



SARAH HUCKABEE SANDERS
GOVERNOR

ARKANSAS DEPARTMENT OF CORRECTIONS

1302 Pike Avenue, Suite C
North Little Rock, AR 72114



OFFICE OF THE
SECRETARY

SECRETARIAL DIRECTIVE

SUBJECT: Prison Rape Elimination Act (PREA)

SUPERSEDES: SD 2021-05

NUMBER: 2024-02

APPLICABILITY: All Department of Corrections Employees, Contractors, Volunteers, Interns and Offenders

REFERENCE:

A.C.A. §§ 25-43-105, 25-43-108, and 25-43-401; AR 005 Reporting of Incidents; AR 225 Employee Conduct Standards; AR 210 Relationships and Transactions with Inmates; AR 404 Transporting Escorting Offenders; SD Internal Investigations and Criminal Evidence Handling; SD Incident Notification Procedures; and PREA Standards.

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APPROVED: Original signature on file

EFFECTIVE DATE: May 21, 2024

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 DOC. The purpose of this directive is to ensure that the DOC remains in compliance with the Prison Rape Elimination Act (PREA). The DOC has a “zero-tolerance” approach toward all forms of sexual abuse and sexual harassment. This directive also sets forth the DOC’s zero-tolerance approach to preventing, detecting, and responding to such conduct. The DOC will initially respond to all reports of sexualized behavior or abuse as nonconsensual, regardless of perception, rumor, appearance, or participant disclosure.

II. 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 individuals 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. Contractor. A person who provides services on a recurring basis pursuant to a contractual agreement with the DOC.

- C. Coordinated Response Plan. A written institutional plan to coordinate actions taken in response to an incident of Sexual Abuse, among Staff First Responders, medical and mental health practitioners, investigators, and facility leadership.
- D. Exigent Circumstances. Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- E. First Responder. Any Staff member who is responsible for the initial response to a discovery or report of Sexual Abuse.
- F. Gender Nonconforming (GNC). A person whose appearance or manner does not conform to traditional societal gender expectations.
- G. Investigative Outcome. When an investigation is concluded, the outcome will be labeled as one of the following:
 - 1. Substantiated. An allegation that was investigated and determined to have occurred.
 - 2. Unfounded. An allegation that was investigated and determined not to have occurred.
 - 3. Unsubstantiated. An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- H. LGBTI. An acronym for a group of individuals self-identifying as lesbian, gay, bisexual, transgender, and/or Intersex.
 - 1. Transgender. A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
 - 2. Intersex. A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.
- I. Offender. Inmates and residents in a prison, community corrections center, or a reentry center operated or contracted by the DOC.
- J. Perpetrator. An individual alleged to have committed any form of Sexual Abuse or Sexual Harassment; identified in the electronic Offender Information Management System ("eOMIS") as the Suspect.
- K. 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.
- L. PREA Checklist. A form to be completed by designated Staff to ensure the Victim receives appropriate care and investigators can secure evidence and increase the chance of prosecuting the Perpetrator(s).
- M. PREA Compliance Manager (PCM). Individual responsible for overseeing PREA compliance efforts in their facilities.
- N. PREA Coordinator. Individual responsible for developing PREA training as needed, writing, revising, and updating policies and procedures involving PREA standards; annually reviewing policies for effectiveness and possible standard deficiencies; and advising staff regarding implementation and interpretation of PREA policies.
- O. PREA Sex Offender. 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. Prison. An institution under federal or state jurisdiction for which the primary use is the confinement of, usually in excess of one year in length, individuals convicted of a serious crime, or a felony.
- Q. Retaliation. Acts or threats of action to punish an Offender or Staff member for refusing to submit to sexual advances or involvement in the reporting or investigations of a Sexual Abuse or Sexual Harassment complaint.

- R. Sexual Abuse. The use of debt, threats of physical harm, peer pressure, deceit, personal favors, or positional authority to force or coerce 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 Acts. Penetration by an Offender of another Offender in which the victimized 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, however slight, of the anal or genital opening by any means.
 3. Staff-on-Offender Sexual Misconduct. Any behavior or act of a sexual nature directed toward an Offender by an employee, Volunteer, Contractor, or DOC representative.
 - a. 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, and Voyeurism.
 - b. Includes without limitation to: 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.
- S. Sexual Harassment
1. Offender-on-Offender Sexual Harassment. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an Offender directed toward another.
 2. Staff-on-Offender Sexual Harassment. Repeated verbal comments or gestures of a sexual nature to an Offender by a Staff member, Contractor, or Volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- T. Staff. All DOC employees, Volunteers, interns, and contracted personnel working within the facilities, or directly with an Offender in any official capacity.
- U. 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.
- V. Victim Prone. An Offender identified at intake or by a unit classification committee as susceptible to sexual abuse within a correctional facility.
- W. Volunteer. An individual who donates time and effort on a recurring basis to enhance the activities and programs of the DOC.
- X. Voyeurism. An invasion of privacy of an Offender by Staff for reasons unrelated to official duties, such as peering at an Offender who is using a toilet in his or her cell to perform bodily functions; requiring an Offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an Offender's naked body or of an Offender performing bodily functions.
- Y. Youthful Offender. Any person under the age of eighteen (18) who is under adult court supervision and incarcerated or detained in a Prison or jail.

III. PROCEDURES:**A. Training****1. Staff Training**

- a. Training shall be tailored to be gender specific to the primary facility of each Staff member. All employees shall receive training annually in the following:
 - i. The DOC's zero-tolerance policy for Sexual Abuse and Sexual Harassment.
 - ii. Their responsibilities of Sexual Abuse and Sexual Harassment prevention, detection, reporting, and response policies and procedures.
 - iii. Offenders' right to be free from Sexual Abuse and Sexual Harassment.
 - iv. The right of Offenders and Staff to be free from Retaliation for reporting Sexual Abuse and Sexual Harassment.
 - v. The dynamics of Sexual Abuse and Sexual Harassment in confinement.
 - vi. The common reactions of Sexual Abuse and Sexual Harassment victims.
 - vii. How to detect and respond to signs of threatened and actual Sexual Abuse.
 - viii. How to avoid inappropriate relationships with Offenders.
 - ix. How to communicate effectively and professionally with an Offender, including LGBTI or GNC Offenders.
 - x. How to comply with relevant laws related to mandatory reporting of Sexual Abuse to outside authorities.

2. Volunteer and Contractor Training

- a. All Volunteers and Contractors who have contact with Offenders shall be trained annually on the following:
 - i. The DOC's policy of zero-tolerance regarding Sexual Abuse and Sexual Harassment and how to report such incidents.
 - ii. Their responsibilities under the DOC's Sexual Abuse and Sexual Harassment policies and procedures.
- b. Training shall be based on the level and amount of contact the Volunteer or Contractor has with Offenders.

3. Sexual Abuse Investigator Training - All employees who conduct Sexual Abuse investigations shall receive specialized training in conducting such an investigation in a confinement setting. The training shall include:

- a. Interviewing techniques for Sexual Abuse Victims.
- b. Proper use of Miranda and Garrity warnings.
- c. Sexual Abuse evidence collection in confinement settings.
- d. Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

4. Medical and Mental Health Training - All full and part-time medical and mental health care practitioners who work regularly in the facility shall receive specialized training on the following:

- a. How to detect and assess signs of Sexual Abuse and Sexual Harassment.
- b. How to preserve physical evidence of Sexual Abuse.
- c. How to respond effectively and professionally to Victims of Sexual Abuse and Sexual Harassment.
- d. How and to whom to report allegations or suspicions of Sexual Abuse and Sexual Harassment.

5. Victim Advocacy Training - 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.
6. Staff members completing the above training shall sign a document acknowledging that they understand the training they have received. All training documentation shall be maintained by the DOC's PREA Coordinator.

B. Offender Education

1. During the intake process and at each facility, each Offender shall receive oral and written information about 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.
2. Within thirty (30) days of intake and at each facility, comprehensive education shall be provided to Offenders either in person or through video regarding their rights to be free from Sexual Abuse and Sexual Harassment, as well as from Retaliation for reporting such incidents; how to prevent Sexual Abuse and self-protection measures; treatment and counseling availability; and policies and procedures for responding to such incidents.
3. Each facility shall provide Offender education in formats accessible to all Offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, and for Offenders who have limited reading skills. Use of Offender interpreters for assistance in Offender education on aspects of the DOC's efforts to prevent, detect, and respond to Sexual Abuse and Sexual Harassment shall be prohibited except in circumstances where extended delay in obtaining an effective interpreter could compromise the Offender's safety.
4. Each facility shall maintain documentation of participation in Offender education.
5. Each facility shall ensure that key information is continuously and readily available or visible to Offenders, such as posters and Offender handbook materials that explain the zero-tolerance policy and different ways to report.

C. General Provisions.

1. Cross-Gender Viewing and Searches
 - a. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches and shall document all cross-gender pat-down searches of female Offenders.
 - b. The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches except in Exigent Circumstances or when performed by medical practitioners.
 - c. For a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female Offenders, absent Exigent Circumstances. Facilities shall not restrict female Offenders' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
 - d. Offenders shall be permitted to shower, perform bodily functions, and change clothing without Staff of the opposite gender viewing their breasts, buttocks, or genitalia except in Exigent Circumstances or when such viewing is incidental to routine cell checks.
 - e. Staff of the opposite gender shall announce their presence when entering an Offender housing unit.
 - f. Staff shall be prohibited from searching or physically examining a Transgender or Intersex Offender for the sole purpose of determining the Offender's genital status.

2. Hiring Decisions
 - a. The DOC shall perform a criminal background record check before enlisting the services of any Contractor who may have contact with Offenders.
 - b. The DOC shall conduct criminal background record checks at least every five years of current employees and Contractors who may have contact with Offenders.
 3. 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.
 4. 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 prohibiting 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.
 5. Medical and Mental Health
 - a. All Offenders who have been Victims of Sexual Abuse in any correctional facility shall be offered medical and mental health evaluations and, as appropriate, any necessary treatment related to Sexual Abuse. This includes timely and unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which shall be determined by medical and mental health practitioners according to their professional judgment. This also includes timely and comprehensive information about emergency contraception, pregnancy testing, sexually transmitted infection testing and prophylaxis, and lawful pregnancy-related medical services deemed appropriate by the medical practitioner.
 - b. Mental health practitioners shall attempt to conduct an evaluation on all known Offender-on-Offender Perpetrators within sixty (60) days of learning of such abuse and provide treatment as deemed appropriate.
 - c. Current and previous Victims of Sexual Abuse shall receive any medical and mental health services related to the Sexual Abuse at no cost to the Offender.
- D. Offender PREA Screening
1. Each Offender shall be assessed during the intake screening within seventy-two (72) hours of arrival and upon each transfer to another facility. Each objective risk screening shall be face to face and include a review of any history of Sexual Abuse-Victimization or sexually predatory behavior. Only Staff who have completed PREA screening training may administer the assessment. The assessment report shall be completed in the Electronic Offender Management Information System (eOMIS).
 2. The PREA screening shall consider, at a minimum, the following criteria to assess an Offender for risk of sexual victimization:
 - a. Whether the Offender has a mental, physical, or developmental disability;
 - b. The age of the Offender;

- c. The physical build of the Offender;
 - d. Whether the Offender has previously been incarcerated;
 - e. Whether the Offender's criminal history is exclusively nonviolent;
 - f. Whether the Offender has prior convictions for sex offenses against an adult or child;
 - g. Whether the Offender is or is perceived to be LGBTI or GNC;
 - h. Whether the Offender has previously experienced sexual Victimization; and
 - i. The Offender's own perception of vulnerability.
3. The PREA screening shall be based on a point system developed by the DOC PREA Coordinator.
 4. If an Offender scores "at risk" for victimization, the designated Staff shall label them as Victim Prone in eOMIS.
 5. The PREA screening shall consider, at a minimum, the following criteria to assess an Offender for risk of being sexually abusive:
 - a. Prior acts of Sexual Abuse,
 - b. Prior convictions for violent offenses, and
 - c. History of prior institutional violence or Sexual Abuse, as known to the DOC.
 6. If an Offender scores "at risk" for abusiveness, the designated staff shall label them as a Potential Sexual Predator in eOMIS.
 7. The information from the PREA screening shall be used to make housing, bed, program, and work assignment decisions with the goal of keeping separate those Offenders who are prone to sexual Victimization from those who are prone to sexual aggression. The facility PCM is responsible for ensuring such separation.
 8. Within thirty (30) days of arrival to each facility, the Offender's risk level shall be reassessed based upon any additional information received since the intake screening. A reassessment shall also occur when any new information is learned that bears on an Offender's propensity for sexual Victimization or abusiveness, such as an incident or new disclosure of Sexual Abuse. Reassessments shall include consultation with the Offender.
 9. When an assessment indicates an Offender has experienced Victimization or previously been a Perpetrator, Staff shall ensure the Offender has been offered a follow-up for counseling and monitoring with the appropriate medical or mental health professional within fourteen (14) days of the assessment.
 10. The dissemination of information related to and resulting from the assessment shall be controlled and limited to Staff necessary to inform treatment plans and make security and management decisions regarding housing, beds, work, education, and program assignments.
 11. Medical and mental health professionals shall obtain informed consent from the Offender prior to reporting information related to a prior sexual victimization that did not occur in a facility, unless the Offender is under eighteen (18) years old.
 12. Offenders shall not be disciplined for refusal or nondisclosure of complete information in response to the questions asked on the PREA screening.
 13. Placement decisions regarding Transgender and Intersex Offenders shall be individualized.
- E. Initial Reporting
1. Offenders may report Sexual Abuse and Sexual Harassment, Retaliation by other Offenders or Staff, 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. Sending correspondence to the designated external agency;
 - 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; or
 - h. Having a family member or friend make a report to the Warden or DOC PREA Coordinator.
2. An Offender may report a sexual offense to any Staff member and may also report using any of the listed multiple internal and external reporting methods, whether verbally, in writing, anonymously, or via a third party. If at any time it is learned that an Offender is subject to a substantial risk of imminent Sexual Abuse, immediate action shall be taken to protect the Offender.
 3. Staff members shall immediately report all knowledge, suspicions, or information of an incident of a sexual offense within DOC or any other correctional facility. They shall also report any Retaliation against someone who has reported such an incident and any knowledge of Staff who neglect to report the above incidents or who, through neglect of duty or violation of responsibilities, may have contributed to an incident occurring. Staff can privately report Offender Sexual Abuse and Sexual Harassment directly to the warden or deputy warden of the facility, or by contacting the PREA Hotline.

F. Staff First Responder Duties

1. Upon learning that an Offender was sexually abused, the Staff member shall immediately ensure the safety of the Victim while reporting the information to the shift supervisor. The shift supervisor shall activate the Coordinated Response Plan and ensure the following steps have been taken:
 - a. The separation of the Victim and Perpetrator.
 - b. The security and protection of any crime scene to keep potential evidence in place for examination and investigation.
 - i. The only persons permitted to enter a secured crime scene shall be Arkansas State Police, the assigned investigator, or medical Staff as needed.
 - ii. The area shall remain secured as a crime scene until verification of a completed investigation and released by the investigating authority.
 - c. If the abuse occurred within the previous ninety-six (96) hours, 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;
 - d. If the abuse occurred within the previous ninety-six (96) hours, ensure that the **Perpetrator** does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;
 - e. The PREA checklist will be initiated immediately by the First Responder. This requires that the following Staff be notified:
 - i. DOC PREA Coordinator
 - ii. Facility PCM
 - iii. Internal Affairs Administrator
 - iv. On-Call Medical Personnel
 - v. On-Call Mental Health Personnel
 - vi. Warden or Duty Warden
 - vii. DOC HIV Coordinator (only if there is a known or suspected exchange of body fluids)
 - viii. Classification Officer

- ix. Chaplain
 - x. Victim Advocate
 - xi. Communications Director (only if the Victim is being transported to the hospital).
 - xii. Chief of Staff
2. Medical personnel shall promptly determine whether the Victim needs to be transported to an outside facility for an examination that may include: collection of forensic evidence, testing for sexually transmitted diseases, and prophylactic treatment.
 - a. In preparation of transporting the Victim, he or she shall be instructed to undress over a clean sheet, in order to collect any potential forensic evidence that may fall from the Victim's person.
 - b. The sheet along with the Victim's clothing shall be collected as evidence and placed in a paper bag with an appropriate chain of evidence form attached.
3. The transportation of the Victim shall be in accordance with the Transporting/Escorting Offenders Administrative Rule.
4. In coordination with the outside facility, the designated Staff shall request the forensic medical examination be performed by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) or other qualified medical practitioner. The efforts to provide SAFEs or SANEs shall be documented. The examination shall be at no cost to the Victim.
5. Medical care and forensic medical examinations are separate and different procedures. The Victim shall have a right to refuse either. Victims may be encouraged but shall not be forced to consent to a forensic medical examination. However, the Victim may refuse consent to the forensic medical examination and still consent to and receive medical care.
6. The Victim shall be offered victim advocate services. If requested, the advocate service shall be contacted and given the appropriate information in order to assist the Victim through the forensic examination and investigation process.
7. Victims of Sexual Abuse or those at high risk for abuse shall not be placed in involuntary protective custody or segregation unless all available alternatives have been assessed and documented and are not available. The facility may only hold the Offender for twenty-four (24) hours in involuntary segregation while completing the assessment, and if the placement has to continue, must document why there are no other available alternatives and provide access to programs, education, work, and other privileges to the extent possible.
8. Staff will enter the incident in eOMIS as soon as possible, but not later than the end of their shift, following these guidelines:
 - a. Choose the correct incident type and select YES to Suspected PREA.
 - b. List the names of all Staff and Offenders involved and select their appropriate level of involvement—witness, suspect, or Victim.
 - c. Refer the incident to the Warden and Unit PCM.
9. Notifications for the purpose of an investigation shall be immediately made to the designated facility or DOC investigator. In addition, all allegations of Sexual Abuse that involve potentially criminal behavior shall be referred for criminal investigation to the Arkansas State Police (ASP).
10. Within seventy-two (72) hours of receiving an allegation that an Offender was sexually abused while confined at another facility, the Warden shall notify the head of the facility where the incident occurred. The notification shall be documented. All allegations received from other facilities shall be investigated in accordance with the PREA Standards. The incident report and investigation shall be completed by the facility where the incident occurred.

G. Investigations

1. All allegations of Sexual Abuse and Sexual Harassment shall be promptly, thoroughly, and objectively investigated, including third-party and anonymous reports.
2. A PREA investigation shall be initiated within twenty-four (24) hours of the incident upon report to the facility or DOC investigator or as soon as possible if referred for investigation to the Arkansas State Police (ASP). ASP shall be notified once the quality of evidence appears to support criminal prosecution.
3. Sexual Harassment investigations shall include the following documentation:
 - a. 005;
 - b. Witness statements;
 - c. Any other relevant information; and
 - d. Major disciplinary, if substantiated.
4. If an allegation of Sexual Harassment is Substantiated or if the Offender is in imminent danger, the Victim and Perpetrator shall be separated.
5. Sexual Abuse investigators shall:
 - a. Gather and preserve all direct and circumstantial evidence, including any available physical and DNA evidence, and any available electronic monitoring data;
 - b. Interview the Victim, suspected Perpetrator(s), and witnesses; and
 - c. Review prior complaints and reports of Sexual Abuse involving the suspected Perpetrator.
6. Investigations shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, the review of prior complaints and reports of Sexual Abuse involving the suspected Perpetrator, and investigative facts and findings.
7. All investigations shall be consistent with the most updated version of the Coordinated Response Plan.
8. A Sexual Abuse investigation shall normally be completed within ninety (90) days of initiation. If circumstances cause the investigation to extend past ninety (90) days, the cause shall be documented in the investigation report.
9. No standard higher than a preponderance of the evidence shall be imposed in determining whether allegations of Sexual Abuse or Sexual Harassment are Substantiated for administrative investigations.
10. The credibility of a Victim, Perpetrator, or witness shall be assessed on an individual basis and shall not be determined by the individual's status as an Offender or Staff member. An Offender who alleges Sexual Abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition to proceed with the Sexual Abuse investigation.
11. Administrative investigations that result in a Substantiated case of Sexual Abuse shall include an effort to determine whether Staff actions or failures to act contributed to the abuse.
12. The departure of the Perpetrator or Victim from the employment or control of the facility or department shall not provide a basis for terminating an investigation.
13. All PREA investigations shall be referred to the PCM, PREA Coordinator, and Warden or their designee for review and approval upon completion. Once approved by the Warden or designee, they shall be referred to Internal Affairs for final review.
14. The Victim shall be informed within thirty (30) days of the conclusion of the investigation. It shall be documented when the:
 - a. Allegation has been determined to be Substantiated, Unsubstantiated, or Unfounded.
 - b. Perpetrator is no longer posted within the Victim's unit.

- c. Perpetrator is no longer employed.
 - d. Perpetrator has been indicted or convicted on a charge related to the Sexual Abuse.
15. The obligation to inform the Victim shall terminate if they are released from custody.

H. Sexual Abuse Incident Review (SAIR)

1. All facilities shall conduct a review, ordinarily within thirty (30) days, at the conclusion of every Sexual Abuse investigation unless the allegation was determined to be Unfounded. An investigation shall be deemed to be concluded upon the review and approval of the investigation report by the Internal Affairs Division, Division Director, and the Secretary. The review team shall consist of upper-level management officials with input from line supervisors, investigators, and medical or mental health practitioners. The review team shall:
 - a. Consider whether the allegation or investigation indicated a need to revise policies or practices to better prevent, detect, or respond to Sexual Abuse.
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; LGBTI identification, status, or perceived status; 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 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.
 - f. Prepare a report of its findings, including determinations made from sections a-e and any recommendations for improvement and submit the report to the facility head and PCM.
2. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so.

I. Confidentiality

1. All information in the PREA screening, incident report, and investigation of a sexual offense shall be kept confidential except to the extent necessary to report to an appropriate supervisor, adequately investigate, provide treatment, or make security or management decisions. An individual interviewed in the course of resolving the complaint shall be cautioned to treat the information as confidential.
2. Breach of this confidentiality shall be grounds for disciplinary action. Due to the sensitive nature of a sexual offense incident as outlined in this policy, all investigative reports, incident reports, sexual abuse incident reviews, and investigative notes and documents on sexual offense incidents shall remain confidential and shall not be subject to open records.

J. Retaliation - Retaliation by or against any Staff, Offender, or witness involved in a complaint or report of Sexual Abuse or Sexual Harassment is strictly prohibited. Retaliation, in and of itself, shall be investigated and may constitute grounds for disciplinary action.

1. The PCM at each facility shall be responsible for monitoring Retaliation.
2. Monitoring shall occur for at least ninety (90) days following an allegation of Sexual Abuse or Sexual Harassment. Monitoring shall occur beyond ninety (90) days if the initial monitoring indicates a continuing need. Monitoring shall cease if the investigation determines that the allegation is Unfounded.
3. When monitoring Offenders, periodic status checks shall be conducted by the PCM as needed, but at least once every thirty (30) days. Status checks shall be conducted more often if concerns are expressed by the Offender.
4. Emotional support services shall be provided as well as appropriate measures taken to protect any individual who expresses a fear of Retaliation.

K. Discipline

1. Offender Disciplinary Actions

- a. Offenders may be disciplined for Substantiated incidents of Offender-on-Offender Sexual Abuse. If an Offender has pending disciplinary sanctions for Offender-on-Offender Sexual Abuse, consideration shall be given as to whether the Offender's mental disabilities or mental illness contributed to his or her behavior when determining what level of sanction, if any, will be imposed.
- b. An Offender may be labeled as a PREA Sex Offender in eOMIS for any substantiated allegation of Sexual Abuse. The PREA Sex Offender precaution shall be approved by the facility PCM and DOC PREA Coordinator.
- c. Offenders may not be disciplined for Sexual Abuse of a Staff member if the Staff member consented.
- d. An Offender may be disciplined for reporting a false allegation of Sexual Abuse or Sexual Harassment only where the facility can demonstrate the false allegation was knowingly made in bad faith. A report made in good faith based upon a reasonable belief that the conduct occurred shall not constitute a false report or lying even if an investigation does not establish evidence sufficient to substantiate the allegation.
- e. An Offender may be disciplined for abusing the PREA Hotline. Abuse includes, but is not limited to:
 - i. Calling about a non-PREA related issue;
 - ii. Repeatedly calling about the same allegation; or
 - iii. Threatening the safety of Staff or other Offenders.

2. Staff Disciplinary Actions

- a. Staff shall be subject to disciplinary sanctions up to and including termination for violating Sexual Abuse or Sexual Harassment policies.
- b. Termination shall be the presumptive disciplinary sanction for Staff who engage in Sexual Abuse. The former employee will not be eligible for rehire.
- c. Disciplinary sanctions shall be commensurate with the nature and circumstances of the acts committed and the Staff member's disciplinary history.
- d. All terminations for 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.

L. Staffing Plan

1. Each facility shall develop, document, and make its best efforts to comply on a regular basis with a Staffing plan that provides for adequate levels of Staffing and, where applicable, video monitoring, to protect Offenders from Sexual Abuse.
2. In calculating adequate Staffing levels and determining the need for video monitoring, Prisons shall take into consideration:
 - 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 bodies;
 - e. All components of the facility's physical plant, including blind spots or area where Staff or 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, regulations, or standards;
 - j. The prevalence of Substantiated and Unsubstantiated incidents of Sexual Abuse; and
 - k. Any other relevant factors.
3. In calculating adequate Staffing levels and determining the need for video monitoring, Community Confinement Facilities shall take into consideration:
 - a. All components of the facility's physical plant including "blind spots" or areas where Staff or Offenders may be isolated;
 - b. The composition of the Offender population;
 - c. The prevalence of Substantiated and Unsubstantiated incidents of Sexual Abuse; and
 - d. Any other relevant factors.
4. In circumstances where the Staffing plan is not complied with, the facility shall document and justify all deviations from the Staffing plan.
5. Whenever necessary, but no less frequently than once each year, each facility, in consultation with the PREA Coordinator, shall assess, determine, and document whether adjustments are needed to:
 - a. The Staffing plan established pursuant to this section;
 - b. The facility's deployment of video monitoring systems and other monitoring technologies; and
 - c. The resources the facility has available to commit to ensure adherence to the Staffing plan.

M. Sexual Abuse Data Collection and Records Retention

1. Data shall be collected for every allegation of Sexual Abuse using the PREA investigating screens in eOMIS designed to contain the data necessary to answer all questions for the Survey of Sexual Violence requested annually from the Department of Justice for the set of definitions. All data collected shall be securely retained.
2. Each facility shall document the number of allegations, completed investigations, and investigative outcomes in a monthly report. The report shall be submitted to the PREA Coordinator along with the facilities tracking spreadsheet.
3. All data from available incident-based documents related to allegations of Sexual Abuse shall be collected, reviewed, and maintained as needed.
4. Data shall be obtained from each private facility which contracts for the confinement of DOC Offenders.
5. Aggregated data collected shall be made available to the public annually through the DOC website.
6. All case records associated with claims of sexual offenses, including incident reports, investigation reports, Offender information, case disposition, and medical and counseling evaluation findings and recommendations for post-release treatment or counseling, shall be retained in accordance with the records retention schedule.

IV. ATTACHMENTS:

- I. PREA Checklist
- II. Retaliation Assessment Form



Attachment I

PREA Checklist

		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. 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.	Notify the Chief of Staff (only for instances of sexual abuse).			
15.	Open suspected PREA report in eOMIS. Write the incident # here: _____			

Attachment II



PREA Retaliation Assessment Form

Date _____ Facility _____ 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)

Staff Monitoring:

Does staff want to speak with mental health? Yes No N/A

Does staff fear retaliation? Yes No N/A

Offender Monitoring:

Does the offender want to seek out victim advocacy services? Yes No N/A

Does the offender fear retaliation? Yes No N/A

Does there need to be any housing or program changes? Yes No N/A

If housing or program changes were necessary, briefly describe them:

Signature of Staff Conducting Assessment

Signature of Staff/Offender being Monitored

This form must be scanned into EOMIS.