4.1.6 Prison Rape Elimination Act

(a) Policy

California Correctional Health Care Services (CCHCS) shall provide medically necessary emergency and follow-up treatment; follow-up care plans; and necessary referrals including testing for pregnancy, sexually transmitted infections/diseases (STIs/STDs), Hepatitis C Virus (HCV), Hepatitis B Virus (HBV), and Human Immunodeficiency Virus (HIV), to CCHCS patients who are identified as alleged victims or alleged abusers of inmate or staff sexual abuse, and/or inmate or staff sexual harassment. All health care staff shall notify patients of their duty to report allegations of inmate or staff sexual abuse, and/or inmate or staff sexual harassment, and the limitations of confidentiality at the initiation of services.

(b) Purpose

To ensure that medically necessary emergency and follow-up treatment is provided to patients who are alleged victims or alleged abusers of inmate or staff sexual abuse, and/or inmate or staff sexual harassment.

(c) Responsibility

(1) The Chief Executive Officer (CEO), or designee, and the Warden, or designee, of each institution are responsible for the implementation, monitoring, and evaluation of this policy.

(2) Health Care Staff shall:

(A) Provide emergency care until the alleged victim and alleged abuser(s) can be sent to an outside contracted county Sexual Assault Response Team (SART) facility to receive a forensic medical examination and treatment conducted by a Sexual Assault Nurse Examiner (SANE) and/or hospital for medical stabilization;

(B) Determine and identify any injuries sustained by the alleged victim and alleged abuser(s);

(C) Ensure follow-up testing for pregnancy, STIs/STDs, HCV, HBV, and HIV as indicated; and

(D) Provide follow-up health care as indicated.

(d) Procedure

This procedure applies to all CCHCS patients, including those whose reported abuse occurred more than 72 hours prior to the time of reporting where a forensic medical examination may not be indicated. There is no cost to the alleged victim for medically necessary emergency and follow-up treatment services, regardless of whether they name the alleged abuser(s) or cooperate with any investigation arising from the incident.

(1) Initial Encounter

When it is reported that a patient is the alleged victim of sexual abuse, California Department of Corrections and Rehabilitation (CDCR) and CCHCS staff shall immediately report the allegation to the local watch commander and Investigative Services Unit (ISU) for investigation. Incidents may be reported verbally or in writing by the patient, by another inmate or third party, anonymously (e.g., written or telephone message), by a staff member, in a health care grievance or inmate appeal, etc. All reports must be forwarded for investigation and thoroughly reviewed by the ISU.

(A) Incidents reported within 72 hours of the event

1. Licensed Health Care Staff shall:
   a. Assess and identify any urgent/emergent injuries sustained by the alleged victim and alleged abuser(s).
   b. Provide necessary and immediate emergency medical care to the alleged victim and alleged abuser(s).
   c. Document any injuries sustained by the alleged victim and alleged abuser(s) on a CDCR 7219, Medical Report of Injury or Unusual Occurrence, in addition to documenting the assessment and care provided in the health record.
   d. Provide a copy of the CDCR 7219 to custody staff.
   e. Ensure the alleged victim and alleged abuser(s) do not shower, remove clothing, use restroom facilities, or consume any liquids prior to providing emergency treatment.
   f. To the extent possible, maintain physical separation (visual and auditory) between the alleged victim and alleged abuser(s).
   g. Notify the alleged victim of health care staff's duty to report all allegations of sexual abuse, and sexual harassment and the limitations of confidentiality at the initiation of services.
   h. Notify the Watch Commander of the incident.
   i. Notify the ISU staff of the incident. The ISU shall collect any clothing and relevant evidentiary materials that are discarded in the course of providing emergency treatment.
2. The Chief Medical Executive, or designee, shall review the medical documentation of the incident.

3. The need for a forensic medical examination is determined pursuant to criteria within the Department Operations Manual (DOM), Sections 54040.9, 54040.12.1, and 54040.12.2. If a forensic medical examination is required, the Triage and Treatment Area (TTA) Registered Nurse (RN) shall complete the CDCR 7252, Request for Authorization of Temporary Removal for Medical Treatment, and deliver it to the Watch Commander.
   a. Health care staff shall inform the alleged victim and alleged abuser(s) that custody staff will transport them to an outside contracted county SART facility for a SANE/SAFE forensic medical examination if deemed appropriate. The alleged victim may refuse the forensic medical examination pursuant to DOM Section 54040.12.1, and the refusal shall be documented in the health record. The alleged abuser(s) may refuse the forensic medical examination, unless a court order has been obtained to compel their participation pursuant to DOM 54040.11, and the refusal shall be documented in the health record. The SANE at the outside contracted county SART facility is responsible to offer the following:
      1) A forensic medical examination for patients who are alleged victims and alleged abusers of sexual abuse.
      2) Tests for STIs/STDs HCV, HVB, and HIV, as indicated.
      3) Pregnancy tests for patients who are alleged victims of sexually abusive vaginal penetration.
   b. All involved health care staff shall complete a CDCR 837-C, Crime/Incident Report Part C-Staff Report, to include documentation of all statements made by the alleged victim and alleged abuser(s) and provide a copy of the CDCR 837-C to custody staff.

(B) Incidents reported after 72 hours of the event

1. The licensed health care provider shall provide medically necessary emergency treatment as outlined in (d)(1)(A)1.
2. Designated custody staff shall consult with the SANE at the outside contracted county SART facility to determine if the alleged victim and alleged abuser(s) should be taken for a forensic medical examination. If so, the health care provider shall follow steps for alleged victim and/or alleged abuser(s) transportation send-out listed in Section (d)(1)(A)3, a and b.
3. If the SART/SANE determines that a forensic medical examination would not be indicated, a CCHCS health care provider shall offer a medical evaluation to both the alleged victim and alleged abuser(s), separately. The alleged victim may refuse this evaluation pursuant to DOM Sections 54040.12.1 and 54040.12.2, and the refusal shall be documented in the health record. The alleged abuser(s) may refuse the forensic medical examination, unless a court order has been obtained to compel their participation pursuant to DOM 54040.11, and the refusal shall be documented in the health record.
4. During the medical evaluation, the health care provider shall:
   a. Offer a physical examination pertinent to any symptoms or injuries reported by the alleged victim and alleged abuser(s) including a targeted physical examination of skin, mucosa, genitals, and rectum (if involved) as indicated, and provide detailed documentation of findings in the health record.
   b. Assess the physical injuries and the likelihood of transmission of STIs/STDs.
   c. Review STI/STD history of the alleged abuser(s) and order appropriate tests for STIs/STDs if indicated and order appropriate tests for the alleged victim for STIs/STDs, if indicated.
   d. Provide indicated treatment for symptoms and injuries based on the history and physical examination.
   e. Record any injuries noted during the examination of the alleged victim and alleged abuser(s) on a CDCR 7219 and provide a copy to custody staff.
5. All involved health care staff shall complete a CDCR 837-C, Crime/Incident Report Part C-Staff Report, to include documentation of all statements made by the alleged victim and alleged abuser(s) and provide a copy of the CDCR 837-C to custody staff.
6. The ISU shall proceed with the investigation pursuant to DOM, Section 54040.12.2.

(2) Follow-up Care

(A) Return to the TTA from the outside contracted county SART Facility

1. Upon the return from the forensic medical examination, the alleged victim shall be assessed pursuant to the Health Care Department Operations Manual (HCDOM), Section 3.1.11, Outpatient Specialty Services.
2. The TTA RN shall refer the alleged victim for an emergent Mental Health (MH) contact to include a Suicide Risk Assessment and Self-Harm Evaluation (SRASHE).

3. If not completed at the initial encounter (i.e., SART facility), the health care provider shall offer a medical examination to both the alleged victim and alleged abuser(s), separately which the alleged victim may refuse. The alleged abuser(s) may also refuse the examination unless a court order has been obtained to compel the alleged abuser's participation pursuant to DOM Section 54040.11, and the refusal shall be documented in the health record. During the evaluation, the health care provider shall complete the following:
    a. Document a comprehensive history to include STI/STD history, description of the incident, type of sexual contact, type of physical injuries (to include genital or mucosal injuries), occurrence of bleeding, and initial treatment provided by the forensic medical examiner (to include pregnancy test, HIV prophylaxis, etc.).
    b. If the alleged victim declined the forensic medical examination at the outside contracted county SART facility, and they agree to participate in the TTA, offer and conduct a targeted physical examination of skin, mucosa, genitals, and rectum (if involved) as indicated, and provide detailed documentation of the findings in the health record. The alleged victim may also refuse this examination which shall be documented in the health record.
    c. Assess physical injuries and the likelihood of transmission of STIs/STDs based on the history and physical examination.
    d. In addition to treating physical injuries, offer and obtain consent for evaluation and treatment of STIs/STDs and other tests as indicated (refer to Appendix 1), to include:
        1) Empiric treatment for Gonorrhea and Chlamydia or test and treat based on laboratory confirmation. All exposed anatomic sites (rectal, throat, urethral) should be tested.
            a) Test for HIV. Consider Post-Exposure Prophylaxis (PEP) as indicated.
            b) Test for HCV and HBV.
            c) Offer Hepatitis B vaccine series (give initially, one month later, and six months after first dose unless the alleged victim is known to have Hepatitis B immunity) Consider post-exposure Hepatitis B Immunoglobulin (HBIG) as indicated.
            d) Test for Syphilis
        2) Offer Human Papillomavirus vaccine as indicated. For female patients, obtain appropriately timed tests as indicated:
            a) Pregnancy test.
            b) Empiric treatment for trichomonas infection.
            c) Offer emergency contraception if necessary.
    e. A copy of the forensic medical examination shall be provided to ISU by the licensed outside contracted SART facility. The relevant medical findings shall be provided to the appropriate medical and/or nursing staff for follow-up treatment and placed in the health record.

(B) Pregnancy Services

If a pregnancy results from sexual abuse, victims shall receive comprehensive information, without unreasonable delay and timely access to all lawful pregnancy-related services.

(C) Mental Health Referrals

1. All alleged victims of sexual abuse shall be referred for mental health services.
2. Post-Forensic Medical Examination - Mental Health Emergent Referral:
    a. Health care staff shall enter an order for an MH Prison Rape Elimination Act (PREA) consult emergent referral in the health record for any patient who was the alleged victim of sexual abuse and referred to an outside contracted county SART facility, even if the alleged victim refused the transport or the examination at the SART facility, as well as for those who received a forensic medical examination conducted by a non-designated SANE provider. If mental health staff are not onsite, the on-call mental health provider shall be contacted for service provision in all forensic medical examination based referrals, whether the alleged victim received or refused the examination. Within four hours of the alleged victim's return to the institution following the forensic medical examination or refusal, a mental health staff shall complete a face-to-face emergency mental health consult in a confidential setting.
    b. The mental health emergency consult shall include:

1) An emergent SRASHE and determination of the alleged victim's need for mental health treatment, monitoring and arrangements for follow-up services as necessary.
2) As therapeutically appropriate, the alleged victim shall be given educational materials related to mental health issues which may develop secondary to sexual abuse.

3. Post-Alleged Sexual Abuse Incidents Without Referral for Forensic Medical Examination – Mental Health Consult Urgent Referral:
   a. Health care staff shall enter an order for an MH PREA consult urgent referral in the health record for any patient who was the alleged victim of sexual abuse and not referred to an outside contracted county SART facility for receipt of a forensic medical examination. This MH urgent consult shall occur within 24 hours of MH's receipt of a completed CDCR 128-MH5 Urgent Referral from ISU related to a sexual abuse incident without referral for a forensic medical examination. A mental health clinician shall complete a face-to-face mental health consult in a confidential setting.
   b. The mental health urgent consult evaluation shall include a SRASHE, with the additional components as outlined in Section (d)(2)(C)2.b.1) and 2).
4. Initial Intake or Subsequent Screening Information Regarding Prior Sexual Victimization and/or Prior Perpetration of Sexual Abuse - Mental Health Routine Referrals:
   a. If the patient reports to staff during the initial custodial intake screening or at any other time during their confinement within the CDCR that they have experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the patient is offered a follow-up meeting with mental health and medical staff.
   b. If the patient declines a mental health and/or medical follow-up meeting, staff shall document this declination in the health record or custodial record, as appropriate based upon the staff classification.
   c. If the patient agrees to a mental health consult, staff shall enter an order for a PREA routine mental health consult in the Electronic Health Record System (EHRS) to be completed within 14 calendar days of the referral.
   d. Within 14 calendar days of the referral, the assigned mental health staff shall review the CDCR MH-7448, Informed Consent for Mental Health Care with the patient and obtain the patient's consent for mental health treatment. If the patient consents to treatment, the clinician shall complete a PREA routine mental health consult to discuss the reason for referral, administer a SRASHE if clinically indicated, and determine if any level of additional follow-up care is necessary. If the patient declines consent, the clinician shall complete the PREA routine mental health consult and SRASHE (if clinically indicated) based upon EHRS review.
   e. Mental health treatment services for victims of sexual abuse shall be provided consistent with the community level of care including, but not limited to:
      1) Identification of sexual abuse related mental health issues and treatment.
      2) Consideration related to need for monitoring.
      3) Arrangements for mental health follow-up services when necessary.
      4) Continuity of care referrals as patients are transferred or released from custody.
   f. Inmate-on-Inmate Sexual Abusers: Mental health shall conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 calendar days of learning of such abuse history. Treatment shall be offered as deemed appropriate by mental health practitioners. Mental health staff shall enter an order for a Mental Health PREA Perpetrator consult routine (as completed within 60 calendar days of the facility learning of abuse history) in the health record.
   g. Mental health staff shall document all PREA consults and evaluations on a PREA note *(Note Type: PREA; Note Template: MH PC3002/Valdivia/Z-Case/PREA Note)*. Under no circumstances shall the name of the alleged abuser(s) or alleged victim be included in documentation of the other inmate's health record.

(3) Reporting Requirements

(A) When a patient who is 18 years of age or over reports to health care staff that they were a victim of sexual abuse that occurred outside of an institutional setting, for the purpose of reporting the incident to the appropriate law enforcement agency, health care staff shall:

1. Provide the patient with the CDCR 7552, Prison Rape Elimination Act Authorization for Release of Information to complete for their authorization to release information.
2. Report alleged abuse to the appropriate law enforcement agency once the signature is obtained on the CDCR 7552. If the patient refuses to sign the CDCR 7552, no notifications shall be made except where required by state law.
3. Send the CDCR 7552 to the ISU with documentation that the appropriate law enforcement agency has been notified.
4. Document any reports made or the patient's refusal in the health record. Mental health staff shall document using the PREA note *(Note Type: PREA; Note Template: MH PC3002/Valdivia/Z-Case/PREA Note).*

(B) When a patient who is under the age of 18 reports to health care staff that they were a victim of sexual abuse that occurred outside of an institutional setting, for the purpose of reporting the incident to the appropriate law enforcement agency, health care staff shall:

1. Immediately report alleged abuse to their supervisor and the ISU's designated investigators.
2. Comply with mandatory child abuse reporting laws and report alleged abuse to the appropriate state agencies.
3. Report the allegation to the victim's parents or legal guardians except when any of the following apply:
   a. The ISU has official documentation showing the parents or legal guardians should not be notified.
   b. The victim is under the guardianship of the child welfare system, in which case the report shall be made to the victims' caseworker instead of the parents or legal guardian.
4. Report the allegation to the victim's juvenile attorney or other legal representative or record within 14-days of receiving the allegation. Health care staff shall document any reports made in the health record.
5. Document any reports made in the health record. Mental health staff shall document using the PREA note *(Note Type: PREA; Note Template: MH PC3002/Valdivia/Z-Case/PREA Note)*.

(C) When a patient alleges that they have been the victim of sexual abuse or sexual harassment by a health care provider, a report shall be filed pursuant to the Business and Professions Code, Section 805.8.

1. All terminations for violations of agency sexual abuse or harassment policies, or resignations by employees that would have been terminated if not for their resignation, shall be reported to any relevant licensing body by the hiring authority or designee.

(4) Institutional PREA Review Committee

(A) Institution leadership shall designate a standing committee, the Institutional PREA Review Committee (IPRC), comprised of multidisciplinary team members including upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The team is tasked with reviewing all PREA incidents (except those determined to be unfounded or sexual harassment in nature) and reporting findings to the hiring authority for final review. The IPRC shall meet to review these PREA incidents on at least a monthly basis, or on a schedule set by institutional custody leadership.

(B) The IPRC shall:

1. Consider whether the allegation or investigation indicated a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
2. Evaluate whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification status or perceived status; gang affiliation; or otherwise caused by other group dynamics at the facility.
3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
4. Assess the adequacy of staffing levels in the area where the alleged incident occurred during the different shifts.

5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
6. Prepare a report of findings including, but not limited to, determinations made pursuant to (d)(4)(B)1 through 5, and document any recommendations for improvement.
7. Determine a corrective action plan(s) for any recommendation(s), implement the recommendations for improvement, or document the reasons for not doing so.

(5) Training

Institution leadership shall ensure that all institution health care staff are provided with training regarding their responsibilities as outlined in the Federal PREA Standards and this procedure, and medical and mental health providers are provided specialized medical and mental health training in their responsibilities as outlined in the Federal PREA Standards and this procedure. A system for the orientation, mentoring, and cross-training of all critical positions in the response to sexual abuse shall be developed and maintained.

Appendices

- Appendix 1, Treatment Recommendation for Evaluation and Follow-up for Sexual Abuse

References

- Code of Federal Regulations, Title 28, Judicial Administration, Part 115, Prison Rape Elimination Act National Standards to Prevent, Detect, and Respond to Prison Rape, Final Rule, 115.81, Medical and mental health screenings; history of sexual abuse, (e)
- Code of Federal Regulations, Title 28, Judicial Administration, Part 115, Prison Rape Elimination Act National Standards to Prevent, Detect, and Respond to Prison Rape, Final Rule, 115.82, Access to emergency medical and mental health services, (d), (e), and (f)
- Code of Federal Regulations, Title 28, Judicial Administration, Part 115, Prison Rape Elimination Act National Standards to Prevent, Detect, and Respond to Prison Rape, Final Rule, 115.83, Ongoing medical and mental health care for sexual abuse victims and abusers, (a), (b), (c), (d), (e), and (f)
- Prison Rape Elimination Act of 2003, Public Law 108-79
- Business and Professions Code, Division 2, Chapter 1, Article 11, Section 805.8
- California Penal Code, Part 4, Title 6, Chapter 3, Section 13823.11
- California Department of Corrections and Rehabilitation, Department Operations Manual, Chapter 5, Article 44, Sections 54040.1-54040.22, Prison Rape Elimination Policy
- Mental Health Services Delivery System Program Guide, 2009
- Health Care Department Operations Manual, Chapter 2, Article 1, Section 2.1.2, Effective Communication Documentation
- Health Care Department Operations Manual, Chapter 3, Article 1, Section 3.1.11, Outpatient Specialty Services.

Revision History

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Appendix 1

Treatment Recommendation for Evaluation and Follow-Up for Sexual Abuse

SCHEDULE	TEST/TREATMENT	COMMENTS
At initial evaluation (baseline for recent sexual abuse alleged victims and alleged abusers)	• HCV Ab with reflex to viral load and genotype, HBsAg, HBsAb total with reflex to IgM. • HBV vaccine first dose, if indicated. Consider HBIG if alleged abuser is HBsAg positive. • HIV 1/2 Ag/Ab 4th generation, follow guidance of forensic medical examiner or contact the National Clinician's Post Exposure Prophylaxis Hotline (PEP Line: 1-888–448–4911) for assistance with non-occupational exposure (nPEP) related decisions. • Rapid plasma regain (RPR) for syphilis • hCG (females only), as indicated. • Emergency contraception, as indicated. • HPV vaccination dose 1 for female and male survivors aged 9–26 years who have not been vaccinated or are incompletely vaccinated. • Gonococcal (GC) and chlamydia empiric treatment or testing (empiric treatment is recommended) All exposed anatomic sites (genital/urethral/urine, rectal, pharyngeal) should be tested. Trichomonas and bacterial vaginosis empiric treatment or testing (females only) (empiric treatment recommended)	If not performed by forensic medical examiner: Recommended Regimen for **Female** Sexual Abuse Survivors: Ceftriaxone 500 mg* IM in a single dose plus Doxycycline 100 mg 2 times/day orally for 7 days plus Metronidazole 500 mg 2 times/day orally for 7 days * For persons weighing ≥150 kg, 1 g of ceftriaxone should be administered. Recommended Regimen for **Male** Sexual Abuse Survivors: Ceftriaxone 500 mg* IM in a single dose plus Doxycycline 100 mg 2 times/day orally for 7 days * For persons weighing ≥150 kg, 1 g of ceftriaxone should be administered.
At 1 week	• GC/chlamydia testing (if not empirically treated) • hCG (females only, if indicated) • Trichomonas and bacterial vaginosis testing (females only) if indicated (if not empirically treated)	
At 1 month	• HBV vaccine, second dose HPV vaccine, second dose, (if indicated, can be given 1-2 months post first dose)	
At 6 weeks	• HIV 1/2 Ag/Ab 4th generation (if indicated) • RPR (if indicated) • HBsAg (if indicated) • GC/chlamydia testing	GC/Chlamydia Testing not indicated if patient received prophylactic treatment
At 3 months	• HIV 1/2 Ag/Ab 4th generation (if indicated) RPR (if indicated)	

At 5 months	HBV vaccine, (third dose if 3 dose series used)	
At 6 months	• HIV 1/2 Ag/Ab 4th generation (if indicated) • RPR (if not done at three months) • HBsAg • HCV Ab with reflex viral load and genotype • HPV vaccination third dose (if indicated)	

Revision History
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