limited to detention officers, medical staff and education program staff) who have or may have contact with residents will be trained and required to communicate effectively and professionally with residents, including those who are or may be lesbian, gay, bisexual, transgender, gender non-conforming or intersex.

The training provided to employees who have or may have contact with residents shall include, but not be limited to:

1. The right of every resident to be free from sexual abuse and sexual harassment;
2. The right of every resident to be free from retaliation for reporting sexual abuse and sexual harassment;
3. The dynamics of sexual abuse and sexual harassment in juvenile detention facilities; and
4. The common reactions of resident victims of sexual abuse and sexual harassment.

In addition, said training shall include tips and/or information on:

1. How to detect and respond to signs of threatened and actual sexual abuse;
2. How to distinguish between consensual sexual contact and sexual abuse between residents; and
3. How to avoid inappropriate relationships with residents.

All employees who have or may have contact with residents shall be trained on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities and on relevant laws regarding the age of consent.

The training required by this section shall be tailored to the unique needs and attributes of residents being held in a juvenile facility and to the gender of the residents being held at the Santa Cruz County juvenile detention facility. Based on the fact its employees will work with both males and females, juvenile detention officers in Santa Cruz County shall receive additional training and be prepared to properly address any and all PREA related issues, regardless of whether they are working with males or females on any given day.

Any current employee who has not received the PREA training must receive it within one year of the effective date of the PREA standards. Furthermore, employees shall participate in refresher training sessions on the PREA every year. The preceding shall be done to ensure employees know the department's current policies and procedures related to sexual abuse and sexual harassment.

Employees shall be cognizant they may be subject to search of their locker, work area, computer e-mail messages, etc., during the course of an investigation involving allegations of sexual abuse and/or sexual harassment.

Whenever an employee attends and/or participates in a PREA related training, the detention administrator shall provide each employee with an acknowledgment form. Said form shall serve to acknowledge an employee attended the training and the employee's signature on the form shall serve to attest that he or she understood the training he or she received. The detention administrator shall keep all forms in the PREA binder.

All volunteers and contractors who have or may have contact with residents shall be trained on their responsibilities under the department's sexual abuse and sexual harassment prevention, detection and response policies and procedures. The following are key elements of the training program:

1. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with residents.
2. They shall be notified of the department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed of how to report such incidents.
3. The detention administrator shall use a form, which must be signed by volunteers and contractors, to have them acknowledge receiving and understanding the training.

As part of the training they will receive, staff shall be made aware of constitutional requirements associated with investigative interviews. For example, they shall receive information on:

1. Miranda – Part of a preventive criminal procedure rule that law enforcement is required to administer to protect an individual who is in custody and subject to direct questioning or its functional equivalent from a violation of his or her Fifth Amendment right against compelled self-incrimination.
2. Garrity – It advises subjects of their criminal and administrative liability for any statements they may make, but also advises subjects of their right to remain silent on any issues that tend to implicate them in a crime. It helps ensure the subject's constitutional rights, while also helping state or local investigators preserve the evidentiary value of statements provided by subjects in concurrent administrative and criminal investigations.
3. Weingarten - In 1975 the United States Supreme Court, in the case of *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251 (1975), upheld a National Labor Relations Board (NLRB) decision that employees have a right to union representation at investigatory interviews. These rights have become known as the Weingarten Rights.

The department will rely on the Nogales Police Department to conduct sexual abuse investigations. No employee of the department shall receive training in conducting sexual abuse investigations. When requesting that the Nogales Police Department conduct an investigation, the department shall request an investigator whose training includes but is not limited to:

1. Techniques for interviewing juvenile sexual abuse victims;
2. Proper use of Miranda type warnings;
3. Sexual abuse evidence collection in confinement settings;
4. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The department shall ensure all full-time and part-time medical and mental health care practitioners who work regularly in the juvenile detention facility have been trained in:

1. How to detect and assess signs of sexual abuse and sexual harassment;
2. How to preserve physical evidence of sexual abuse;
3. How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Medical staff employed by the county shall not conduct forensic examinations of residents who claim and/or are believed to be the victims of sexual abuse or sexual harassment. Said examinations shall be conducted at a hospital or clinic and only by a medical professional who has the appropriate training to conduct such examinations.

The department shall have on file, to the extent possible, documentation which attests that medical and mental health practitioners who conduct a forensic examination have received specialized training to do the latter.

Medical and mental health care practitioners who are employed by the county shall also receive the PREA training once a year. It shall be the same training that is required for detention officers, education program staff, contractors, volunteers, etc. The preceding shall be done to ensure everyone is intimately familiar with all PREA policies and procedures.

#### A 20.9 Resident Education

During the intake process, residents shall receive information (verbally and in writing) explaining the department's zero-tolerance policy regarding sexual abuse and sexual harassment. As part of the information to be provided to residents, they must be informed how to report incidents or suspicions of sexual abuse or sexual harassment.

The department shall provide education on the department's zero-tolerance policy in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to residents who have limited reading skills. The detention administrator shall be made aware, immediately, whenever a resident has special needs (e.g., when a resident is deaf, only speaks a language that is not English or Spanish, etc.).

Within ten days of intake, the department shall provide comprehensive, age appropriate education to residents (either in person or via video) regarding:

1. Their right to be free from sexual abuse and sexual harassment;
2. Their right to be free from retaliation for reporting such abuse or harassment;
3. The department's sexual abuse response policies and procedures.

Residents who are currently in detention who have not received the education described in this section shall be educated as soon as possible but no more than within one year of the effective date of the PREA standards.

Residents shall receive education upon transfer to another facility, to the extent the policies and procedures of the resident's new facility differ from those of the previous one. Thus, a resident transferred to the department's facility must be educated on its policies and procedures.

The department shall maintain documentation of resident participation in the education sessions described in this section. The documentation shall be in the way of a form that needs to be completed for every resident. Said form shall be placed and maintained in the resident's file.

The department shall also ensure key information is continuously and readily available or visible to residents through posters, pamphlets, notices posted throughout the facility, etc.

#### A 20.10 Screening for Risk of Sexual Victimization and Abusiveness

The department shall make reasonable and diligent efforts to obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident. Said efforts to obtain and use information shall take place within 72 hours of a resident arriving at the facility and periodically throughout the resident's stay in detention.

Efforts to obtain information relating to a resident's personal history and behavior shall be made through the completion of assessments which shall be completed using an objective screening instrument.

The objective screening instrument shall, at a minimum, attempt to ascertain information about:

1. Prior sexual victimization or abusiveness;
2. Any gender non-conforming appearance or manner or identification as lesbian, gay, bisexual, transgender or intersex and whether the resident may be vulnerable to sexual abuse;
3. Current charges and offense history;
4. Age;
5. Level of emotional and cognitive development;
6. Physical size and stature;
7. Mental illness or mental disabilities;
8. Intellectual or developmental disabilities;
9. Physical disabilities;
10. The resident's own perception of vulnerability;
11. Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions or separation from certain other residents.

Detention officers shall obtain information needed pursuant to this section through:

1. Conversations with residents during the intake process;
2. Medical and mental health screenings;
3. Classification assessments;
4. Reviewing non-confidential court records (e.g., information on referrals, affidavits of probable cause, interim petitions, etc.), case files, facility behavioral records and other relevant documentation from resident files.

The information obtained pursuant to this section is confidential and is only to be shared among detention staff and medical staff (and possibly with education program staff but only with the consent of the detention administrator) for the purposes of attempting to prevent or protect someone from being the victim of sexual abuse or sexual harassment. The information is not to be misused in any manner (e.g., sharing it with residents or others who have no legitimate business need to have the information, using it to mock or ridicule a resident, etc.) and detention staff shall make a concerted effort to ensure sensitive information is not exploited or misused by staff or other residents (i.e., where the resident in question would be or could be adversely affected in any way).

If the screening administered pursuant to this section reveals a resident has experienced sexual victimization (regardless of whether it occurred in an institutional setting or the community), the officer who completed the screening shall offer the resident the opportunity to meet with a medical or mental health practitioner within 14 days of the intake screening.

If the screening administered pursuant to this section reveals a resident has previously perpetrated sexual abuse (regardless of whether it occurred in an institutional setting or the community), the officer who completed the screening shall offer the resident the opportunity to meet with a mental health practitioner within 14 days of the intake screening.

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 (or as otherwise required by federal, state or local law), to inform treatment plans and security and management decisions (including, but not limited to, housing, bed, work, education and program assignments).

Medical and mental health practitioners do not need to obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting.

All information obtained pursuant to this section shall be used to make housing, bed, work, education and program assignments with the goal of keeping all residents safe and free from sexual abuse.

Residents may be isolated from others but only as a last resort when less restrictive measures are inadequate to keep them and other residents safe (and then only until an alternative means of keeping all residents safe can be arranged).

During any period of isolation related to efforts to prevent an incident of sexual abuse or sexual harassment:

1. Staff shall not deny residents daily large muscle exercise nor any legally required educational programming or special education services;
2. Residents in isolation shall receive daily visits from a medical or mental health care clinician to gauge how the resident is doing.
3. Residents shall also have access to other programs and work opportunities to the extent possible and reasonable.

The detention administrator shall communicate and work closely with detention, education and medical staff to make whatever special arrangements may need to be made for residents who are in isolation.

If a resident is isolated for his or her own safety, the detention administrator shall ensure the basis for the department's concern is documented in the resident's detention file. The documentation shall include the reason or reasons why no alternative means of separation could be arranged.

Every 30 calendar days, the department shall afford each resident who is in isolation a review to determine whether there is a continuing need for separation from the general population. Information obtained from said review shall be considered by the detention administrator.

Residents who are lesbian, gay, bisexual, transgender or intersex shall not be placed in particular housing, bed or other assignments solely on the basis of such identification or status. In addition, staff shall not consider lesbian, gay, bisexual, transgender or intersex identification or status as an indicator of likelihood of being sexually abusive.

When making housing and programming assignments involving residents who are transgender or intersex, detention officers shall consider, on a case-by-case basis:

1. Whether a placement would ensure the residents health and safety;

2. Whether the placement would present management or security problems.

The placement and programming assignments for each transgender and intersex resident shall be reassessed at least twice every year to review any threats to safety experienced by the resident.

The views of a transgender or intersex resident with respect to his or her own safety shall be given serious consideration by staff.

Residents who are transgender or intersex shall be given the opportunity to shower separately from other residents.

Detention officers shall consider housing change requests which are made by residents, particularly those which may help prevent or stop resident sexual assaults.

The detention center has three living units and a total of 32 beds. Since all rooms are designed for single occupancy and there is flexibility with regard to which living unit a resident may be assigned, detention staff has good options when it comes to making reasonable efforts to protect residents reporting sexual abuse.

#### A 20.11 Agency and Staff Response to Resident Reports

When the department learns (be it prior to, during or after the intake process) a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.

The following steps shall be taken by detention staff in the event they are first responders as it relates to an allegation of sexual abuse:

1. Stay calm and assure the person there will be immediate follow-up;
2. Notify the shift supervisor immediately, in person and in private, of what is being reported; and
3. Follow all instructions provided by the shift supervisor and/or the detention administrator (this may include, but is not limited to, contacting the correctional health nurse, mental health [i.e., NurseWise] and the Nogales Police Department).

The department shall make use of a checklist to ensure that if detention officers are required to act as first responders, they have clear directions on how to fulfill their duties.

Upon learning of an allegation a resident was sexually abused, the first staff member to respond to the report shall:

1. Separate the alleged victim and abuser (e.g., assign them to rooms located on different floors within a living unit or put them in different living units);
2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence (by cordoning off areas as necessary);
3. Request the alleged victim not take any actions that could destroy physical evidence, including (as appropriate) washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating. The latter applies if the abuse occurred within a time period that may still allow for the collection of physical evidence.
4. Ensure the alleged abuser does not take any actions that could destroy physical evidence,

including (as appropriate) washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating. The latter applies if the abuse occurred within a time period that may still allow for the collection of physical evidence.

The protocol for ensuring all physical evidence is secured consists of following steps two, three and four above and contacting the Nogales Police Department immediately. If necessary and reasonable, the alleged abuser may be restrained in the restraint chair to ensure he or she does not destroy physical evidence.

If the first staff responder is a non-security staff member (e.g., education or medical staff), he or she shall request the alleged victim not take any actions that could destroy physical evidence and proceed to notify security staff (a detention officer but preferably the shift supervisor) immediately.

The department shall develop and have in place a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators and facility leadership.

Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of 28 Code of Federal Regulations 115.342 (as explained in section A 20.10 of this policy).

#### A 20.12 Investigations

Investigations into allegations of wrong doing in connection with this policy shall be done as quickly and as thoroughly as possible. Generally, the chief probation officer shall arrange for a probation administrator to conduct an administrative investigation. If the circumstances require a criminal investigation, the chief probation officer or his/her designee shall enlist the assistance of the Nogales Police Department.

Administrative investigations may be conducted to determine whether or not an officer failed to abide by this or any other department policy. Meanwhile, criminal investigations shall be done by certified law enforcement officers who are trained to determine whether or not a person has engaged in behavior that violates state statute. Regardless of the type of investigation, the methods and/or techniques used must be professional and respectful toward all involved.

The following are other important things related to any investigations which may need to be conducted:

1. The chief probation officer (or his or her designee) has the authority to initiate an investigation when the circumstances, in his or her professional opinion, warrant such.
2. A probation administrator has the authority to conduct an administrative investigation, while the Nogales Police Department has the authority to conduct a criminal investigation.
3. The chief probation officer (or his or her designee) has the authority to act on the investigators' findings (be it those from a probation administrator or a law enforcement officer).
4. Investigative tools such as phone call monitoring, DNA samples and polygraph examinations shall be approved by the chief probation officer.
5. Investigators shall reach out, as needed, to mental health specialists in the community (since there are no mental health specialists who work directly for the county) to assist with questioning (and/or treatment) of victims and alleged offenders during the investigative process.

6. Investigators shall reach out, as needed, to outside medical staff during the investigative or treatment process. However, the preceding shall be done only after consulting with county medical staff (i.e., the correctional health nurse) and when there is agreement outside consultation and/or treatment is necessary.
7. All administrative investigations involving allegations of sexual abuse and sexual harassment shall be done promptly, thoroughly and objectively, including those involving third party and anonymous reports.
8. When sexual abuse is alleged, the department shall request the Nogales Police Department use investigators who have special training in sexual abuse investigations involving juvenile victims.
9. The gender of the victim shall be considered when making decisions involving who will investigate any given incident or report. The department will endeavor to ensure the investigator is well trained, sympathetic and empathetic.
10. Probation administrators who are tasked with conducting administrative investigations shall always be assigned to work out of the probation offices and not the juvenile detention facility.
11. Non-agency investigators shall be limited to detectives from the Nogales Police Department who would conduct criminal investigations and to probation administrators who work in other counties (should there be the type of conflict which may require the use of such to conduct an administrative investigation).
12. There will be no memorandum of understanding or any other type of written agreement to outline outside investigators' authority or the protocols they need to follow. They shall comply with the protocols of the agency they represent, abide by what is contained in this policy related to investigations and be willing to keep the chief probation officer apprised of the progress and challenges related to the investigation.
13. When an outside agency investigates a report of sexual abuse, every person working at the juvenile detention facility shall cooperate fully with the investigator(s). In addition, the chief probation officer shall remain informed about the progress of the investigation.
14. At a minimum, police investigators shall make certain they:
  - a. Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any suitable electronic monitoring data;
  - b. Interview alleged victims, suspected perpetrators and witnesses; and
  - c. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.
15. The credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as a resident or member of the staff.
16. Residents who allege sexual abuse shall not be required to submit to a polygraph examination or any other truth-telling device as a condition for proceeding with the investigation of such an allegation.
17. The department shall not terminate an investigation solely because the source of the allegation recants the allegation.
18. When the quality of the evidence appears to support criminal prosecution, the department shall conduct compelled interviews but only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
19. Administrative investigations shall:
  - a. Include an effort to determine whether staff actions or failures to act contributed to the abuse; and
  - b. Have documentation in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative facts and findings.
20. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence. Where feasible, copies of all

documentary evidence shall be attached to the report.

21. Substantiated allegations of conduct which appear to be criminal shall be referred for prosecution. The preceding shall be done by the law enforcement agency which conducted the investigation.

22. If there are ever a large number of investigations which result in findings that are inconclusive (i.e., more than half of all investigations), department administrators shall assess how investigations are being conducted, how they may be improved, etc.

23. A preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated is all that is needed. No higher standard shall be used.

24. The departure of an alleged abuser or victim from the employment or control of the detention center or department shall not provide a basis for terminating an investigation. Once started, investigations must be finished.

25. The department shall retain all written administrative and criminal investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years (unless the abuse was committed by a resident and applicable laws require a shorter period of retention).

26. The status of an ongoing investigation shall be communicated with staff, residents and the media by the chief probation officer or his/her designee (and as determined by the chief probation officer [when it comes to forum or medium that is used, how often updates are provided, etc.]). Every effort shall be made to be transparent, while not disclosing so much information that it could jeopardize the integrity of the investigation or put victims, witnesses, etc., in harm's way.

27. Requirements established by state statute, county policy, department policy, etc., shall be considered and followed in determining when the subject of an investigation must be notified of an investigation.

28. The results of a completed investigation shall be shared by the chief probation officer or his/her designee with staff, residents and the media. The information shall be limited to disclosing the outcome of the investigation, and the steps that were taken or will be taken in connection with the findings from the investigation.

29. To the extent possible, witnesses shall be protected during and after an investigation. The latter shall be done by keeping witnesses away from alleged offenders (e.g., not having them in the same living unit, having them do programming activities separately, etc.). A reminder will be provided to every staff member and resident that acts of retribution against a witness shall not be tolerated under any circumstances.

30. To the extent possible, victims shall be protected during and after an investigation. The latter shall be done by keeping victims away from alleged offenders (e.g., not having them in the same living unit, having them do programming activities separately, etc.). A reminder will be provided to every staff member and resident that acts of retribution against victims shall not be tolerated under any circumstances.

31. At the conclusion of an investigation into a resident's allegation he or she suffered sexual abuse while at the juvenile detention center, the chief probation officer or his/her designee shall inform the resident as to whether the allegation was determined to be substantiated, unsubstantiated or unfounded. The resident shall be explained, in easy to understand terms, what the preceding things mean.

32. In the event an outside department conducted the investigation, the department shall request all relevant information from the investigating outside department so that the resident may be explained the findings from the investigation.

33. In situations where a resident alleges a staff member has committed an act of sexual abuse against him or her, where the allegation has been found to be either substantiated or unsubstantiated (but not unfounded), the department shall subsequently notify the resident whenever:

- a. The staff member is no longer posted within the resident's living unit;

- b. The staff member is no longer employed by the department; or
  - c. The department learns the staff member has been charged or convicted on a charge related to sexual abuse at the juvenile detention center.
34. In situations where a resident alleges he or she has been sexually abused by another resident, the department shall subsequently inform the alleged victim whenever:
- a. The department learns the alleged abuser has been charged in connection with an act of sexual abuse within the juvenile detention center; or
  - b. The department learns the alleged abuser has been convicted in connection with an act of sexual abuse within the juvenile detention center.
35. All notifications and attempted notifications to residents which are required by this subsection shall be documented and maintained by the detention administrator. It is important to note, however, the department's obligation to report various things to residents under this subsection terminates if the resident is released from the juvenile detention center's custody.
36. The results of every investigation shall be recorded, as required by the PREA, for reporting purposes. The information shall be maintained by the detention administrator.
37. The results of investigations shall be recorded, for reporting purposes, according to the requirements of Uniform Crime Reports.
38. Information shall be reported to the appropriate licensing organization if ever an act of sexual abuse is carried out on a resident by someone with a professional license (e.g., medical staff, an attorney, etc.). The chief probation officer or his/her designee shall work with county administrators and legal staff to determine at what point the information is provided and who will be responsible for providing it.

#### A 20.13 Staff and Resident Discipline

Staff shall be cognizant of the following:

1. Staff shall be subject to disciplinary action, up to and including termination, for violating department sexual abuse or sexual harassment policies.
2. Termination of employment shall be the presumptive disciplinary action for staff who engage in sexual abuse.
3. Disciplinary actions on staff for violations of department policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history and the actions imposed for comparable offenses by other staff members with similar histories.
4. All terminations for violations of department sexual abuse or sexual harassment policies or resignations of staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies (unless the activity was clearly not criminal) and to any relevant licensing bodies.
5. Any contractor or volunteer who engages in sexual abuse shall be prohibited from having contact with residents and shall be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies.
6. The department shall take appropriate remedial measures and shall consider whether to prohibit further contact with residents, in case of any other violation of department sexual abuse or sexual harassment policies by a contractor or volunteer.
7. Residents may be subject to disciplinary action only pursuant to a formal disciplinary process, following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following an adjudication of delinquency for resident-on-resident sexual abuse.
8. Any disciplinary actions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history and the actions imposed for comparable offenses

by other residents with similar histories.

9. In the event a disciplinary action results in the isolation of a resident:

- a. Staff shall not deny the resident the opportunity to do daily large-muscle exercise or access to any legally required educational programming or special education services;
- b. The resident shall receive daily visits from a medical or mental health care clinician; and
- c. The resident shall have access to other programs and opportunities to the extent possible (e.g., access to the recreation room, television viewing, etc.).

10. The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of action, if any, should be imposed.

11. To the extent possible and as deemed appropriate by the chief probation officer or his/her designee, the department shall consider whether to offer the offending resident participation in therapy, counseling or some other type of intervention designed to address and correct underlying reasons or motivations for the abuse.

12. The department may require the resident to participate in therapy, counseling or some other type of intervention designed to address and correct underlying reasons for the abuse as a condition of access to the detention center's rewards based behavior management system or other behavior based incentives (but not as a condition to access general programming or education).

13. The department may discipline a resident for sexual contact with a staff member only upon a finding the staff member did not consent to such contact.

14. For the purpose of a disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

15. If it is determined sexual activity between residents is not coerced, the department's prohibition on all sexual activity between residents shall not allow the department to deem such activity to constitute sexual abuse.

#### A 20.14 Medical and Mental Health Care

The following shall be done in connection with medical and mental health care:

1. Residents who are victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services (the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment).

2. Treatment services shall be provided to victims of sexual abuse which occurs in the juvenile detention center without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with an investigation arising out of the incident.

3. In the event no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, the officer or officers receiving the information shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners (i.e., the correctional health nurse and NurseWise).

4. Where medically appropriate, medical staff shall provide residents who are victims of sexual abuse while incarcerated with timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.

5. The law enforcement agency which conducts a criminal investigation into allegations of sexual abuse shall follow a uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

The protocol must be developmentally appropriate for youth and, as appropriate, adapted from or otherwise based on the most recent edition of –A National Protocol for Sexual Assault Medical Forensic Examinations, Adult/Adolescents (published by the U.S. Department of Justice’s Office on Violence Against Women) or similarly comprehensive and authoritative protocols developed after 2011.

6. The department shall offer residents who experience sexual abuse, access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate.

7. To the extent possible, forensic medical examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs). If SAFEs or SANEs are not available (the department shall document its efforts to provide them or make use of their services), the examinations shall be performed by other qualified medical practitioners.

8. The department shall attempt to make available to the victim a victim advocate from a rape crisis center. The rape crisis center that will be used by the department is the Southern Arizona Center Against Sexual Assault (SACASA). The SACASA may be reached at 1-800-400-1001. If a victim advocate is not available through the SACASA, the department shall make the services available through a qualified staff member from a community based organization (call NurseWise and it can help identify someone) or a qualified member of the department.

9. Detention and medical staff shall document all efforts to secure services from the SACASA. A copy of said documentation shall be placed in the resident’s file.

10. If requested by the victim, a qualified department staff member, victim advocate or qualified community based organization staff member shall accompany and support the victim through the forensic medical examination process and the investigatory interviews and shall provide emotional support, crisis intervention, information, referrals, etc.

11. In cases where a law enforcement agency is asked to conduct an investigation into allegations of sexual abuse, the chief probation officer or his/her designee shall make the lead investigator aware of the requirements outlined in this subsection (specifically, A.20.14, five through ten) and ask him or her to follow them.

12. The requirements of subsection A.20.14, five through ten, shall also apply to any state entity outside of the department that is responsible for investigating allegations of sexual abuse in juvenile detention facilities and to any Department of Justice employee responsible for investigating allegations of sexual abuse in juvenile detention facilities.

13. The department shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting or otherwise making accessible mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state or national victim advocacy or rape crisis organizations. Detention staff shall permit residents and representatives from the aforementioned organizations and agencies to have conversations which are private and confidential.

14. The department shall inform residents, prior to giving them access to victim advocates, that communications between them and victim advocates are strictly confidential. Residents shall also be informed that all reports of abuse will be forwarded to various authorities in accordance with mandatory reporting laws.

15. The department shall have an agreement with community service providers (specifically, the treatment provider under the regional behavioral health authority which is best suited to provide the needed services) to work with and render to residents confidential emotional support related to sexual abuse.

16. The department shall provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

17. The department shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any correctional facility,

lockup or juvenile detention center.

18. The evaluation and treatment of sexual abuse victims shall include appropriate follow-up services, treatment plans and, when necessary, referrals for continued care following their transfer to or placement in other facilities or release from custody.

19. The department shall provide the level of medical and mental health care to resident victims of sexual abuse consistent with the level of care anyone else in the community (i.e., a non-resident) would receive.

20. The department shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health practitioners.

21. Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the latter, such victims shall receive timely and comprehensive information about, and timely access to, all lawful pregnancy related medical services. These types of matters shall be handled by the county's correctional health nurse.

22. Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. The preceding shall be handled by the county's correctional health nurse.

23. Treatment services provided under this subsection shall be provided to a victim without financial cost and regardless of whether the victim named the abuser or cooperated with any investigation arising out of the incident.

#### A 20.15 Data Collection and Review

Matters involving data collection and review shall be handled as follows:

1. The chief probation officer or his/her designee shall arrange for sexual abuse incident reviews 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 reviews shall ordinarily occur within 30 days of the conclusion of the investigation.

2. The sexual abuse incident review (SAIR) team shall consist of the chief probation officer, the chief deputy probation officer and the detention administrator. The team shall seek and consider input from investigators, medical and/or mental health practitioners and any others as determined by the team.

3. The SAIR team shall consider whether an allegation or investigation indicates a need to change a policy or practice to better prevent, detect and/or respond to incidents of sexual abuse.

4. The SAIR team shall consider whether an incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender or intersex identification, status or perceived status, or gang affiliation, or was otherwise caused by other group dynamics at the facility.

5. The SAIR team shall examine the area in the facility where an incident allegedly occurred to assess:

- a. Whether physical barriers in the area may enable abuse;
- b. The adequacy of staffing levels in the area during different shifts; and
- c. Whether monitoring technology should be deployed or augmented to supplement supervision by staff.

6. The SAIR team shall prepare a report of its findings, including but not necessarily limited to determinations made pursuant to this subsection (specifically three through five) and any recommendations for improvement. The report shall be submitted to the presiding juvenile court judge and to the PREA compliance manager.

7. Management shall implement the recommendations for improvement, to the extent possible, in

a timely fashion. If certain recommendations are not implemented, management shall document the reasons behind the latter.

8. The department shall collect accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions.

9. The department shall aggregate the incident-based sexual abuse data annually. Said data shall include the data necessary to answer all questions from the most recent version of the Bureau of Justice Statistics Survey on Sexual Violence conducted by the Department of Justice.

10. The department shall maintain, review and collect data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews.

11. The department shall provide, upon request, all data compiled in connection with this policy from the previous calendar year to the Department of Justice no later than June 30<sup>th</sup>.

12. The department shall review data collected and aggregated pursuant to this subsection in order to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training, including by:

a. Identifying problem areas;

b. Taking corrective action on an ongoing basis; and

c. Preparing an annual report of its findings and corrective actions for the facility.

13. The annual report shall include a comparison of the current year's data and corrective actions with those from prior years. In addition, the report shall provide an assessment of the department's progress in addressing sexual abuse.

14. The report shall be approved by the chief probation officer and made readily available to the public through the department's website.

15. The department may redact specific material from the annual reports when publication would present a clear and specific threat to the safety and security of the facility. However, the department must indicate the nature of the material which is redacted.

16. Unless required otherwise by federal, state or local laws or rules, the sexual abuse data which is collected shall be securely retained for at least ten years after the date of their initial collection.

17. All aggregated sexual abuse data shall be made readily available to the public at least annually through the department's website. Prior to making aggregated sexual abuse data available, the department shall remove all personal identifiers.

18. The department shall ensure the juvenile detention center is audited as required by law, administrative order or directive, recommended best practice, etc., to gauge compliance with the standards of the PREA.