



COUNTY OF LOS ANGELES OFFICE OF INSPECTOR GENERAL

312 SOUTH HILL STREET, THIRD FLOOR
LOS ANGELES, CALIFORNIA 90013
(213) 974-6100
<http://oig.lacounty.gov>

MEMBERS OF THE BOARD

HILDA L. SOLIS
HOLLY J. MITCHELL
LINDSEY P. HORVATH
JANICE HAHN
KATHRYN BARGER

MAX HUNTSMAN
INSPECTOR GENERAL

July 19, 2024

TO: Supervisor Lindsey P. Horvath, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Janice Hahn
Supervisor Kathryn Barger

FROM: Max Huntsman
Inspector General

A handwritten signature in black ink, appearing to be "Max Huntsman".

SUBJECT: **REPORT BACK ON THE PROBATION DEPARTMENT'S COMPLIANCE
WITH THE PRISON RAPE ELIMINATION ACT (PREA)
(ITEM NO. 10, AGENDA OF MARCH 19, 2024)**

On March 19, 2024, the Board of Supervisors (Board) passed a [motion](#) instructing the Office of Inspector General to review the Probation Department's PREA compliance status report, and report back to the Board in writing within 60 days with recommendations and proposed next steps for the Probation Department to achieve and maintain PREA compliance. The Department provided the Office of Inspector General with its report back dated April 30, 2024, which states that the Department was compliant with 70% of the PREA standards. The Probation Department's compliance determination was based on a self-assessment by the Department and not a California Department of Justice certified PREA auditor. Only a PREA audit can accurately determine compliance with PREA standards. The Probation Department's report back includes 10 recommendations to achieve future compliance.

In the following report, the Office of Inspector General identifies nine recommendations that the Probation Department should prioritize to achieve and maintain PREA compliance. The recommendations highlight potential areas of development rather than proposing specific solutions to achieve compliance, in part due to Office of Inspector General's dual role as an oversight agency and the Department of Justice certified audit team that will audit the Probation Department in the future. By identifying potential issues and risks, the recommendations can assist the Department with taking steps to address deficiencies.

Zero Tolerance Policy; PREA Compliance Managers – PREA Standard 115.311¹

PREA Standard 115.311(a) requires that “[a]n agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.” The Office of Inspector General reviewed the Probation Department’s written policy mandating zero tolerance toward all forms of sexual abuse, sexual assault, and sexual harassment in facilities it operates.

While Detention Services Bureau Policy-1501 *Introduction to Prison Rape Elimination Act (PREA)* and the introduction to the [Residential Treatment Services Bureau Policy 1600, Prison Rape Elimination Act \(PREA\)](#), contain identical language stating the Probation Department’s zero tolerance of sexual abuse, sexual assault, and sexual harassment, the introductions do not outline the agency’s approach to preventing, detecting, and responding to sexual abuse, sexual assault, and sexual harassment. To ensure sexual safety in day-to-day operations, the Probation Department must create a robust zero tolerance policy to prevent, detect, and respond to sexual abuse and sexual harassment.

Recommendation 1: The Office of Inspector General recommends that the Probation Department outline the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment pursuant to PREA Standard 115.311(a).

Subsection (b) of PREA Standard 115.311 requires that “[a]n agency . . . employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.” Subsection (c) requires that “[w]here an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.”

The Probation Department reports that it has designated one agencywide PREA Compliance Manager assigned to headquarters and a PREA Facility Site Manager assigned to each facility. However, the Department’s policies do not expressly address the scope of these positions’ authority nor do they affirm that the positions shall have

¹ The complete standard language is set forth in the Appendix.

sufficient time to perform their roles, and so do not specify positions that meet the requirements of PREA Standard 115.31 (b) and (c).

Recommendation 2: The Office of Inspector General recommends that the Probation Department specify in its policy the PREA coordinator and PREA compliance managers' time and authority pursuant to PREA Standards 115.311(b) and (c) to ensure that the PREA coordinator and PREA compliance managers are designated and have sufficient ability to coordinate the facilities' efforts to comply with the PREA standards.

Supervision and Monitoring – Staffing Plans – PREA Standard 115.313

PREA Standard 115.313(a) requires that “[a]n agency shall ensure that each facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse.” The Probation Department provided the Office of Inspector General with its Staffing Plan policy, but the Department does not currently adhere to its policy, as it currently lacks a staffing plan for any of its facilities. Additionally, as reported by the Probation Department and the Office of Inspector General, the juvenile halls are routinely understaffed.²

Staffing plans ensure that the Probation Department provides sufficient staffing levels and video monitoring to prevent sexual abuse by reducing opportunities for private interactions between staff and youth. PREA Standard 115.313(a) requires that in calculating adequate staffing levels and determining the need for video monitoring, the Department shall consider a number of factors, including (1) the physical layout of each facility, (2) the composition of the youth population, (3) the prevalence of substantiated incidents of sexual abuse, (4) the prevalence of unsubstantiated incidents of sexual abuse, and (5) any other relevant factors.

² The Probation Department released information to the Los Angeles Times that on November 4, 2023, the day a juvenile escaped from Los Padrinos Juvenile Hall, 103 probation officers failed to report for work and provided information regarding significant staffing shortages on other days, with Probation Chief Viera Rosa admitting that “there’s a callout culture.” Callouts is the term used by the Department for scheduled employees who did not show up for a scheduled shift. See [As L.A. County juvenile halls become more violent, many officers are skipping work](#) (June 27, 2024). The Office of Inspector General has reported on low staffing levels in its reporting on the Probation Department. See [Report Back on Investigating the November 4, 2023 Escape from Los Padrinos Juvenile Hall and Preventing Future Incidents](#) (March 7, 2024); [Third Report Back on the Phasing Out of Oleoresin Capsicum \(OC\) Spray at Central Juvenile Hall](#) (February 21, 2023); and [Transfer of Youth from Central Juvenile Hall to Barry J. Nidorf Juvenile Hall](#) (December 20, 2022).

Recommendation 3: The Office of the Inspector General recommends that the Probation Department consult the PREA Coordinator to develop, implement, and institutionalize a staffing plan for each of its facilities, and, where applicable, evaluate video monitoring, to protect youth against sexual abuse, consistent with PREA Standard 115.313(a) and the Department's own policy.

PREA Standard 115.313(e) further requires that "[e]ach secure facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment." The Probation Department's Staffing Plan policy fails to include the PREA requirement of supervisors conducting unannounced rounds to identify and deter staff sexual abuse and sexual harassment and so is not consistent with the PREA Standard.

Recommendation 4: The Office of Inspector General recommends that the Department include in its policy the requirement for supervisors to conduct and document unannounced rounds pursuant to PREA Standard 115.313(e) and that the Department conduct internal audits to verify policy compliance.

Hiring and Promotion Decisions – PREA Standard 115.317

PREA Standard 115.317 provides guidelines and requirements for background checks for applicants and staff seeking promotion. Subsection (f) of that standard requires that the Probation Department ask applicants and employees who may have contact with youth directly three questions about previous misconduct, specifically whether the individual "(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; and (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section." The standard requires that the Department ask these three questions in written applications and in interviews for hiring or promotions or self-evaluations conducted as part of reviews, and also requires the Department to impose upon employees a continuing affirmative duty to disclose any such misconduct.

The Probation Department reports it is compliant with 66% of the prevention planning standards but does not identify which standards it complies with and which it does not.³

³ The Probation Department's report includes a chart listing "Percentage of Compliance" for a list of PREA standards categories. Measuring compliance solely by the percentage of standards that the Department reports it

Further, it is unclear whether the Probation Department is in full compliance with the provisions of the Hiring and Promotion Decisions PREA Standard 115.317. According to the Department, it does not ask the three questions PREA Standard 115.317(f) requires during the hiring or promotion processes. A thorough background check for hiring or promotion that includes these questions is imperative to prevent staff sexual misconduct. This process seeks to prevent the hiring of individuals with a prior history of being sexually abusive for positions where they may have contact with youth. If the agency is aware of any substantiated acts of sexual abuse or sexual harassment perpetrated by existing staff, this practice should prevent the promotion of those staff. Moreover, the Department does not presently have a policy in place with a continuing affirmative duty to disclose misconduct pursuant to PREA Standard 115.317(f).

Recommendation 5: The Office of Inspector General recommends the Probation Department implement and institutionalize the requirements of PREA Standard 115.317. Specifically, the Office of Inspector General recommends the Department implement subsection (f) of that section, requiring that the Department ask all applicants and employees seeking a position or a promotion the three questions provided in the Standard, and that that the Department implement an affirmative duty on the part of employees to disclose sexual misconduct.

Specialized Training: Investigations – PREA Standard 115.334

PREA Standard 115.334 requires that the agency provide investigators tasked with conducting sexual abuse investigations with specialized training that meets certain minimum specifications. Subsection (b) specifies that the specialized training must include techniques for interviewing victims of sexual abuse, proper use of [Miranda](#) and [Garrity](#) warnings when questioning employees, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. It is important for Probation Department investigators who conduct sexual abuse investigations in confinement settings to receive specialized training to ensure they are sensitive to victim needs and adhere to heightened standards of evidence collection.

According to the Probation Department, in 2023, the Department received basic and advanced online training courses offered by the National Institute of Corrections (NIC) to provide specialized trainings to staff tasked on conducting sexual abuse investigations in confinement settings. The Department required these trainings as a pilot for Directors and Supervisors assigned to the Residential Treatment Services

currently meets is of limited value, because not all standards have equal impacts or are equally easy for the Department to come into compliance with. As mentioned above, compliance with PREA standards can only be assessed accurately with a PREA audit.

Bureau. The Department reports that approximately 30% of sexual abuse investigative staff received training that meets the requirements of PREA's specialized investigation training standard.

The Probation Department reported NIC's training website switched to a new Learning Management System and was unavailable from November 2, 2023, through April 30, 2024. The Probation Department reported they are currently working with their Staff Training Office to relaunch the new NIC training courses required for facility staff for the 2024-2025 fiscal year as a gap measure for compliance to satisfy the investigative requirements for PREA Standard 115.334. The Department reported they have recently applied and received grant funding from the National PREA Resource Center for technical and training assistance to develop their own investigator trainings for operations investigating sexual abuse in confinement settings.

Recommendation 6: The Office of Inspector General recommends the Probation Department ensure that all facility staff who conduct sexual abuse investigations for Residential Treatment Services Bureau (camp facilities) and Detention Services Bureau (juvenile hall facilities) receive specialized training for conducting sexual abuse investigations in a confinement setting.

Data Collection and Review – Sexual Abuse Incident Reviews – PREA Standard 115.386

PREA Standard 115.386 outlines requirements for agencies that conduct Sexual Abuse Incident Reviews. The standard includes requirements for collecting sexual abuse and sexual harassment data and reporting the data on the agency's public website. The Probation Department reports that it is compliant with only 5% of the 4 standards, including 28 sub-standards, that are required under the Data Collection and Review category.

The purpose of a Sexual Abuse Incident Review is to identify problems that may have contributed to a sexual abuse incident and propose necessary systemic changes that can enhance facility safety and prevent future sexual victimization. PREA Standard 115.386(b) requires that a facility must conduct a Sexual Abuse Incident Review within 30 days of the conclusion of every investigation unless the investigative outcome is unfounded (the investigation determines that no abuse occurred) and that the review team must include upper-level management. The review must consider multiple factors that may have contributed to the incident or that increased the probability of the incident occurring. The Probation Department must use the findings of the review to develop corrective action and assist in the prevention of future sexual abuse.

PREA Standard 115.5 provides definitions for the PREA Standards and requires investigative outcomes to be either substantiated, unsubstantiated, or unfounded, with specific definitions for each. The Probation Department reports that it does not utilize this framework for investigative outcomes and is currently working towards revising policy to align with the PREA Standards.

Recommendation 7: The Office of Inspector General recommends that the Probation Department match its framework and terminology for investigative outcomes with the terminology required by the PREA standards.

Recommendation 8: The Office of Inspector General recommends that the Probation Department immediately begin conducting Sexual Abuse Incident Reviews that meet the requirements of PREA Standard 115.386.

Culture and Institutionalization

As the United States Department of Justice recognized in promulgating the PREA standards, institutionalizing the PREA standards within an agencies' facilities is imperative to prevent, detect, and respond to sexual abuse:

The success of the PREA standards in combating sexual abuse in confinement facilities will depend on effective agency and facility leadership, and the development of an agency culture that prioritizes efforts to combat sexual abuse. Effective leadership and culture cannot, of course, be directly mandated by rule. Yet implementation of the standards will help foster a change in culture by institutionalizing policies and practices that bring these concerns to the fore.⁴

Institutionalizing PREA standards in departmental policies and practices will continue to create change within the Probation Department's current reporting culture, which will also ensure that youth and staff know allegations of sexual misconduct will be taken seriously and incidents can be reported without fear of retaliation.

The United States Department of Justice funded the National PREA Resource Center (PRC) to serve as a national source support, training, technical assistance, and research to assist agencies in combating sexual abuse in confinement. The Probation Department reported they recently received grant funding from the PRC for technical and training assistance to develop their own investigation trainings for sexual abuse in confinement settings and that they plan to have the PRC conduct a mock audit to

⁴ [National Standards to Prevent, Detect, and Respond to Prison Rape](#), 77 Fed. Reg. 37,106, at 37,107 (June 20, 2012) (to be codified at 28 C.F.R. pt. 115).

provide an independent assessment of the Department's compliance with the PREA standards.

Recommendation 9: The Office of Inspector General recommends the Probation Department continue to utilize the PRC for assistance and research opportunities to have the PRC conduct a mock audit for the Department to gauge and assess its compliance with the PREA standards.

- c: Guillermo Viera Rosa, Chief Probation Officer
- Fesia Davenport, Chief Executive Officer
- Edward Yen, Executive Officer
- Dawyn R. Harrison, County Counsel
- Wendelyn Julien, Executive Director, Probation Oversight Commission

APPENDIX PREA Standards

Prevention Planning	
§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.	(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.
	(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.
	(c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.
§ 115.313 Supervision and monitoring.	(a) The agency shall ensure that each facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration: (1) Generally accepted juvenile detention and correctional/secure residential 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; (5) All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated); (6) The composition of the resident population; (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.
	(b) The agency shall comply with the staffing plan except during limited and discrete exigent circumstances and shall fully document deviations from the plan during such circumstances.
	(c) Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.
	(d) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.311, the agency shall assess, determine, and document whether adjustments are needed to: (1) The staffing plan established pursuant to paragraph (a) of this section; (2) Prevailing staffing patterns; (3) The facility's deployment of video monitoring systems and other monitoring technologies; and (4) The resources the facility has available to commit to ensure adherence to the staffing plan.
	(e) Each secure facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.
§ 115.317 Hiring and promotion decisions.	(a) The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist 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 paragraph (a)(2) of this section.
	(b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.
	(c) Before hiring new employees who may have contact with residents, the agency 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) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
	(d) The agency shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents.
	(e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.

	(f) The agency shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.
	(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
	(h) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.
Training and Education	
§ 115.334 Specialized training: Investigations.	(a) In addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
	(b) Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
	(c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations
	(d) Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations.
Data Collection and Review	
§ 115.386 Sexual abuse incident reviews.	(a) The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
	(b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
	(c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
	(d) The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the 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 motivated 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 that area during different shifts;
	(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
(6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.	
(e) The facility shall implement the recommendations for improvement or shall document its reasons for not doing so.	