

<b>STATE OF ALASKA</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>POLICIES &amp; PROCEDURES</b>	SECTION: <b>Institutions</b>		PAGE: Page 1 of 10
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	TITLE: <b>Sexual Abuse / Sexual Assault and Reporting</b>		
	APPROVED BY:  Nancy A. Dahlstrom, Commissioner		DATE: <b>10/17/2019</b>
ATTACHMENTS / FORMS: A. PREA Risk Assessment B. PREA Mental Health Referral C. PREA Incident Report D. Sexual Abuse Incident Review		AUTHORITY / REFERENCES: AS 33.30.021                      AS 33.30.011 DOC P&P 804.01                DOC P&P 809.02 DOC P&P 809.04 28 CFR Ch. 1 § 115.5-115.93	

**DISCUSSION:**

This Policy and Procedure provides uniform guidelines and procedures to reduce the risk of sexual abuse within the correctional setting while establishing a zero-tolerance policy against all forms of sexual victimization. This policy addresses the Prison Rape Elimination Act (PREA) with prisoner sexual abuse and sexual harassment by another prisoner and staff sexual misconduct in correctional facilities and specifically provides for the analysis of incidents.

**POLICY:**

- I. It is the policy of the Department of Corrections (DOC) to have zero tolerance for all forms of sexual victimization.
- II. It is the policy of the Department to provide a secure environment free from the threat of sexual abuse, harassment and misconduct for all prisoners and staff, by maintaining a program of prevention, detection, response, and investigation.
- III. It is the policy of the Department that sexual acts are violations of institutional rules.

**APPLICATION:**

This policy and procedure will apply to all Department staff, contractors, volunteers and prisoners.

**DEFINITIONS:**

As used in this policy, the following definitions shall apply:

**False Report:**

Any untrue allegation made during an investigation of sexual abuse or sexual harassment.

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**Intersex:**

A congenital condition in which development of chromosomal, gonadal or anatomic sex is atypical. Intersex medical conditions may also be referred to as hermaphroditism or pseudo hermaphroditism.

**Obscene:**

The offensive portrayal or description of sexual matters as determined by the accepted standards of morality and decency.

**PREA Compliance Manager:**

A staff member designated by the institution to coordinate investigations of prisoner sexual abuse and sexual harassment occurring within an institution. Duties include: communicating with alleged victims and aggressors and coordinating follow-up to incidents.

**PREA Coordinator:**

An administrator responsible for the development, implementation and oversight of the Department's compliance with the PREA standards.

**Sexual Abuse:**

Sexual abuse of a prisoner by another prisoner 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:

- A. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- B. Contact between the mouth and the penis, vulva, or anus;
- C. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
- D. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, female breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of a prisoner by a staff member, contractor or volunteer includes any of the following acts, with or without consent of the prisoner, detainee, or resident:

- A. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- B. Contact between the mouth and the penis, vulva, or anus;
- C. 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;
- D. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other

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instrument, that is unrelated to official duties or where the staff member or contractor has the intent to abuse, arouse, or gratify sexual desire;

- E. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, female breast, inner thigh, or the buttocks that is unrelated to the official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire;
- F. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described by paragraphs (A) – (E) of this section;
- G. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or female breast in the presence of an offender, and
- H. Voyeurism by a staff member, contractor, or volunteer.

**Sexual Harassment:**

The unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of an offensive sexual nature by one prisoner directed towards another prisoner. To include demeaning references to gender, gender preference, sexually suggestive or derogatory comments about an offender’s body and clothing or obscene language or gestures.

**Staff Sexual Harassment:**

Verbal comments, sexual advances, request for sexual favor or gestures of a sexual nature to a prisoner, probationer or parolee by a department staff member, contractor or a volunteer. To include demeaning references to gender, gender preference, sexually suggestive or derogatory comments about an offender’s body and clothing or obscene language or gestures.

**Sexual Victimization:**

To make a target of sexual abuse or sexual harassment.

**Staff Sexual Misconduct:**

Any behavior or act of a sexual nature directed towards a prisoner by a staff member, volunteer or contractor.

**Substantiated Allegation:**

An allegation that was investigated and determined to have occurred.

**Transgender:**

A person within the broad spectrum of individuals who transiently or persistently identify with a gender different from their biological sex.

**Unfounded Allegation:**

An allegation that was investigated and determined not to have occurred.

**Unsubstantiated Allegation:**

An allegation that was investigated and produced insufficient evidence to make a final determination as to whether

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the event occurred.

**Voyeurism:**

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

**PROCEDURES:**

I. Staff / Contractor / Volunteer Training:

- A. All Department staff who may have contact with prisoners shall receive training regarding the prevention, detection, reporting and response to sexual victimization as required by the Prison Rape Elimination Act (PREA) in accordance to 28 CFR Ch.1 §115.31 and §115.32.
- B. All Department contractors and volunteers who may have contact with prisoners shall receive training based on the services they provide and the level of contact they have with prisoners regarding the prevention, detection, reporting and response to sexual victimization as required by PREA.
- C. All Department personnel, contractors and volunteers who require PREA training shall receive refresher training biennially regarding sexual victimization issues as required by PREA. During the year between the biennial trainings, each institution shall provide refresher information on current sexual victimization policies.
- D. All training shall be geared toward the gender of prisoners supervised. The DOC Training Academy supervisor in conjunction with the Division Directors shall approve all lesson plans or materials utilized for pre-service or in-service training on prisoner sexual abuse and sexual harassment.
- E. Training is the responsibility of the institutional PREA Compliance Manager, training officer or field probation, parole, or pretrial supervisor.
- F. Documentation for staff shall include the signature or electronic verification of completion of training. A copy of the staff member's documentation shall be forwarded to the DOC Training Academy. Documentation of PREA training shall include the volunteer's or contractor's signature of understanding and compliance and will be retained by the institutional training officer.

II. Staff / Contractor Background Investigations:

- A. Background investigations shall be conducted by the institution, field office, pretrial office or a designee at a minimum, every five (5) years after the initial background is completed. The background investigation shall include research of the Alaska Public Safety Information Network (APSIN), the National Crime Information Center (NCIC), local Court documents, via Court View

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and any correctional institution the staff member / contractor has worked at prior to the current background investigation. The background investigation shall include whether the staff member / contractor has:

1. Engaged in sexual abuse or sexual harassment in a prison, jail, lockup, juvenile facility or community confinement facility.
  2. Been convicted of, or civilly or administratively adjudicated of engaging or attempting to engage in sexual activity in the community facilitated by force, overt implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
- B. The Department shall not hire or promote anyone who doesn't meet the requirements in Procedures section II, A, 1 and 2, above. Any staff member / contractor who does not pass the background investigation shall be referred to their supervisor and human resource department.
- C. The Department shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor.
- D. The institution, field office, pretrial office or designee shall document background investigations and maintain a database for reference.

### III. Prisoner Education:

- A. During the intake process, prisoners shall receive information explaining the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
- B. Within 30 days of intake, the institutions shall provide comprehensive education to prisoners either in person or through video education regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents:
  1. If video education is utilized, a staff facilitator shall be present to address any questions. The facilitator shall also address the Department's policies and procedures for responding to incidents of sexual abuse and sexual harassment.
- C. Prisoners shall have access to a Prisoner Handbook that will inform the prisoner of the Department's zero-tolerance policy towards all forms of sexual victimization, how to report such incidents and their right to be free from retaliation. Prisoner handbooks shall also contain additional information such as how to avoid sexual victimization set-up's, what to do if they become a victim (evidence preservation), how friends and family may report for them and options for mental health services.
- D. Notices shall be posted in all living units that inform prisoners of the zero-tolerance policy towards sexual victimization and how to report such incidents as well as their right against retaliation.

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- E. DOC shall provide prisoner education in formats accessible to all prisoners, including those who have limited English proficiency, are deaf, visually impaired or otherwise disabled as well as to prisoners who have limited reading skills.

#### IV. Screening:

- A. The Department shall, within 72 hours of intake or prior to placement in general population, screen a prisoner for their risk for sexual victimization or abusiveness utilizing the PREA Risk Assessment module in the DOC offender management system or DOC Form 808.19A (PREA Risk Assessment). When the DOC Form 808.19A is utilized, its content will be transferred to the PREA Risk Assessment module in the offender management system.
1. A prisoner scoring as a potential aggressor or potential victim shall be entered in the Caution and Alerts indicating their risk.
  2. Prisoners who indicate being transgender or intersex shall have an entry made in the Basic Information section under sex, to indicate the prisoner's preference.
  3. Prisoners who indicate that they are transgender, or intersex shall also have an entry made in the Cautions and Alert tab to indicate the prisoner's preference.
- B. A prisoner shall not be disciplined for refusing to answer any or all the PREA Risk Assessment questions or for refusing or declining to participate in the interview process:
1. A prisoner's refusal or non-participating in the risk assessment shall result in the reviewer taking all and any information into consideration to make a determination as to the prisoner's risk of sexual victimization or abusiveness. A prisoner's past behaviors, history and staff observations may be considered, absent the prisoner's participation in this process.
- C. Institutional staff shall consider the PREA Risk Assessment results when making placement assignments regarding work, housing and program assignments.
- D. If during the PREA Risk Assessment process the prisoner indicates or admits to having experienced prior sexual victimization or has previously perpetrated sexual abuse while incarcerated or while in the community, they shall be offered a follow-up meeting with mental health staff for further evaluation within 14 days of the screening. Staff shall utilize the DOC Form 808.19B (PREA Mental Health Referral) for such referrals.
- E. The institution shall reassess the prisoner's risk of victimization or abusiveness when warranted, due to a referral, request, incident of sexual victimization or receipt of additional information.
- F. The PREA Risk Assessment shall be re-completed within 30 days of a prisoner's arrival at the institution. The institution will reassess the prisoner's risk of victimization or abusiveness based upon any additional, relevant information received by the institution since the intake screening. This shall be done via an interview of the prisoner utilizing the PREA Risk Assessment module in the DOC

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offender management system or the DOC form 808.19A (PREA Risk Assessment). When the DOC Form 808.19A is utilized, its content will be transferred to the PREA Risk Assessment module in the offender management system.

- G. Within 72 hours of a prisoner's transfer to another institution, the PREA Risk Assessment shall be re-completed via an interview of the prisoner utilizing the PREA Risk Assessment module in the DOC offender management system or the DOC form 808.19A (PREA Risk Assessment). When the DOC Form 808.19A is utilized, its content will be transferred to the PREA Risk Assessment module in the offender management system.
- H. The override of a risk score may be recommended by the staff member who completed the assessment. An override request must include a written justification and be approved by the staff members supervisor or the Superintendent.
- I. Prisoners at a high risk for sexual victimization shall not be placed in administrative segregation unless there is no available alternative means of separation from likely abusers. An institution may hold the prisoner in administrative segregation up to 24 hours while reviewing alternatives:
  - 1. Prisoners placed in administrative segregation for this purpose shall have access to programs, privileges, education and work opportunities to the extent possible. If the institution restricts access to programs, privileges, education or work opportunities the institution shall document the following via DOC Form 804.01e (Individual Determination Restrictions Form):
    - a. The opportunities that have been limited;
    - b. The duration of the limitation; and
    - c. The reasons for such limitations.
- J. The institution shall assign such prisoners to administrative housing only until an alternative means of separation from likely abusers can be arranged. Such an assignment shall not exceed a period of 30 days pursuant to DOC P&P 804.01 (Administrative Segregation).
  - 1. In situations where a prisoner has exceeded a period of 30 days, the Probation Officer shall conduct a review hearing pursuant to DOC P&P 804.01 (Administration Segregation) and shall document:
    - a. The basis for the facilities concern for the prisoner's safety; and
    - b. The reason why no alternative means of separation can be arranged.

V. Reporting:

- A. Prisoners may report allegations of conduct prohibited by this policy, including threats of such conduct or retaliation for reporting, to any Department staff member, contractor or volunteer. Such

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allegations may be reported verbally, in writing or to a third party.

- B. All Department staff, contractors and volunteers who receive information concerning prisoner sexual victimization or have reasonable belief to suspect a prisoner is a victim of sexual victimization, shall immediately report the information or incident directly to the most appropriate supervisory staff.

When staff have been made aware of the sexual allegation(s) they must notify the Shift Supervisor as soon as possible. All incidents shall be reported on a DOC Form 809.04A (Incident Report Form) pursuant to DOC P&P 809.04 (Disciplinary Committee Hearing Officers and Basic Operation). The Shift Supervisor shall complete a DOC Form 808.19C (PREA Incident Report) no later than the end of their shift.

- C. Privileged communications between ordained clergy, medical or mental health staff and clients does not extend to matters that threaten the safety and security of the institution, staff or prisoners or if it contains threats to public safety or if it is specially addressed by State Statutes.
- D. Prisoners who are detained solely for civil immigration purposes may report allegations of conduct prohibited by this policy to relevant consular officials and relevant officials at the Department of Homeland Security. Prisoners shall be provided contact information for these agencies upon request.
- E. The Department shall provide alternative ways for prisoners who have limited English proficiency, or are deaf, are visually impaired or otherwise disabled as well as offenders who have limited reading / writing skills to report allegations of conduct prohibited by this policy.
- F. Department staff, contractors or volunteers who observe incidents or behaviors that cause a reasonable concern that a prisoner may be at significant risk of sexual victimization shall document this incident or observation on an DOC Form 809.04A (Incident Report Form) pursuant to DOC P&P 809.04 (Disciplinary Committee Hearing Officers and Basic Operation). The Superintendent shall assess the seriousness of the matter and take such action as deemed appropriate, including but not limited to the change of prisoner housing assignments.
- G. All information related to an alleged victim of sexual victimization shall be considered confidential and shall be released only to those who need the information to perform their official duties:
  - 1. Staff are prohibited from discussing PREA allegations with anyone other than to the extent necessary, to address treatment, investigation and other security and management decisions.

**VI. Administrative and Criminal Sanctions:**

- A. The appropriate institutional designee shall work with the local District Attorney's Office, Alaska State Troopers or local law enforcement agency to ensure appropriate criminal prosecution of sexual abuse cases.

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- B. Any prisoner alleged to have committed sexual abuse or sexual harassment shall be subject to the Department's disciplinary process regardless of the outcome of the law enforcement investigation.
- C. Disciplinary action may be taken when it is determined that a prisoner made a false report of sexual abuse, sexual harassment or staff sexual misconduct. If the Departmental disciplinary process finds a prisoner guilty of making a false report, restitution may be ordered for the costs incurred by the Department in response to the false report. However, no prisoner reporting sexual abuse, sexual harassment or staff sexual misconduct, shall receive discipline for making a false report based solely on the fact their allegations could not be substantiated or that the prisoner later recanted their allegation. Each case shall be carefully evaluated on its merits, considering all evidence and circumstances and a determination whether there is any possibility that the alleged incident could have occurred shall be made.
- D. Any staff member determined to have engaged in sexual misconduct with a prisoner shall be subject to discipline sanctions up to and including termination for violating Department policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Any relevant licensing body for staff shall be contacted and informed of the actions. Any prisoner engaging in sexual misconduct with a staff member may be subject to discipline contingent upon the facts and pursuant to DOC P&P 809.02 (Prohibited Conduct and Penalties).

VII. Medical and Mental Health Services Responsibilities:

- A. All medical and mental health staff shall receive education as described in Procedures section I, A – F, of this policy, above. In addition to this training, medical and mental health staff shall receive training in:
  - 1. How to detect and assess signs of sexual abuse and sexual harassment;
  - 2. How to preserve physical evidence of sexual abuse; and
  - 3. How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
- B. In cases of alleged sexual abuse, Health and Rehabilitation Services (HARS) will follow medical and nursing protocols for alleged sexual assaults:
  - 1. Medical services staff shall provide emergency evaluation services for sexual assault victims and provide treatment for acute injuries until inmates can be transported to a local hospital or emergency room. Medical services staff shall not provide services related to Sexual Assault Response Teams or Sexual Assault Nurse Examiner exams.
  - 2. Medical services staff shall refer victims for testing for sexually transmitted diseases and pregnancy testing, as well as emergency contraception and sexually transmitted infections prophylaxis, to the local hospital emergency room.
  - 3. In cases where a forensic medical exam is requested, the Alaska State Troopers shall organize the

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exam with a medical facility that can provide the service.

- C. All services related to sexual victimization are free of charge to the prisoner.
- D. Prisoners shall be referred to mental health following an allegation of sexual victimization for emergency evaluation and referral to an outside victim service agency for follow up counselling.

VIII. Data Collection:

A. Sexual Abuse Reviews:

1. The institution shall conduct a Sexual Abuse Review at the end of every sexual abuse investigation, both criminal and administrative, substantiated or unsubstantiated, unless the allegation was determined to be unfounded. The review shall be recorded on the DOC Form 808.19D (Sexual Abuse Incident Review).
2. Members of the review team shall include members of the institution’s management and the PREA Compliance manager, with input from line supervisors, investigators and medical or mental health practitioners.
3. The Sexual Abuse Incident Review (Form 808.19D) shall be forwarded to the Department’s PREA Coordinator for tracking and data collection.
4. The Superintendent shall implement any recommendations for improvement or shall justify the reasons for not being able to follow the recommendations.

B. PREA Coordinator:

1. The PREA Coordinator shall maintain, review and collect data from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews for every allegation of sexual abuse and sexual harassment.
2. Collected data should include at a minimum the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice (DOJ).
3. All data shall be considered confidential and be retained securely by the PREA Coordinator.
4. Data shall be maintained on sexual victimization for a minimum of 10 years after the date of the initial collection unless Federal, State or local law requires otherwise.

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