

**San Bernardino County Sheriff's Department
Detention and Corrections Bureau
Correctional Health Services Division
Operational Procedure Manual**



Policy Revision

**Policy # 314.3
No. of Pages 1 of 4**

**Reviewed and Effective
Dates: 01/01/22 – 12/31/22
Revised: 05/26/2022**

Subject: Contraception and Sterilization

PURPOSE: To ensure that female patients are provided with nondirective and supportive counseling about pregnancy prevention, including access to emergency contraception. To ensure that no elective sterilization procedures for the purpose of birth control are completed for male or female patients while in custody.

APPLICABILITY: Qualified Health Professionals (QHP), Qualified Mental Health Professionals (QMHP), and custody staff.

RESPONSIBILITY: Health Services Administrator, Chief Medical Officer, Chief Psychiatric Officer, Supervisor II Committee, and Custody Administration as applicable.

POLICY: Sheriff's Health Services shall provide nondirective and supportive counseling about pregnancy prevention, including access to emergency contraception. For female patients who are on a method of contraception at intake, continuation of contraception shall be considered.

Sheriff's Health Services shall not offer or provide sterilization procedures for the purpose of birth control for any custodial patients.

PROCEDURE:

A. Receiving Screening:

1. Pregnancy.

An incarcerated person in a County jail who, during an intake health examination, is identified as possibly pregnant or capable of becoming pregnant shall be asked if they are pregnant during the booking/intake process in the *Receiving Screening* form.

2. Contraception Use.

Female patients shall be asked if they are utilizing or are interested in contraception, including emergency contraception, during the booking/intake process. Patients interested in contraception shall be scheduled for next available MD sick call within 3 days.

B. Contraception:

1. Provision of Contraception.

Patients interested in new or continued contraception shall be scheduled for next available MD sick call within 3 days of their intake/booking.

2. Patient's Existing Supply.

Upon request, patients will be allowed to continue to use birth control measures previously prescribed by a medical provider or certified nurse midwife. Patients in possession of a properly labeled supply of birth control pills in their property may have the medication dispensed from their own supply to complete the current cycle. Following this, the patient may request that continued birth control measures be prescribed by a physician.

3. Emergency Contraception and Sexually Transmitted Infections Prophylaxis.

Patients reporting recent (within the past 72 hours) unprotected intercourse, including those reporting sexual abuse while incarcerated, may request information about and receive timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

All emergency contraception and sexually transmitted infections prophylaxis treatment services shall be provided without financial cost and, for sexual assault victims, shall be provided regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

C. Family Planning Services:

Patients identified at any time as capable of becoming pregnant shall:

- a. Be furnished with information and education regarding the availability of family planning services; and
- b. Be offered family planning services at least 60 days prior to a scheduled release date. Upon request, the patient will be provided with the services of a licensed physician or services necessary to meet the patient's family planning needs at the time of release, whether those services are County-provided or contracted-for.

D. Sterilization:

1. Elective Sterilization for Birth Control.

Sterilization of an incarcerated person for the purpose of birth control including, but not limited to, during labor and delivery, is prohibited, and shall not be offered verbally or in writing to any patient while in custody. If a patient requests elective sterilization, the patient will be informed that such sterilization procedures are not provided. The patient will also be referred to Planned Parenthood or PMD upon release.

2. Medically Necessary Sterilization.

Medically necessary sterilization of a patient through tubal ligation, hysterectomy, oophorectomy, salpingectomy, or any other means rendering the patient permanently incapable of reproducing is prohibited, except in either of the following circumstances:

- a. The procedure is required for the immediate preservation of the patient's life in an emergency medical situation; or
- b. The sterilizing procedure is medically necessary, as determined by contemporary standards of evidence-based medicine, to treat a diagnosed condition, and all of the following requirements are satisfied:
 - i. Less invasive measures to address the medical need are nonexistent, refused by the patient, or were first attempted and deemed unsuccessful by the patient, in consultation with the patient's medical provider;
 - ii. A second physician conducts an in-person consultation with the patient and confirms the need for a medical intervention resulting in sterilization to address the medical need. This physician must be independent of, and not employed by, the Department or a County Department overseeing the confinement of the patient, but still authorized to provide and receive payment for services to persons in the custody of the Department; and
 - iii. Patient consent is obtained after the patient is made aware of the full and permanent impact that the procedure will have on his or her reproductive capacity, the fact that future medical treatment while under the control of the Department or County will not be withheld should the patient refuse consent to the procedure, and the side effects of the procedure.

If a sterilization procedure is performed, pre-sterilization and post-sterilization psychological consultation and medical follow up, including the provision of relevant hormone therapy to address surgical menopause, shall be made available to the patient while under the control of the Department or County.

3. Data Reporting.

If a sterilization procedure is performed on one or more of the Department's patients, the Department shall annually report to the Board of State and Community Corrections data related to the number of sterilizations performed, disaggregated by race, age, medical justification, and method of sterilization.

4. Notification.

A Department employee who reports the sterilization of a patient performed in violation of Penal Code section 3440 is entitled to the protection available under Penal Code section 6129, subdivision (a)(2)(A)–(B), or under the California Whistleblower Protection Act (Government Code section 8547 et seq.), or the Whistleblower Protection Act (Government Code section 9149.20 et seq.).

The Department shall provide notification to all individuals under its custody, and to all employees involved in providing health care services, of the patients' rights and responsibilities respecting sterilization found in Penal Code section 3440. Employees shall be informed of their rights respecting the reporting of violations of Penal Code section 3440.

REFERENCES:

28 Code of Federal Regulations section 115.82
California Code of Regulations, Title 15, section 1206
Contraception, J-B-06, National Commission on Correctional Health Care
Penal Code sections 3440 and 4023.5

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