



OFFICE OF THE SECRETARY

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SECRETARIAL DIRECTIVE

SUBJECT: Prison Rape Elimination Act (PREA)

NUMBER: 2021-05

SUPERSEDES: ADC AD 15-29
ACC AD 17-33

APPLICABILITY: All Employees, Contractors, Volunteers, Interns, Inmates and Residents

REFERENCE: A.C.A. § 25-43-105, 108, and 403; AR 005 Reporting of Incidents;
AR 225 Employee Conduct Standards; AR 210 Relationships and Transactions with Inmates;
SD Internal Investigations and Criminal Evidence Handling; SD Incident Notification Procedures;
and PREA Standards.

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ISSUED BY: Original signed by Secretary Solomon Graves EFFECTIVE DATE: 4/20/2021

I. POLICY:

As the executive head of the Arkansas Department of Corrections (“DOC”), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. The purpose of this directive is to ensure a consistent “Zero Tolerance” approach towards all forms of Sexual Abuse and harassment of inmates and residents. This directive will also ensure that the DOC remains in substantial compliance with the federal Prison Rape Elimination Act (“PREA”), which supports the prevention, reduction and elimination of sexual assault and rape within a correctional setting. Finally, this directive establishes the DOC’s approach to preventing, detecting, and responding to such conduct, which includes that the Department will initially respond to all reports of sexualized behavior or abuse as nonconsensual, regardless of perception, rumor, appearance, or participant disclosure.

II. PURPOSE:

The purpose of PREA is to provide procedures to assist in identifying, monitoring, counseling, and tracking Offenders who have a propensity for committing sexual assaults, rapes, Sexual Harassment, sexual misconduct, or indecent exposure; as well as providing procedures for Offenders who have a possible vulnerability of being a Victim of such acts of sexualized behaviors.

1. Ensure DOC Staff, contract workers, and volunteers are trained to recognize such behaviors and take appropriate action.
2. Ensure Offenders receive orientation and access to PREA regulations.
3. Provide a mechanism for providing support services to Victims and offer a mechanism for referring actions to the Arkansas State Police for criminal prosecution as appropriate.

III. DEFINITIONS:

- A. Community Confinement Facility. A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which a parolee, probationer, or pre-trial releasee reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.
- B. First Responder. Any staff member who is responsible for the initial response to a discovery or report of Sexual Abuse, sexual assault, or Sexual Harassment. This employee is generally the shift supervisor. The duties of the First Responder include initiating the PREA Checklist, making all necessary notifications, taking steps to protect the Victim, and preserving the crime scene.
- C. Offender-on-Offender Sexual Misconduct. Non-abusive sexual contact that includes, but is not limited to massages, touching, kissing, anal or oral penetration, masturbation, etc.
- D. Investigative Outcome. When an investigation is concluded, the outcome will be labeled as one of the following:
1. Substantiated – The event was investigated and determined to have occurred.
 2. Unsubstantiated – The evidence was insufficient to make a final determination that the event occurred.
 3. Unfounded – The event was determined NOT to have occurred, or, if the event occurred, the conduct was nonetheless within policy and the alleged perpetrator exonerated.
- E. LGBTI. An acronym for a group of individuals self-identifying as lesbian, gay, bisexual, transgender, and/or intersex.
- F. Medical Confidentiality. The ethical principle that a physician or other health professional will hold in confidence all information relating to a patient. This does not apply in a correctional setting where the information may be used to determine whether any allegations of abuse, harassment, or sexual conduct can be substantiated or when an Offender reports that he or she has engaged in sexual activity, or been subjected to sexually abusive contact, sexually abusive penetration, Sexual Harassment, or any allegation of Staff-on-Offender Sexual Abuse.
- G. Offender. This term includes inmates and residents in a prison, community corrections center, or a reentry center operated or contracted by the DOC.
- H. Perpetrator. An individual committing any form of Sexual Abuse; identified in the electronic Offender Information Management System (“eOMIS”) as the Suspect.
- I. Potential Sexual Predator. An Offender identified at intake or by a unit classification committee as having a history of sexual aggression or a potential for sexual aggression based upon an appropriate screening tool and/or that has a history of repeated guilty outcomes for sexual misconduct, indecent exposure, masturbation in the presence of another, making sexual threats, or demanding sexual contact. Note: A Potential Sexual Predator is a precaution identifier in eOMIS.
- J. PREA Checklist. A form to be completed by the First Responder to ensure the Victim receives appropriate care and investigators can secure evidence and increase the chance of prosecuting the perpetrator(s).
- K. PREA Compliance Manager (PCM). Individual responsible for the day-to-day functions related to PREA implementation and response in their facilities.
- L. Rape. A person commits the crime of Rape if he or she engages in sexual intercourse or deviate sexual activity with another person if that act was committed through forcible compulsion or with a person that is physically or mentally incapable of consent. By state law, an Offender cannot consent to a sexual act with staff, volunteers, contractors, or anyone with authority over that Offender.
- M. Retaliation. Acts or threats of action to punish an Offender or staff member for:
1. Refusal to submit to sexual advances; or

2. Involvement in the reporting or investigation of a Sexual Abuse/harassment complaint.
- N. Sexual Abuse. The use of debt, threats of physical harm, peer pressure, deceit, personal favors, or positional authority to force or cajole sexual favors from a person, including sexually abusive contacts, penetration, or harassment.
1. Offender-on-Offender Abusive Sexual Contact. Non-penetrative touching by an Offender, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another Offender.
 2. Offender-on-Offender Nonconsensual Sexual Contact. Penetration by an Offender of another Offender in which the Offender is coerced into sexually abusive penetration by threats of violence or is otherwise unable to refuse. The sexual acts included are:
 - a. Contact between the penis and the vagina or the anus,
 - b. Contact between the mouth and the penis, vagina, or anus; or
 - c. Penetration of the anal or genital opening of another person by a hand, finger, or other object.
 3. Staff-on-Offender Sexual Abuse. Any behavior or act of a sexual nature directed toward an Offender by an employee, volunteer, contractor, or agency representative. This includes relationships of a sexual or romantic nature, including vaginal, oral, and anal penetration, intentional touching for sexual gratification, attempted or threatened sexual acts, requests for sexual acts, indecent exposure, voyeurism, and acts listed under Staff on Offender Sexual Misconduct.
 4. Sexual Harassment
 - a. Offender-on-Offender Sexual Harassment. Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one Offender directed toward another.
 - b. Staff-on-Offender Sexual Harassment. A staff member's verbal comments or gestures of a sexual nature to an Offender. This includes demeaning references to gender, gender identity, and sexual orientation, sexually suggestive or derogatory comments about an Offender's body or clothing and repeated profane or obscene language and/or gestures.
- O. Sexual Predator. An Offender who, since 1985, has been found guilty of the disciplinary charge of Rape or forced sexual act with an Offender, staff, volunteer, contractor, or other individual in a correctional facility, (including non-DOC locations).
- P. Staff. For the purpose of this directive, Staff includes all DOC employees, volunteers, interns, and contracted personnel working within the facilities, or directly with an Offender in any official capacity.
- Q. Staff-on-Offender Sexual Misconduct. Sexual Abuse that includes but is not limited to penetration, kissing, hugging, massaging, writing, or exchanging letters, pictures, phone calls, etc. of a romantic or sexual nature between staff and Offenders.
- R. Victim. An Offender who is harmed or adversely affected by, and/or tricked or exploited into participating in sexual contact or is subjected to Sexual Abuse or Harassment.
- S. Victim Prone. An Offender identified at intake or by a unit classification committee as susceptible to a sexual assault, rape, or abuse within a correctional facility.
- T. Voyeurism. An invasion of an Offender's privacy by staff for reasons unrelated to official duties. Examples include, but are not limited to, staring at an Offender who is using a toilet in their cell, requiring an Offender to expose their buttocks, genitals, or breasts, taking images of all or part of an Offender's naked body or of an Offender performing bodily functions, and distributing or publishing them for other than an official reason as required by policy.
- U. Youthful Offender. An Offender committed to the DOC who has been adjudicated as an adult but has not yet reached age eighteen (18).

IV. PREVENTION:**1. Appointment of a Department PREA Coordinator:**

The Secretary shall designate an upper-level, department-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee DOC efforts to comply with this policy.

2. Appointment of a PCM at Each Facility:

The warden at each facility shall designate a PCM with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards in this policy. Reentry staff within the Division of Community Correction will serve as a PCM for licensed reentry centers.

3. Coordinated Response:

Each facility will develop a PREA policy that outlines the institutional plan to coordinate actions that will be taken in response to an incident of Sexual Abuse and/or Sexual Harassment, among First Responders, medical and mental health practitioners, investigators, and facility leadership.

4. Contracting with other Entities for the Confinement of Offenders:

- a. Any new contracts or contract renewals for the confinement of DOC Offenders with private agencies or other entities, including government agencies, shall include the entity's obligation to adopt a zero tolerance for Sexual Abuse/assault and allow for monitoring by DOC.
- b. The contractor must be compliant with 28 CFR Part 115 (PREA) or have adequate measures in place to demonstrate a zero-tolerance policy and mechanisms to prevent, detect and respond to Sexual Abuse and Harassment.
- c. A background investigation shall be required on the contractor's employees and agents in facilities housing DOC Offenders. Such investigation shall be equivalent to investigations required of all personnel employed by the DOC.
- d. Any contractor or contractor's employee or agent who witnesses Sexual Abuse or Sexual Harassment must immediately report it to the Director/Warden/Center Supervisor of the facility. A contractor or contractor's employee or agent may be subject to criminal prosecution if he/she engages in, fails to report, or knowingly condones Sexual Harassment or sexual contact with or between Offenders. Such acts shall be grounds for canceling the contract. Any contractor, contractor's employee or agent who has engaged in Sexual Abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution shall be denied access into a facility, housing DOC Offenders.
- e. Upon learning of a PREA incident, the contractor shall take immediate actions to protect and provide emergency medical services to the Victim.
- f. Within twenty-four (24) hours of the contractor's knowledge of a PREA incident, the contractor shall notify the appropriate DOC officials and provide a written report detailing the incident. The report will immediately be forwarded to the DOC PREA Coordinator upon receipt.
- g. An Offender shall not be disciplined or punished in any way for a nonprofessional relationship with the contractor's employee, volunteer, or contractor unless the employee, volunteer, or contractor did not consent to the contact.

5. Staffing Levels/Video Monitoring

- a. The DOC will establish adequate staffing plans and video monitoring systems to protect Offenders from Sexual Abuse by taking into consideration the physical layout of each unit or center and any other relevant factors. Steps shall be taken to ensure these factors are considered and documented during annual evaluations.
- b. Whenever necessary, but no less frequently than once each year, the designated facility PCM will conduct an internal evaluation of each facility. This will include an on-site visit from the PREA Coordinator if feasible. This evaluation will include an assessment to determine if adjustments are needed to:
 - i. The staffing plan established pursuant to this policy;

- ii. The facility's deployment of video monitoring systems and other monitoring technologies;
 - iii. The resources the facility has available to commit to ensure adherence to the staffing plan; and
 - iv. Additional resources needed to comply with all indicated standards.
 - c. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration the following factors:
 - i. Generally accepted detention and correctional practices;
 - ii. Any judicial findings of inadequacy;
 - iii. Any findings of inadequacy from Federal Agencies;
 - iv. Any findings of inadequacy from internal or external oversight or accrediting bodies;
 - v. All components of the facility's physical plant including "blind-spots" or areas where Staff or Offenders may be isolated;
 - vi. The composition of the Offender population;
 - vii. The number and placement of supervisory staff;
 - viii. Institution programs occurring on a particular shift;
 - ix. Any applicable State or Local Laws, Rules, or Standards; and
 - x. The prevalence of substantiated and unsubstantiated incidents of Sexual Abuse, and any other relevant factors.
 - d. The facility must document and justify all deviations from the plan. This documentation shall include notifications made and corrective actions taken. A copy of this documentation must be forwarded to the Unit PCM. The PREA staffing plan and the annual review of the staffing plan will be sent to the PREA Coordinator for retention.

6. Unannounced Rounds

Each 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 all shifts. Each 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. This will be included in all relevant post orders.

7. Updates to Existing/Acquisition of New Facilities and Equipment

- a. When designing or acquiring a new facility and in planning any substantial expansion or modification of existing facilities, the DOC shall consider effects of the design, acquisition, expansion, or modification upon the DOC's ability to protect Offenders from Sexual Abuse/Harassment.
- b. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the DOC shall consider how such technology may enhance the DOC's ability to protect Offenders from Sexual Abuse.
- c. The Assistant Director of Construction & Maintenance shall review all plans to expand, acquire, or significantly modify facilities within the Division of Correction and all major changes to the monitoring technology employed. The Deputy Director for Residential Services will ensure the same review is coordinated for facilities operated, contracted, or licensed by the Division of Community Correction.

8. Youthful Offenders

- a. A Youthful Offender shall not be placed in a housing unit in which the youthful Offender will have sight, sound, or physical contact with any adult Offender through use of a shared dayroom, shower area, toilet area, or sleeping quarters.
- b. All Youthful Offenders will be housed at the designated unit in a housing area that provides for sight and sound separation from other Offenders over the age of seventeen (17). The Youthful Offenders will be able to attend all unit activities, receive all unit services, and participate in jobs and programs as deemed appropriate by the unit classification committee. Youthful Offenders must be directly supervised when not in their assigned housing area.

9. Offenders with Disabilities or Limited English Proficiency

- a. The DOC shall take appropriate steps to ensure that Offenders with disabilities, including, those who are deaf or hard of hearing, blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities, and Offenders who have limited English proficiency have an equal opportunity to participate in or benefit from all aspects of the DOC's efforts to prevent, detect, and respond to Sexual Abuse and Sexual Harassment.
- b. Except in limited circumstances where an extended delay in obtaining an effective interpreter or translation program could compromise the Offender's safety, the performance of first-responder duties or the investigation of the Offender's allegations, the DOC shall not rely on Offender interpreters, Offender readers, or other types of Offender assistants during the investigation of an allegation of Sexual Abuse/Harassment.

10. Cross-Gender Supervision, Viewing and Searches

- a. The DOC shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- b. The DOC shall document all cross-gender strip searches and cross-gender visual body cavity searches.
- c. The DOC shall enable Offenders to shower, perform bodily functions and change clothing without nonmedical staff of the opposite gender viewing the Offender's breasts, buttocks, or genitalia, except when such viewing is incidental to routine barracks or cell checks or in exigent circumstances.
- d. When staff who are opposite gender of the Offender population enter a housing unit, they must announce their presence to give Offenders an opportunity to cover their bodies.
- e. Transgender and intersex Offenders will be allowed to shower separately from other Offenders.
- f. The DOC shall not search or physically examine a transgender or intersex Offender for the sole purpose of determining the Offender's gender status. If the Offender's gender status is unknown, it may be determined during conversations with the Offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted by a medical practitioner in a setting designated for medical examinations.
- g. The DOC shall continue to train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex Offenders, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

11. Training and Education

A. Employee Training

The DOC shall train all employees who may have contact with Offenders on the following:

- a. Its Zero Tolerance Policy for Sexual Abuse and Sexual Harassment;

- b. How to fulfill their responsibilities under DOC Sexual Abuse and Sexual Harassment prevention, detection, reporting, and response policies and procedures;
- c. The right of Offenders to be free from Sexual Abuse and Sexual Harassment;
- d. The right of Offenders and employees to be free from retaliation for reporting Sexual Abuse and Sexual Harassment;
- e. The dynamics of Sexual Abuse and Sexual Harassment in confinement;
- f. The common reactions of Sexual Abuse and Sexual Harassment Victims;
- g. How to detect and respond to signs of threatened and actual Sexual Abuse;
- h. How to avoid inappropriate relationships with Offenders;
- i. How to communicate effectively and professionally with Offenders, including LGBTI, or gender nonconforming Offenders;
- j. How to comply with relevant laws related to mandatory reporting of Sexual Abuse to outside authorities; and
- k. Such training shall cover the differences in policies based on the gender of the Offender. The DOC shall provide each employee with refresher training annually to ensure that all employees know the current Sexual Abuse and Sexual Harassment policies and procedures. The DOC will document the completion of such training.

B. Volunteer and Contractor Training

The DOC shall ensure that all volunteers and contractors who have contact with Offenders have been trained on their responsibilities under the DOC's Sexual Abuse and Sexual Harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with Offenders, but all volunteers and contractors who have contact with Offenders shall, at the least, be notified of the DOC's Zero Tolerance Policy regarding Sexual Abuse and Sexual Harassment and informed of how to report such incidents. Vendors or occasional contractors that have not received such training must be escorted by security staff when contact with Offenders is probable. The DOC shall maintain documentation confirming that volunteers and contractors understand the training they have received.

C. Specialized Training: Investigations

In addition to the general training provided to all employees, all investigative personnel that may be assigned to complete PREA related investigations beyond the initial unit investigation will receive training in conducting such investigations in a correctional setting. Specialized training shall include techniques for interviewing Sexual Abuse Victims, proper use of Miranda and Garrity warnings, Sexual Abuse evidence collection in a correctional setting, and the criteria and evidence required to substantiate a case for administrative action or referral for criminal prosecution. The DOC shall maintain documentation that DOC investigators have completed the required specialized training in conducting Sexual Abuse investigations.

D. Specialized Training: Medical and Mental Health Care

The DOC will ensure that all medical and mental health care practitioners who work regularly in its facilities have been trained in the following areas, and the appropriate division shall document, through employee signature, electronic verification, or written/electronic testing, that employees understand the training they have received:

1. How to detect and assess signs of Sexual Abuse and Sexual Harassment;
2. How to preserve physical evidence of Sexual Abuse;
3. How to respond effectively and professionally to Victims of Sexual Abuse and Sexual Harassment; and
4. How and to whom to report allegations or suspicions of Sexual Abuse and Sexual Harassment.

E. Specialized Training: Victim Advocacy

Employees designated to provide victim advocacy for Offenders when a community-based organization is not available must receive approved training as indicated for Victim advocates.

F. Offender Education

During the intake process, Offenders shall receive information explaining the DOC's Zero Tolerance Policy regarding Sexual Abuse and Sexual Harassment and how to report incidents or suspicions of Sexual Abuse or Sexual Harassment.

Within thirty (30) days of intake, the parent unit shall provide comprehensive education to Offenders either in person or through the use of the most current PREA Offender Education Video regarding the Offender's right to be free from Sexual Abuse and Sexual Harassment, to be free from retaliation for reporting such incidents, and regarding DOC policies and procedures for reporting incidents of Sexual Abuse and Sexual Harassment.

Current Offenders shall be re-educated annually and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the Offender's new facility differ from those of the previous facility.

The facility shall provide Offender education in formats accessible to all Offenders, including those who are of limited English proficiency, deaf, visually impaired, otherwise disabled, as well as to Offenders who have limited reading skills.

The DOC shall maintain documentation of Offender education participation and forward such documentation to the unit's PCM.

In addition to providing such education, the DOC shall ensure that key information is readily available or visible to Offenders through posters, Offender handbooks, or other written formats. Posters with the DOC Hotline number, and if available, an outside reporting number, will be placed near all Offender phones.

G. Screening for Risk of Victimization and/or Abusiveness

In order to reduce the likelihood of Sexual Abuse while an Offender is in DOC custody, the DOC will take the following into account when assigning housing and jobs for every Offender, upon Intake, during Classification, or in any special circumstances:

1. All Offenders will be assessed at intake to determine whether they meet specific criteria indicating either likelihood of Victimization or predatory behavior. This requires the use of the appropriate screening tool by trained personnel.
2. This screening will be conducted within seventy-two (72) hours of the Offender's arrival at the DOC. The rationale for screenings conducted after seventy-two (72) hours will be fully documented in eOMIS.
3. Offenders may not be disciplined for refusing to answer questions on the PREA assessment.
4. To minimize the risk of Offender Sexual Abuse due to housing assignment, predatory designated Offenders (Sexual Predator or Potential Sexual Predator) will not be placed with Victim prone designated Offenders.
5. Offenders at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the Offender in involuntary segregated housing for no more than 24 hours while completing the assessment.

Note: The appropriate Deputy or Duty Director will be immediately notified whenever an Offender is placed in involuntary segregated housing under these circumstances.

6. Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility

restricts access to programs, privileges, education, or work opportunities, the facility shall fully document in eOMIS the following:

- a. The opportunities that have been limited;
 - b. The duration of the limitation; and
 - c. The reasons for such limitations.
7. Every thirty (30) days, the facility shall afford each such Offender a meaningful review to determine whether there is a continuing need for separation from the general population.
 8. The PCM is responsible for coordinating with Classification and the Warden/Center Supervisor to determine an Offender's PREA precaution status and entering the precaution status into eOMIS.
 9. If either the Victim or perpetrator already have a PREA designation, the PCM is responsible for ensuring information from the current incident is added to the existing precaution.

H. Warden and Center Supervisor Prevention Responsibility:

In addition to responsibilities applicable to all employees, Wardens and Center Supervisors shall be responsible for ensuring the following:

1. Sexual acts and sexual contact between Staff and Offenders shall immediately be reported to Internal Affairs, even if the employee resigns.
2. When sexual acts or sexual contact are alleged, the crime scene shall be immediately secured, if possible.
3. The alleged Victim shall immediately be given the necessary emergency medical treatment, without (to the extent possible) compromising the integrity of available physical evidence. If deemed necessary by medical personnel, the Offender may be transported to an outside medical facility.
4. The Warden/Center Supervisor must take immediate action in accordance with this directive to ensure the safety of the Offender.
5. Consistent with policy, the Warden/Center Supervisor may request transfer of a staff member accused of misconduct, may internally reassign, place him/her on administrative leave pending the outcome of an investigation.
6. Failure to take appropriate action, as defined in this directive, when Sexual Misconduct is alleged or has been determined to have occurred, will result in disciplinary action.

I. Reporting to and Receiving Reports from Outside Agencies:

1. Upon receiving an allegation that an Offender was sexually abused while confined in an outside agency, DOC staff will notify the DOC PREA Coordinator and provide a detailed report of the allegations made to include witness statements and the presence of any evidence recovered. The DOC PREA Coordinator shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
 - a. The DOC PREA Coordinator will ensure a record of such notification is maintained in the Offender's eOMIS record.
 - b. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
2. Upon receiving a notification from an outside agency reporting abuse that has occurred at a DOC facility, the PREA Coordinator will forward the information received to Internal Affairs and the Warden of the facility where the alleged abuse occurred.

J. Data Collection:

1. The DOC shall collect accurate, uniform data for every allegation of Sexual Abuse /Harassment at facilities under its direct control using a standardized instrument and set of definitions. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence reported to the United States Department of Justice.
3. The DOC shall aggregate the incident based Sexual Abuse data at least annually.
4. The DOC PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files, and Sexual Abuse incident reviews.
5. The DOC shall review data collected to assess and improve the effectiveness of its Sexual Abuse prevention, detection, and response policies, practices, and training by:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis;
 - c. Preparing an annual report of its findings and corrective actions for each facility, as well as DOC as a whole; The annual facility report will be the responsibility of the PCM, who will send a copy of the report to the PREA Coordinator, who will use this information to prepare a Department-wide annual report; and
 - d. The annual report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the DOC's progress in addressing Sexual Abuse and harassment. In addition, the DOC shall make all aggregated Sexual Abuse data from facilities under its direct control available to the public.
6. Before making aggregated Sexual Abuse data publicly available, the DOC shall remove all personal identifiers.
7. The DOC shall maintain Sexual Abuse data for at least ten years after the date of the initial collection, unless Federal, State, or local laws require otherwise.

12. REPORTING:

A. Sexual Abuse/Harassment Reporting Procedures for all Staff

1. Any employee who receives any information, from any source, concerning Sexual Abuse/harassment, is required to immediately report the information or incident to his/her supervisor. Any employee who observes Sexual Abuse/Harassment, including any appearance of retaliation against Offenders or staff who reported or cooperated with a PREA investigation, is also required to immediately report the information or incident to his/her supervisor. Neglect or violation of responsibilities by staff that may have contributed to an incident or retaliation may lead to disciplinary action. If the supervisor is the person who is engaging in the Sexual Abuse/harassment, the report will be made to the next highest official.
2. The employee shall submit a written report, providing any information received or observed that concerns Sexual Abuse/harassment, to his/her supervisor before the end of his/her workday. The Warden/Center Supervisor shall be immediately notified of all Sexual Abuse/harassment complaints or allegations.
3. The Warden/Center Supervisor will notify the appropriate Division Director, Deputy/Assistant Director, and Internal Affairs. Internal Affairs will notify the Arkansas State Police and the Secretary of Corrections if there is evidence that a crime may have occurred.
4. All allegations of Sexual Abuse and Sexual Harassment, including third party and anonymous reports shall be entered in eOMIS under incident report with all documentation relating to the incident scanned as confidential using the "Confidential IA Witness Statement" option that is available to the Warden. The unit Warden shall refer all PREA investigations to Internal Affairs for review or further investigation.

5. Persons interviewed shall be advised that they are required to maintain confidentiality and not disclose to anyone information regarding the complaint, the investigation, and the outcome, other than to the extent necessary to make treatment, investigation, security, and management decisions. Staff shall be advised that failure to maintain confidentiality can result in disciplinary action.

B. Offender Generated Reports

1. Offenders may report Sexual Abuse and Sexual Harassment, retaliation by other Offenders or staff for reporting Sexual Abuse and Sexual Harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents through multiple avenues:
 - a. Calling the DOC PREA Hotline free of charge using the Offender telephone system;
 - b. Telling any staff member;
 - c. Writing a note or request to any staff member;
 - d. Sending correspondence to the PREA Coordinator;
 - e. Calling the toll-free Arkansas State Police crime hotline;
 - f. Sending confidential correspondence to a designated community-based Victim advocacy group. Such correspondence will be treated as legal mail;
 - g. Utilizing the Offender Grievance Procedure, (Please note that there is no time limit for submitting a PREA grievance); or
 - h. Having a family member or friend make a report to the Warden or DOC PREA Coordinator.
2. Staff shall accept reports made verbally. Staff shall promptly document any verbal reports and ensure notification to a supervisor is made immediately. All written, anonymous, and third-party report will also be accepted. All reports of sexualized activity between Offenders, Sexual Harassment, Sexual Abuse, and sexual assault require an immediate response.
3. All Offenders who are of limited English proficiency, deaf, or persons with a disability shall be allowed to report Sexual Abuse to staff directly or through the PREA Hotline without use of Offender interpreter unless there are exigent circumstances.

C. Third Party Reports

1. Access to the DOC PREA Hotline shall be made available for third party reporting by the public. This number will be placed on the DOC website in a prominent location.
2. The DOC shall provide a method for staff to privately report Sexual Abuse and Sexual Harassment of Offenders to facility and DOC administration. Private reporting does not excuse staff failure to report all incidents as required by policy.

VI. RESPONDING TO A PREA ALLEGATION:

A. Staff First Responder Duties:

1. All allegations of Sexual Abuse shall be investigated by the Warden/Center Supervisor or Designee using the following protocol:
 - a. When a facility learns that an Offender is at substantial risk of imminent Sexual Abuse, it shall take immediate action to protect the Offender.
 - b. Upon learning of an allegation that an Offender was sexually abused, the First Responder shall be required to initiate the PREA Response Check List and take the following steps:
 - i. Separate the Victim and Perpetrator;
 - ii. Preserve and protect any crime scene areas until appropriate steps can be taken to collect evidence;

- iii. If the abuse occurred within a time period that still allows for the collection of physical evidence, **request that the Victim** not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;
- iv. If the abuse occurred within a time period that still allows for the collection of physical evidence, **ensure that the alleged Perpetrator** does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;
- v. The PREA checklist will be initiated immediately by the First Responder. This requires that the following staff be notified:
 1. Internal Affairs Administrator
 2. On-Call Medical Personnel
 3. On-Call Mental Health Personnel
 4. Warden or Duty Warden
 5. DOC PREA Coordinator
 6. DOC HIV Coordinator—only if there is a known or suspected exchange of body fluids (ADC Facilities Only)
 7. Unit PREA Compliance Manager
 8. Chaplain
 9. Victim Advocate
 10. Classification
 11. Communications Director—only if the Offender is being transported to the hospital.
- vi. Staff will enter the incident in eOMIS as soon as possible, but not later than the end of their shift, following these guidelines:
 1. Choose the correct incident type and select YES to Suspected PREA.
 2. List the names of all staff and Offenders involved and select their appropriate level of involvement—witness, suspect, or Victim.
 3. Refer the incident to the Warden, Unit PCM, and the DOC PREA Coordinator.

B. Medical/Mental Health Evaluation and Treatment

1. Victims will be offered immediate access to appropriate qualified medical and mental health practitioners inside the facility who can provide support to the Victim as appropriate.
2. Treatment services shall be provided to the Victim without payment of medical co-pay and regardless of whether the Victim names the Perpetrator. Medical and mental health services to Victims shall include necessary follow-up services and treatment.
3. First Responders shall take preliminary steps to protect the Victim until qualified medical and mental health personnel can respond.
4. The DOC shall offer all Victims of sexually abusive penetration access to forensic medical examinations. Such examinations shall be performed by qualified medical practitioners, and whenever possible by a Sexual Assault Forensic Examiner or Sexual Assault Nurse Examiner.
5. If requested by the Victim, the Victim advocate or qualified DOC staff member shall accompany and support the Victim through the forensic medical examination process, investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. The Victim advocate shall be allowed to accompany the Offender to court in the event of prosecution.

6. Victims shall be offered timely information about access to all pregnancy related medical services and sexually transmitted diseases, where appropriate. In the case of vaginal penetration by a penis, a pregnancy test shall be offered to the Victim.
7. If pregnancy results, the Victim shall receive timely information about all related and lawful pregnancy related medical services.
8. Mental health shall meet with Perpetrators within sixty (60) days of the alleged abuse and offer treatment when deemed appropriate.

C. Investigations

1. After an allegation or discovery of Sexual Abuse, sexual assault, or Sexual Harassment, the facility will ensure an initial investigation is conducted as directed in this policy and all notifications are made. This response will include actions to protect the Victim, secure the crime scene, preserve evidence, and the collection of initial information to be used to determine the level of response.
2. Once the initial investigation is complete, the report will be forwarded to the unit PCM, who will review it for completeness and accuracy. The PCM will then forward the report to the Warden or Center Supervisor.
3. The Warden will refer the incident to Internal Affairs for further investigation or review within 10 days from the date the incident occurred.
4. The DOC will ensure that allegations of Sexual Abuse or Sexual Harassment are referred for investigation and potential prosecution, unless the allegation does not involve potentially criminal behavior. The Internal Affairs Division (IAD) will document all such referrals.
5. The DOC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of Sexual Abuse or Sexual Harassment are substantiated.

D. Post-Allegation Housing and Classification for Victims

1. When a PREA incident has occurred or is alleged to have occurred, the DOC's priorities are safety and security for the Victim, the general Offender population, and the perpetrator. It may be necessary to separate the involved Offenders to prevent further Victimization or Retaliation.
2. Victims shall be placed in the least restrictive housing assignment as possible following an alleged sexual assault or Sexual Abuse. Placement in segregation should not exceed 24 hours, unless necessary to protect the Victim from further harm.
3. If a Victim must be placed in segregation, the Duty Warden must authorize placement, and the Warden must review and make status recommendations within seven (7) calendar days. The Victim's own perception of safety should be considered.
4. Alternative housing in a less restrictive unit should be a priority and the Offender should be moved as soon as feasibly possible.
5. Alleged Victims of Sexual Abuse shall not be placed in involuntary segregation unless an assessment has been made within 24 hours, considering all available alternatives, and a determination is made that there is no other means to separate them from the alleged suspect. The appropriate Deputy/Assistant Director, or Director, will immediately be notified of such placements.
6. Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:
 - a. The opportunities that have been limited,
 - b. The duration of the limitation, and
 - c. The reasons for such limitations.
7. The Unit Classification Committee or authorized Staff must review the status of every Offender assigned to restrictive housing classification every seven (7) days for the first sixty (60) days, and

every thirty (30) days thereafter to determine whether there is a continuing need for separation from the general population.

E. Post-Allegation and Housing for Suspects/Perpetrators

1. Suspected and known sexual predators shall be placed in single-man housing status subject to review by the Unit Classification Committee every 6 months.
2. The Unit Classification Committee will review the Sexual Predator's eligibility for programs and/or job assignments every ninety days.
3. There shall be yearly reviews conducted by the Unit Classification Committee and the Director or appropriate Deputy/Assistant Director to determine continuation of single-man housing status. The single-man housing status that was the result of a finding the Offender meets the definition of potential sexual predator under this policy may be changed by the Classification Committee with the Warden's approval. All releases of known sexual predators from single-man housing status under this policy require approval by the Director or appropriate Deputy/Assistant Director. The yearly review of an Offender assigned to single-man housing may be in conjunction with a 6 month or 90-day review.

F. Retaliation Assessments

1. All Offenders and staff who report Sexual Abuse or Sexual Harassment and who cooperate with Sexual Abuse or Sexual Harassment investigations shall be free from retaliation by other Offenders or staff. The Warden/Center Supervisor shall designate which staff members are charged with monitoring Retaliation and the DOC PREA Coordinator shall keep records of any alleged Retaliation.
2. The DOC shall employ multiple protective measures, such as housing changes or transfers for Offender Victims or perpetrators, removal of staff or Offender perpetrators from contact with Victims, and emotional support services for Offenders or Staff that fear retaliation for reporting Sexual Abuse or Sexual Harassment or for cooperating with investigations.
3. The Unit PCM will conduct an initial face-to-face interview with the Offender or Staff to check for any signs of immediate Retaliation at the time of the initial investigation.
4. Subsequent evaluations will be conducted at least every thirty (30) days as needed. For at least ninety (90) days following a report of Sexual Abuse or Harassment, the Unit PCM shall monitor the conduct and treatment of Offenders or Staff who reported the Sexual Abuse and of Offenders who were reported to have suffered Sexual Abuse or Harassment to see if there are changes that may suggest possible Retaliation by Offenders or Staff and shall act promptly to remedy any such Retaliation. The aspects to be monitored include any Offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of Staff. The DOC shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.
5. These interviews will be documented and scanned into eOMIS as confidential, and a copy will be retained by the Unit PCM.
6. If any other individual who cooperates with an investigation expresses a fear of Retaliation, the unit shall take appropriate measures to protect that individual against Retaliation.
7. The obligation to monitor shall terminate if the DOC determines that the allegation is unfounded.

G. Offender Disciplinary Actions

1. Offenders engaging in inmate-on-inmate Sexual Abuse shall be appropriately disciplined in accordance with the current division policy, regardless of any determination to seek criminal prosecution.
2. An Offender may only be disciplined for sexual contact with staff upon finding that the staff member did not consent; however, in cases of staff sexual misconduct with an Offender/resident, the Offender may be placed in segregated housing to separate him/her from the staff member, and for security of the institution.

3. The credibility of an alleged Victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as Offender or Staff. Offenders who allege Sexual Abuse shall not be required to submit to any truth-telling examination as a condition for proceeding with the investigation. In addition, alleged Victims of Sexual Abuse shall not be disciplined for refusing to submit to a truth-telling examination.
4. Offenders may receive disciplinary charges after a final disposition has been reached, or when the case is referred for criminal investigation.

H. Staff Disciplinary Actions

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating Sexual Abuse or Sexual Harassment policies.
2. Termination shall be the presumptive disciplinary sanction for staff who engage in Sexual Abuse. The former employee will not be eligible for rehire.
3. Disciplinary sanctions shall be commensurate with the nature and circumstances of the acts committed and the staff member's disciplinary history.
4. All terminations for violations of Sexual Abuse, or resignations of staff who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

I. Post-Allegation and Investigation Reporting to Offenders

1. Following an Offender's allegation that a staff member has committed Sexual Abuse against the Offender, the DOC PREA Coordinator shall subsequently inform the Offender (unless the investigation has determined that the allegation is unfounded) whenever:
 - a. The former staff member is no longer employed by the DOC;
 - b. The DOC learns that the staff member has been charged with an offense related to the Sexual Abuse within the facility; and
 - c. The DOC learns that the staff member has been convicted on a charge related to the Sexual Abuse within the facility.
2. Following an Offender's allegation that he or she has been sexually abused by another Offender, (unless the investigation has determined that the allegation is unfounded) the Unit PREA Compliance Manager shall subsequently inform the Victim whenever:
 - a. The DOC learns that the perpetrator has been charged with an offense related to the Sexual Abuse within the facility; and
 - b. The DOC learns that the perpetrator has been convicted on a charge related to the Sexual Abuse within the facility.
3. The Unit PCM shall document in eOMIS all such notifications or attempted notifications. The DOC's obligation to report under this standard shall terminate if the Offender is released from custody unless the Offender is on parole supervision.
4. Following an investigation into an Offender's allegation that he or she suffered Sexual Abuse or harassment while housed in a DOC Facility or contract location, the DOC PREA Coordinator or a Unit PCM shall inform the Offender whether the allegation has been determined to be substantiated or unsubstantiated.

J. Sexual Abuse Incident Reviews

1. The Division Director shall initiate a Sexual Abuse incident review at the conclusion of all substantiated and unsubstantiated Sexual Abuse investigations. This does not include Sexual Harassment or Offender-on-Offender Sexual Misconduct investigations. Such review shall ordinarily occur within thirty (30) days of the conclusion of the investigation.
2. The review team shall include upper-level management officials, a Warden/Center Supervisor, a Chief of Security, a Unit PCM, the DOC PREA Coordinator, and medical or mental health practitioners. The review team shall:

- a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to Sexual Abuse;
- b. Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, sexual orientation, or perceived orientation, gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility;
- c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- d. Assess the adequacy of staffing levels in that area during different shifts;
- e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by Staff; and
- f. Prepare a report of its findings and recommendations for corrective action. The report will be submitted to the Division Director and DOC Secretary. A copy of the report will be retained by the DOC PREA Coordinator.

VII. ATTACHMENTS

- #I PREA Checklist
- #II Retaliation Assessment Form
- #III Sexual Abuse Incident Review Form
- #IV PREA Staffing Plan
- #V Facility Annual PREA Review



PREA Checklist

Attachment I

		Date	Time	Initials
1.	Separate the Victim and the perpetrator			
2.	Secure evidence and/or crime scene			
<p>In cases of suspected or known oral, anal, or vaginal penetration, and for all staff on inmate/resident sexual misconduct investigations, notifications are to be made immediately via telephone.</p> <p>If there is no suspected penetration, notification may be made via email.</p>				
3.	Notify Warden, Center Supervisor, or Duty Warden			
4.	Notify Unit PCM/Deputy Warden, or Assistant Center Supervisor			
5.	Notify Medical Personnel			
6.	Notify Mental Health Personnel			
7.	Notify Chaplain			
8.	Ask the Victim if they would like the services of the Victim Advocate; if yes, notify this person.			
9.	Notify Classification Staff and complete Offender enemy or separation alert in eOMIS.			
10.	Notify Internal Affairs On-Call Staff			
11.	Notify the PREA Coordinator			
12.	In cases of suspected or known penetration, ADC facilities will immediately contact the HIV/AIDS Coordinator; ACC facilities will immediately notify the Medical administrator at their facility.			
13.	Notify the DOC Communications' Director (only when the Offender is taken off-site for medical care).			
14.	<p>Open suspected PREA report in eOMIS. Write the incident # here:</p> <p>_____</p> <p>List the names and involvement of all staff and inmates. Check YES to suspected PREA incident.</p>			



PREA Retaliation Assessment Form

Attachment II

Date _____ Facility _____ Date of Initial Incident _____

Facility Incident Report # _____ Employee Conducting Assessment _____

Employee/Offender Name and AASIS/ADC # _____

Type of Assessment ___ Initial ___ 30 day ___ 60 day ___ 90 day ___ Other (please specify)

For Monitoring of Staff: Please review staff member's performance reviews, reassignments, disciplinary measures taken, and need for emotional services. Please summarize: (attach additional pages if needed)

For Monitoring of Offenders: Please review Offender's conduct violations, housing/program/changes, and need for emotional support services. Please summarize: (attach additional pages if needed)

Signature of Staff Conducting Assessment

Signature of Staff/Offender being Monitored

Today's Date

Date of Next Review

This form must be scanned into EOMIS.



Sexual Abuse Incident Review

This form is to be completed within 30 days of the final disposition.

Attachment III

Review Team Members:

Review Team Considerations:

1. Does the allegation or investigation indicate a need to change policy or practice to better prevent, detect, or respond to Sexual Abuse?

2. Was the incident or allegation motivated by race, ethnicity, gender identity, LGBTI status or perceived status, gang affiliation, or was it 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.

Review Team Recommendations: _____



Reporting Period October 1, _____ through September 30, _____
--

Name of Facility _____

Date _____

Warden/Center Supervisor Signature

Unit PCM's Signature

PREA Coordinator's Signature

Staffing Levels/Video Monitoring

The Department will determine adequate staffing levels and video monitoring systems needed to protect Offenders from Sexual Abuse by taking into consideration the physical layout of each unit and any other relevant factors. Steps shall be taken to ensure these factors are considered and documented during annual staffing analysis efforts.

1. In calculating adequate staffing levels and determining the need for video monitoring systems, facilities shall take into consideration the following factors:
 - a) Generally accepted detention and correctional practices;
 - b) Any judicial findings of inadequacy;
 - c) Any findings of inadequacy from Federal Investigative Agencies;
 - d) Any findings of inadequacy from internal or external oversight accrediting bodies;
 - e) All components of the physical facility (including "blind-spots" or areas where staff and Offenders may be isolated);
 - f) The composition of the Offender population;
 - g) The number and placement of supervisory staff;
 - h) Institution programs occurring on a particular shift;
 - i) Any applicable State or Local Laws, Rules, or Standards;
 - j) The prevalence of substantiated and unsubstantiated incidents of Sexual Abuse; and
 - k) Any other relevant factors.

2. Findings of Inadequacy from Judicial or Federal Investigative Agencies (if none exist, list N/A).

3. Findings of Inadequacy from ADC Internal Affairs, ACA Auditor (attach additional page if necessary).

4. Physical Facility Components

a) Blind spots (# and location).

b) Number of buildings _____

c) Number of Offender housing units _____

Attachment IV Continued

5. Composition of Offender Population:

- a) Designated Facility Capacity _____
- b) Current Population of Facility _____
- c) Average daily population for the past 12 months _____
- d) Age range of population _____
- e) Average length of stay or time under supervision _____
- f) Facility security levels/Offender custody levels _____
- g) Number of Offenders admitted to facility during the past 12 months _____
- h) Does the facility hold youthful Offenders? Yes No
- i) Number of youthful Offenders held in the facility during the past 12 months _____ (N/A if the facility never holds youthful Offenders)
- j) Number of single cell housing units _____
- k) Number of multiple occupancy cell housing units _____
- l) Number of open bay/dorm housing units _____
- m) Number of segregation cells _____
- n) Number of restrictive housing cells _____
- o) In housing units, does the facility maintain sight and sound separation between youthful Offenders and adult Offenders?
 Yes No N/A (if the facility never holds youthful Offenders)

6. Number and Placement of Supervisory Staff

	Major	Captain	Lieutenant	Sergeant
A Shift				
B Shift				
C Shift				
D Shift				
Utility				
Field				
Other				

7. Institution Program Schedule (Please provide a list of all regularly scheduled program activities at your unit).

8. # of Substantiated PREA allegations in the last 12 months: _____

9. # of Unsubstantiated PREA allegations in the last 12 months: _____

10. # and placement of cameras/how are cameras monitored? _____

- a. Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months? Yes No

Do not alter this form. Attach additional pages if necessary. This form is to be completed and returned to the PREA Coordinator every year, no later than October 1st.



Facility Annual PREA Review

Date: _____ Name of Facility: _____

Warden/Center Supervisor Name: _____

Warden/Center Supervisor Signature: _____

Reporting Period: October 1, _____ through September 30, _____

Note: This report is to be completed and returned to the PREA Coordinator by October 1st of each year.

- List the number and disposition types of all PREA investigations conducted between October 1st and September 30th.

	Substantiated	Unsubstantiated	Unfounded	On-Going
Staff Sexual Misconduct with Inmate/Resident				
Staff-on-Inmate Sexual Harassment				
Inmate-on-Inmate Sexual Harassment				
Inmate-on-Inmate Abusive Sexual Contact				
Inmate-on-Inmate Nonconsensual Contact				
Inmate-on-Inmate Sexual Misconduct (consensual)				

- List all new purchases and/or upgrades to existing video monitoring equipment, cameras, mirrors, etc. (Use a separate sheet if necessary).
