



The Department of Correction has a **ZERO TOLERANCE** policy toward all forms of sexual abuse. The Department's employees, vendors, contractors and volunteers are responsible for the prevention, detection and reporting of prison rape and sexual activity. An employee who fails to report offender-on-offender sexual abuse or staff sexual abuse is subject to discipline.

## RESPONSE TO A SEXUAL ABUSE INCIDENT:

*\*To be used as a guide when responding to a report of sexual abuse.*

- ⇒ The first staff member to be notified of an alleged case of sexual abuse shall immediately notify their direct supervisor.
- ⇒ The supervisor will immediately notify the on-site shift commander.
- ⇒ The shift commander will immediately notify the Warden.
- ⇒ The first responders [first Security staff member(s) on scene] will ensure that the victim is safe and is taken to medical for immediate attention.
- ⇒ The first responders will immediately secure the scene and attempt to preserve physical evidence.
- ⇒ If the assault occurred within seventy-two hours, the shift commander will ensure the alleged perpetrator is secured in a dry cell to preserve evidence.
- ⇒ If the crime is not believed to have occurred within seventy-two hours, the shift commander will maintain custody of any evidence until it can be turned over to the Delaware State Police.
- ⇒ If it is believed the crime occurred within the last 72 hours, the shift commander will ensure the collection of both the victim and alleged perpetrator's clothing.
- ⇒ The clothing of the individuals should be kept separately, in brown paper bags.
- ⇒ The shift commander will ensure that a documented chain of custody is kept on the clothing, and all other evidence, until such time the evidence can be turned over to the State Police.
- ⇒ The shift commander will contact the Internal Affairs Unit to request an immediate investigation.
- ⇒ The shift commander will contact the Delaware State Police at the direction of the Warden.
- ⇒ The shift commander will ensure the hospital is contacted to report that a rape victim is being transported.

- ⇒ The shift commander will ensure that the facility mental health director is notified.
- ⇒ The shift commander will notify the PREA compliance manager at the facility. If it is outside of normal business hours, the shift commander will ensure the facility PREA compliance manager is notified within twenty-four hours.
- ⇒ The shift commander will ensure that the victim is offered mental health services immediately, or immediately upon return from the hospital.
- ⇒ When in place, the shift commander will ensure the victim is offered contact by phone with an outside rape crisis hotline advocate.
- ⇒ The shift commander will ensure the victim is seen for emergency care immediately, and upon return from the hospital.
- ⇒ The shift commander will ensure that all involved DOC staff members, and contractor staff, complete DACS incident reports, as well as disciplinary reports, before they exit the facility that shift.
- ⇒ The shift commander will complete an incident report in DACS detailing the response to the assault.
- ⇒ The Warden will ensure that the reports are appropriately entered into DACS as PREA incidents.
- ⇒ The Warden will ensure that all allegations are investigated until a finding of substantiated, unsubstantiated, or unfounded can be made, including in cases where offenders depart a facility, or where alleged staff perpetrators resign.
- ⇒ The Warden will determine the need to transfer the victim, and/or perpetrator, to another facility.
- ⇒ Upon completion of the investigation, the Warden will ensure that a sexual abuse incident review team meets, within 30 days of the investigation being completed, to discuss the case.

**STATE LAW—Sexual Relations in a Detention Facility:** "A person is guilty of sexual relations in a detention facility when, being an employee working at a detention facility, a contractor or employee of a contractor at a detention facility, or a volunteer at a detention facility, the person engages in consensual sexual intercourse or sexual penetration with a person in custody on the premises of a detention facility. Violation of this section shall be a class G felony." The penalty is up to two years at Level 5. *11 Del. C. Chapter 5, § 1259.*

**RETALIATION:** The Department WILL NOT tolerate retaliation against offenders and staff who report sexual abuse, or cooperate with sexual abuse investigations, by other offenders or staff. Discipline up to termination may result if staff members are found to have participated in acts of retaliation. The Department shall designate which staff members or departments are charged with monitoring retaliation.

## PREA Standards

PREA Standards: Written rules that require all correctional facilities to comply with minimum acceptable benchmarks in order to reduce and eliminate the incidence of prison rape. These standards are directed toward the states by the Federal government, as published in 28 CFR Part 115. The PREA standards can be viewed online at the PREA Resource Center:

[www.prearesourcecenter.org](http://www.prearesourcecenter.org) and a copy will be available at each facility through the PREA compliance manager.

## Investigations

All allegations of sexual abuse will be investigated and, if founded, will result in prosecution. Substantiated cases of sexual abuse involving Departmental staff, will result in discipline up to and including termination. Substantiated cases against volunteers and contractors will result in their being barred from all contact with offenders.

## Education

All staff, volunteers and contractors having contact with offenders will be educated on the all aspects of the Prison Rape Elimination Act, and its standards of compliance. Offenders will be given information on the Act at intake, and shall be provided comprehensive education either in person or via video regarding their rights to be free from sexual abuse.

# DOC SEXUAL ABUSE RESPONSE PLAN



## PREA

The Prison Rape Elimination Act (PREA) was passed in 2003 with unanimous support from both parties in Congress. The purpose of the act was to "provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape." (Prison Rape Elimination Act, 2003). In addition to creating a mandate for significant research from the Bureau of Justice Statistics and through the National Institute of Justice, funding through the Bureau of Justice Assistance and the National Institute of Corrections supported major efforts in many state correctional, juvenile detention, community corrections, and jail systems.

The act also created the National Prison Rape Elimination Commission and charged it with developing draft standards for the elimination of prison rape. Those standards were published in June 2009, and were turned over to the Department of Justice for review and passage as a final rule. That final rule became effective August 20, 2012.

In 2010, the Bureau of Justice Assistance funded the National PREA Resource Center to continue to provide federally funded training and technical assistance to states and localities, as well as to serve as a single-stop resource for leading research and tools for all those in the field working to come into compliance with the federal standards.

## Screening

The Department will screen offenders for the risk of both sexual victimization and abusiveness, using at a minimum, the 10 criteria in the PREA Standards. Each offender will be screened at intake, and again, within 30 days of arrival. Screening will inform housing, bed, work, education, and program assignments within a facility.

## Detection and Prevention

- Prevention of sexual abuse is the GOAL. To this end, regular training programs for staff and offenders will be provided.
- Mandatory Reporters: All employees are responsible for the prevention, detection and reporting of sexual abuse. An employee who fails to report offender-on-offender sexual abuse, or staff-on-offender sexual abuse, is subject to discipline.
- Prison rape is a violent act incorporating power and control. It can be used as an act of violence against enemies, a method of intimidation, or for revenge. To reduce risk, officers must ensure that offenders are in their assigned housing areas. When offenders are in locked-down cells, staff must follow guidelines for photo identifications and head counts as determined by standard operation procedures.

## Confidentiality

Sharing information regarding a sexual abuse incident should be limited to those essential for treatment, investigation, decision making, and prosecution. Staff will refrain from talking openly about sexual abuse incidents.

**PROTECTION:** When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

# **Standards for Adult Prisons and Jails**

## **Prevention Planning**

- 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.
- 115.12 Contracting with other entities for the confinement of inmates.
- 115.13 Supervision and monitoring.
- 115.14 Youthful inmates.
- 115.15 Limits to cross-gender viewing and searches.
- 115.16 Inmates with disabilities and inmates who are limited English proficient.
- 115.17 Hiring and promotion decisions.
- 115.18 Upgrades to facilities and technologies.

## **Responsive Planning**

- 115.21 Evidence protocol and forensic medical examinations.
- 115.22 Policies to ensure referrals of allegations for investigations.

## **Training and Education**

- 115.31 Employee training.
- 115.32 Volunteer and contractor training.
- 115.33 Inmate education.
- 115.34 Specialized training: Investigations.
- 115.35 Specialized training: Medical and mental health care.

## **Screening for Risk of Sexual Victimization and Abusiveness**

- 115.41 Screening for risk of victimization and abusiveness.
- 115.42 Use of screening information.
- 115.43 Protective custody.

## **Reporting**

- 115.51 Inmate reporting.
- 115.52 Exhaustion of administrative remedies.
- 115.53 Inmate access to outside confidential support services.
- 115.54 Third-party reporting.

\*Contact the PREA Compliance Manager for a copy of the complete standards.

## **Official Response Following an Inmate Report**

- 115.61 Staff and agency reporting duties.
- 115.62 Agency protection duties.
- 115.63 Reporting to other confinement facilities.
- 115.64 Staff first responder duties.
- 115.65 Coordinated response.
- 115.66 Preservation of ability to protect inmates from contact with abusers.
- 115.67 Agency protection against retaliation.
- 115.68 Post-allegation protective custody.

## **Investigations**

- 115.71 Criminal and administrative agency investigations.
- 115.72 Evidentiary standard for administrative investigations.
- 115.73 Reporting to inmates.

## **Discipline**

- 115.76 Disciplinary sanctions for staff.
- 115.77 Corrective action for contractors and volunteers.
- 115.78 Disciplinary sanctions for inmates.

## **Medical and Mental Care**

- 115.81 Medical and mental health screenings; history of sexual abuse.
- 115.82 Access to emergency medical and mental health services.
- 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers.

## **Data Collection and Review**

- 115.86 Sexual abuse incident reviews.
- 115.87 Data collection.
- 115.88 Data review for corrective action.
- 115.89 Data storage, publication, and destruction.

## **Audits**

- 115.93 Audits of standards.

## **Auditing and Corrective Action**

- 115.401 Frequency and scope of audits.
- 115.402 Auditor qualifications.
- 115.403 Audit contents and findings.
- 115.404 Audit corrective action plan.
- 115.405 Audit appeals.

## **State Compliance**

- 115.501 State determination and certification of full compliance.

\*Contact the PREA Compliance Manager for a copy of the complete standards.

Phil  
10/01/13