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	<b>RELATED STANDARDS:</b> <b>ACA: 4-4406, 4-4371, 4-4133</b> <b>NCCHC: P-B-04, P-B-05</b>	
<b>CHAPTER: 8 Administration</b>	<b>SUBJECT:</b> <b>PRISON RAPE ELIMINATION ACT (PREA)</b>	
<b>APPROVED BY THE COMMISSIONER AND SIGNED THIS DATE:</b>		
 <b>9/22/15</b>		
<b>APPROVED FOR PUBLIC RELEASE</b>		

- I. **AUTHORITY:** Prison Rape Elimination Act of 2003; 28 CFR Part 115
- II. **PURPOSE:** To establish and maintain a program of education, prevention, detection, investigation, perpetrator punishment, victim treatment and support and data collection related to sexual abuse in compliance with the Prison Rape Elimination Act (PREA).
- III. **APPLICABILITY:** All Department of Correction employees, contractors, volunteers, student interns and persons or organizations conducting business with the Department and all offenders under the custody or supervision of the Department of Correction.
- IV. **DEFINITIONS:**
- A. **Sexual relations in detention facility (11 Delaware Code, Chapter 5 §1259):**  
A person is guilty of sexual relations in a detention facility when, being an employee working at a detention facility, a contractor or employee of a contractor at a detention facility, or a volunteer at a detention facility, the person engages in consensual sexual intercourse or sexual penetration with a person in custody on the premises of a detention facility. Violation of this section shall be a class G felony.
- B. **Prison Rape Elimination Act (PREA):** Federal law to address sexual violence in prisons, jails, and other correctional facilities. Under PREA, the National Prison Rape Elimination Commission was created with the responsibility for establishing standards for the prevention, detection, response, and monitoring of sexual abuse and violence within correctional systems.
- C. **PREA Coordinator:** DOC employee responsible for the over-site of PREA standards, compliance with standards, training, data collection and inspection.
- D. **PREA Compliance Manager:** BOP facility employee responsible at the institutional level with sufficient time and authority to coordinate the facility's efforts to comply with DOC policy and the PREA standards.
- E. **PREA Standards (PS):** Written rules that require all correctional facilities to comply with minimum acceptable benchmarks in order to reduce and eliminate the incidence of prison rape. These standards are directed toward the states by the federal government, as published in 28 CFR Part 115.
- F. **Sexual abuse:** Sexual abuse includes –

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1. Sexual abuse of one offender by another offender; and
2. Sexual abuse of an offender by a staff member, contractor, or volunteer.
3. Sexual abuse of an offender by another offender includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
  4. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  5. Contact between the mouth and the penis, vulva, or anus;
  6. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
  7. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
8. Sexual abuse of an offender by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the offender:
  9. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  10. Contact between the mouth and the penis, vulva, or anus;
  11. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  12. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  13. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

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14. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in this section;
  15. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender.
  16. Any voyeurism by a staff member, contractor, or volunteer.
- G. **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. Voyeurism is a form of sexual abuse.
- H. **Sexual Harassment**: Sexual harassment of an offender is another form of abuse, and includes
1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed toward another; and
  2. 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.
- I. **Offender**: All persons under the custody or authority of the Department of Correction (may in Standards be referred to as an inmate, detainee or resident).
- J. **Intersex**: Means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sexual development.
- K. **Gender non-conforming**: Means a person whose appearance or manner does not conform to traditional societal general expectations.
- L. **Transgender**: Means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- M. **Memorandum of Understanding (MOU)**: Document used to define a relationship between departments, agencies or other entities to ensure continuity of operations where there are shared resources or workflows on anticipated outcomes.
- N. **Victim Advocate**: Individual from an outside agency in which the Department has established a MOU for the purposes of providing emotional support and related information and resources to those individuals affected by sexual abuse.

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**V. POLICY:**

- A. It is the policy of the Department of Correction that all employees, contractors, volunteers and interns are responsible for the prevention, detection and reporting of prison rape and sexual activity. Anyone who fails to report offender on offender sexual abuse, or staff sexual abuse of any kind is subject to discipline, up to and including termination.
- B. The Department will take immediate action to protect offenders who it learns are in substantial risk of imminent sexual abuse. It shall take action to protect offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other offenders or staff, and shall designate which staff members or departments are charged with monitoring retaliation.
- C. The Bureau Chiefs shall be responsible for developing Bureau level policies and procedures to implement this Department policy and the PREA standards. Such policies will include Food Service and Maintenance employees that work in institutions where applicable.
- D. The Bureaus and facilities may use specific language from the PREA standards in developing their procedures as necessary.

**1. Prevention Planning**

- a. There is Zero-Tolerance for any type of sexual abuse, and sexual harassment, between offenders or staff.
- b. A state-wide PREA Coordinator, and facility PREA Compliance Managers will be established.
- c. Yearly, the Department will assess, determine, and document where changes should be made to either the staffing plan, or deployment of cameras.
- d. Where the Department houses offenders under eighteen years old, the youthful offender will not be placed in an area where they shall have sight, sound or physical contact with any adult offender.
- e. Cross gender strip searches, body cavity searches, and cross gender pat searches of female offenders except in exigent circumstances, or where performed by medical staff are prohibited, except under exigent circumstances. Where exigent circumstances exist, and a search is performed, the facility PREA Compliance Manager shall maintain a log documenting such searches.
- f. Staff of the opposite gender will announce their presence when entering an offender housing unit.
- g. Intermediate-level or higher-level supervisors will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment.
- h. The Department will not physically examine a cross gender or intersex offender for the sole purposes of determining gender. Where necessary, medical staff will assist in determining the offenders genital status.
- i. The Department will ensure that offenders with disabilities have an equal opportunity to benefit from its efforts to prevent, detect, and respond to all forms of sexual abuse.
- j. The agency shall take appropriate steps to ensure that offenders with disabilities, have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual

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harassment. Such steps shall include, when necessary to ensure effective communication with offenders who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

- k. The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to offenders who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- l. The agency shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety.
- m. The agency shall not hire or promote anyone who may have contact with offenders, and shall not enlist the services of any contractor who may have contact with offenders, who:
  - i. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution
  - ii. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - iii. Has been civilly or administratively adjudicated of engaging or attempting to engage in sexual activity in the community by force or coercion or was unable to give consent
- n. The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with offenders.
- o. Before hiring new employees, and before enlisting the services of contractors or volunteers who may have contact with offenders, the agency shall:
  - i. Perform a criminal background records check; and consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
  - ii. The agency shall conduct criminal history records checks at least every five years on all DOC employees. Internal Affairs (IA) will conduct these checks. A copy of the most recent page of these checks will be retained by IA.

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IA will conduct criminal history checks on contractors who may have contact with offenders at least every two years. A copy of the most recent page of these checks will be maintained by IA.

- iii. The agency shall ask all applicants and employees who may have contact with offenders directly about previous sexual misconduct in written applications and/or interviews for hiring or promotions and as part of annual PREA refresher training. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. Failure to affirm, or material omissions to the question may result in termination.
  - p. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
  - q. Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.
  - r. When building a new facility, upgrading existing facilities, or when purchasing and deploying new video monitoring equipment, the Department will consider what effect these upgrades and purchase will have on its ability to protect offenders from sexual abuse.
- 2. Responsive Planning**
- a. The Department will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence in criminal and administrative investigations.
  - b. The Department will utilize Sexual Assault Nurse Examiners (SANE's) or Sexual Assault Forensic Examiners (SAFE's) whenever possible, and when the investigation indicates retrievable evidence may be available.
  - c. Forensic evidence may be retrievable for up to five days after a sexual assault, and a SANE exam will be offered if it is believed DNA, fibers, bruising, tearing, or other forensic evidence may be retrieved from a victim.
  - d. The Department will strive to maintain a working relationship, through an established MOU, with an outside rape crisis, or rape advocacy agency to provide rape crisis services. When requested, and where applicable, the Department shall help coordinate contact with an advocate at the hospital, or upon return to a facility.
  - e. The Department shall conduct an administrative and/or criminal investigation for each allegation of sexual abuse.
  - f. If an allegation indicates criminal behavior, the Department shall refer the case to the exclusive jurisdiction to investigate allegations of rape as outlined in 11 Del. Code Ch. 83, § 8302.
- 3. Training and Education**
- a. The Department shall train all employees, vendors, volunteers, and others, who

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may have contact with offenders, on:

- i. The Department's zero-tolerance policy
  - ii. How to fulfill their obligations under this PREA policy
  - iii. The offender's right to be free from sexual abuse
  - iv. The offender's and staff's right to be free of retaliation for making reports of sexual abuse
  - v. The dynamics of sexual abuse in confinement
  - vi. The common reactions of sexual abuse victims
  - vii. How to detect and respond to signs of sexual abuse
  - viii. How to avoid inappropriate relationships with offenders
  - ix. How to communicate effectively with all offenders, including those that are lesbian, gay, bisexual, transgender, intersex, or gender non-conforming
- b. Training will be tailored to the sex of the offender at the facility where staff is assigned. However, the training will be inclusive of both male and female characteristics, as it relates to trauma and history of sexual abuse. This training will provide all staff with a knowledge base to be able to work at either a male or female facility.
  - c. All staff will receive training at the time of hire, or during their academy training. Refresher training must be completed every year.
  - d. The Employee Development Center will be responsible to conduct and track this training department wide.
  - e. For vendors, volunteers, and others that are not sworn personnel, the level and type of training will be consistent with the amount of interaction and contact there will be with offenders.
  - f. The Department will ensure that all staff responsible for conducting administrative investigations receives specialized training related to PREA.
  - g. The Employee Development Center will ensure specialized training for staff conducting investigations and those providing medical and mental health services is available. They will track completion of this training.
  - h. The facility where an offender is housed will be responsible to provide each offender with information on the Department's Zero Tolerance policy for sexual abuse at intake. Within 30 days of intake, the Department will provide a more comprehensive education to offenders on their rights to be free from sexual abuse and sexual harassment, how to report abuse, Department policies on reporting abuse, department policies for responding to abuse, and to their right to be free from retaliation for reporting abuse.
  - i. The Department's grievance protocol will be made available to each offender along with the offender handbook.
  - j. During the intake process, offenders shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
  - k. The agency shall provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually

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impaired or otherwise disabled, as well as to offenders who have limited reading skills.

m. The agency shall maintain documentation of offender participation

**4. Screening for Risk of Victimization and Abusiveness**

- a. All offenders will be screened during intake, and upon transfer to another facility, for their risk of being sexually abused, or being abusive toward other offenders. This screening should occur within 24 hours, but no longer than 72 hours after arrival.
- b. The Department's Sexual Victimization/Abusiveness Quickscreen tool will be utilized.
- c. Within 30 days of the offender's arrival at the facility, the offender will be reassessed using the Department's more detailed Sexual Victimization/Abusiveness screening tool.
- d. Further assessment shall be done every two years, or when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the offenders risk of sexual victimization or abusiveness.
- e. The results of these screenings will be confidential, and will only be used by staff to assist in the placement and protection of offenders from abuse.
- f. The information from the risk screening will be used to inform housing, bed, work, education and program assignments.
- g. Placement and programming assignments for transgender, intersex, and gender non-conforming offenders will be reassessed at least twice each year to review any threats to safety experienced by the offender.
- h. A transgender, intersex, or gender non-conforming offender's own views with respect to his or her own safety shall be given consideration.
- i. Transgender and intersex offenders will be given the opportunity to shower separately from other offenders.
- j. Offenders at a 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.
- k. Offenders placed in segregation to protect them from victimization shall have access to programs, privileges, education, and work opportunities to the extent possible.
- l. Offenders assigned to involuntary segregated housing shall only assigned to this housing until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed 30 days.
- m. The Department shall clearly document when an offender is placed in involuntary segregated housing, the basis of the concern for the housing placement, and the reason no alternative means can be arranged.
- n. The Department shall review an involuntary segregation every 30 days to determine if there is a need for separation from the general population.

**5. Reporting**

- a. The Department will provide a method for offenders to report sexual abuse, sexual harassment, or retaliation by staff or other offenders, for reporting sexual

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abuse and sexual harassment, or violation of responsibilities that may have contributed to such incidents to an entity that is not part of the agency.

This entity will forward offender reports of sexual abuse to agency officials, allowing the offender to remain anonymous upon request.

- b. Offenders detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.
- c. The Department will seek to provide offenders with access to an outside victim advocate for emotional support services by giving offenders mailing addresses and telephone numbers of local, state, or national victim advocacy or rape crisis organizations.
- d. The Department will work to enable reasonable communication between offenders and these organizations in as confidential a manner as possible.
- e. The Department shall inform offenders, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded back to the Department.
- f. The Department will work to establish a MOU with an advocacy agency.
- g. The Department will accept, document and forward third party reports of sexual abuse, made verbally, in writing, and anonymously of sexual abuse for investigation.
- h. The Department will place information on its website, and in its visiting and lobby areas as to how third parties may report sexual abuse on behalf of an offender.
- i. Internal Affairs (IA) must keep a log of all calls to the IA PREA hotline. A copy of this log will be provided to the facility PREA Compliance Manager each month.

**6. Official Response Following an Offender Report**

- a. The Department shall require all staff to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility.
- b. The Department shall require all staff to report immediately any retaliation against staff or offenders that may report such an incident of sexual abuse.
- c. In the case of offenders, each facility will designate staff to monitor alleged victims, and such monitoring shall also include periodic in-person status checks.
- d. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.
- e. Apart from reporting to designated supervisors at the facility, staff shall not reveal any information related to a report of sexual abuse other than to the extent necessary to investigate the incident, treat the victim, and safely house the victim and aggressor.
- f. For offenders under the age of 18, who are a victim of sexual abuse, the facility will report the allegation to the Department of Services for Children, Youth and Families.

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- g. For offenders considered to be a vulnerable adult, the Department will report allegations of sexual abuse to Adult Protective Services.
- h. Upon receiving an allegation that an offender was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred, within 72 hours. The reporting facility will document this notification was made.
- i. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take actions that could destroy physical evidence, and then notify security staff.
- j. There will be a written plan (Sexual Abuse Response Plan) to coordinate actions taken in response to an incident of sexual abuse. (See attachments A and B.)
- k. A copy of all PREA reports will be given to the facility PREA Compliance Manager.
- l. The Department will monitor the victim, any third party offender who reports an allegation of sexual assault, and/or any staff member who reports a case of sexual abuse for 90 days after initiation of an investigation.

**7. Investigations**

- a. Administrative investigations of sexual abuse, and/or sexual harassment of an offender, shall be conducted promptly and thoroughly, and shall be followed through until a determination of substantiated, unsubstantiated, or unfounded can be made. All investigations will be documented in standardized reporting format utilizing the DACS incident and investigation applications, the Law Enforcement Investigative Support System (LEISS/DELJIS), and/or in a word document approved by the DDOC administration. Reports will include a description of the physical and testimonial evidence gathered, and the reasoning behind credibility assessments.
- b. Where allegations are referred for criminal investigation to the Delaware State Police, the Department shall ensure that the cases are referred promptly, and that a designated staff representative follows the case until it is determined to be substantiated, unsubstantiated, or unfounded. The victim, and any third party reporter, will be notified in writing that a case has been closed as substantiated, unsubstantiated, or unfounded. A designated DDOC staff member, at the facility where the victim is housed, will notify the victim of the progress in any case where an arrest is made or prosecution against the perpetrator is pending. The victim will be notified in writing when the case moves from one step of the criminal adjudication process to the next.

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- c. Following a resident’s allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:
    - i. The staff member is no longer posted within the resident’s unit;
    - ii. The staff member is no longer employed at the facility;
    - iii. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
    - iv. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
    - v. All such notifications or attempted notifications shall be documented.
  - d. Following a resident’s allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:
    - i. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
    - ii. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
    - iii. All such notifications or attempted notifications shall be documented.
  - e. 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 an offender or staff.
  - f. An alleged victim shall not be required to submit to a polygraph examination as a condition of proceeding with the investigation of an allegation.
  - g. When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
  - h. The departure of the alleged abuser or victim from employment or control of the facility or Department shall not provide a basis for terminating an investigation.
  - i. The Department standard for determining whether an allegation of sexual abuse is substantiated shall be no higher than a preponderance of the evidence.
  - j. The Department’s obligation to report to the alleged victim shall terminate if the offender is released from the Department’s custody.
- 8. Exhaustion of Administrative Remedies**
- a. Any allegation of sexual abuse, or sexual harassment, made via the

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Department's offender grievance system, shall immediately be investigated as a report of sexual abuse. A copy of the grievance report will be provided to the shift commander, who will ensure the complaint is assigned to a PREA investigator. At no time will this complaint be returned to the grievance officer for processing as a typical grievance complaint.

- b. There will be no time limit placed upon when such a report can be submitted. The resulting investigation will continue without delay until the report is determined to be substantiated, unsubstantiated, or unfounded. The facility will inform the offender, within 24 hours of filing the complaint, if an emergency transfer or other emergent accommodation will be provided.
- c. The agency shall not require an offender to use any informal resolution process, or to otherwise attempt to resolve with the identified staff member, an alleged incident of sexual abuse.
- d. Such investigation will not be referred to the staff member who is the subject of the complaint.
- e. If a third party files such a complaint on behalf of an offender, the facility may require, as a condition of processing the complaint that the alleged victim agree to have the complaint filed on his or her behalf.
- f. In the event a final determination of substantiated, unsubstantiated, or unfounded cannot be made within 90 days, from the date the offender filed the complaint, the agency may extend its response timeframe by up to 70 days. The offender will be notified of this extension in writing.
- g. If the offender wishes to appeal the decision of any PREA complaint or investigation, they may do so by filing a written appeal to the Warden. The Warden will make a written determination on the appeal within seven days of receipt of the appeal.
- h. All investigations initiated via a grievance form will undergo a Critical Incident Review (CIR).

**9. Discipline**

- a. Staff shall be subject to disciplinary sanctions for substantiated cases of sexual abuse or sexual harassment.
- b. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- c. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- d. Where sexual abuse is substantiated during an administrative investigation, the Department shall report this information to the Delaware State Police for possible prosecution.
- e. When a case of sexual assault is substantiated against a vendor or volunteer, the Department shall bar that individual from further contact with offenders, and shall refer the case to the Delaware State Police for possible prosecution.

<p style="text-align: center;"><b>POLICY OF</b></p> <p style="text-align: center;"><b>STATE OF DELAWARE</b></p> <p style="text-align: center;"><b>DEPARTMENT OF CORRECTION</b></p>	<p style="text-align: center;"><b>POLICY NUMBER</b></p> <p style="text-align: center;"><b>8.60</b></p>	<p style="text-align: center;"><b>PAGE NUMBER</b></p> <p style="text-align: center;"><b>13 of 14</b></p>
<p><b>CHAPTER: 8 Administration</b></p>		<p><b>SUBJECT: Prison Rape Elimination Act</b></p>

- f. Where the perpetrator is a medical or mental health professional, all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
- g. Offenders shall be subject to disciplinary sanctions following an administrative finding that the offender engaged in offender-on-offender sexual abuse, or following a criminal finding of guilt for offender-on-offender sexual abuse. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- h. Disciplinary sanctions for violations of housing rules relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the offender's disciplinary history, and sanctions imposed for comparable offenses by other offenders with similar histories.
- i. The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- j. The Department prohibits all sexual activity between offenders and may discipline offenders for such activity. Sexual activity is only a PREA related incident when it is unwanted, coerced, or forced.

**10. Medical and Mental Care**

- a. If the intake or 30 day security screenings, or medical intake or subsequent mental health screenings indicate that an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the offender is offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of that screening.
- b. If the intake or 30 day security screenings, or medical intake or subsequent mental health screenings indicate that an offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the offender is offered a follow-up meeting with a mental health practitioner within fourteen (14) days of that screening.
- c. Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment and consistent with BCHS Policy B-05.
- d. Medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18.
- e. These practitioners shall be required to report any sexual abuse that occurred in a correctional facility and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

<b>POLICY OF</b>  <b>STATE OF DELAWARE</b>  <b>DEPARTMENT OF CORRECTION</b>	<b>POLICY NUMBER</b>  <b>8.60</b>	<b>PAGE NUMBER</b>  <b>14 of 14</b>
	<b>SUBJECT: Prison Rape Elimination Act</b>	
<b>CHAPTER: 8 Administration</b>		

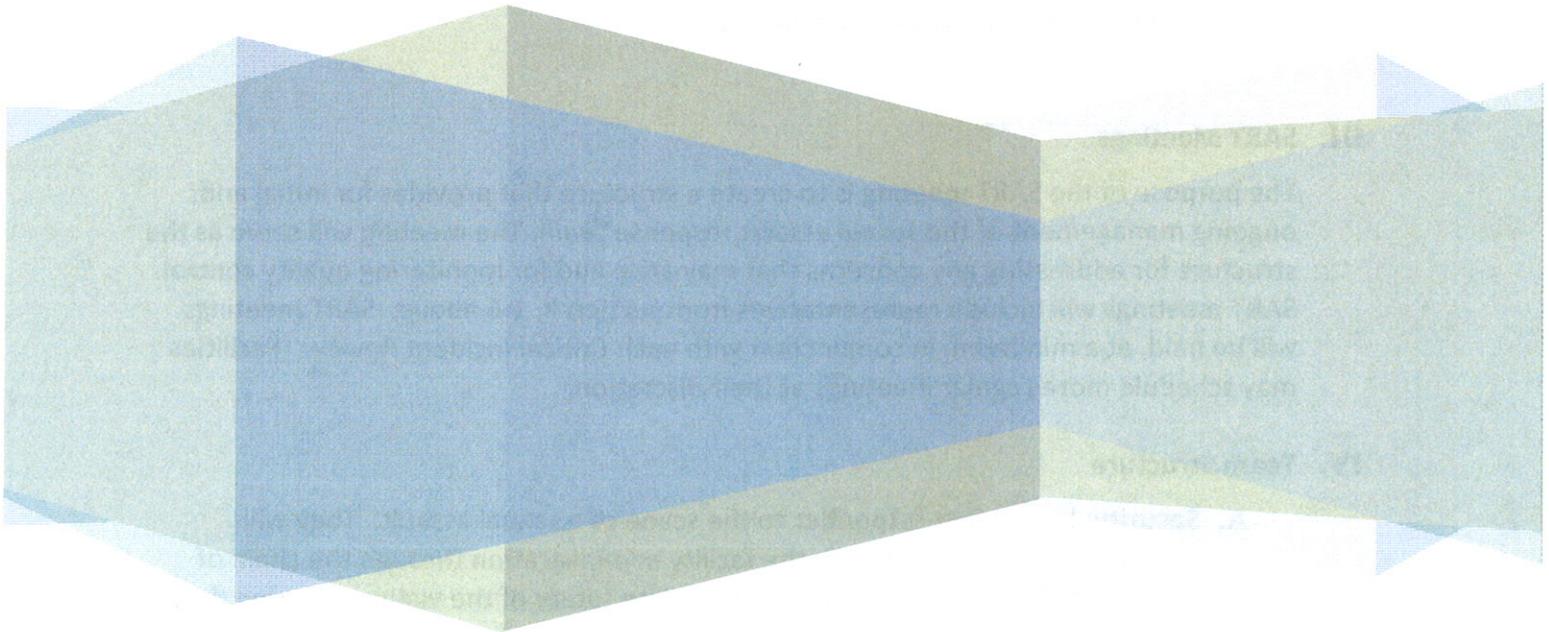
### **11. Data Collection and Review**

- a. The Department shall conduct a sexual abuse Critical Incident Review (CIR) at the conclusion of every sexual abuse investigation. This review will be done for substantiated, unsubstantiated, and unfounded cases.
- b. The CIR will be initiated within 30 days of completion of the investigation, and will be completed within 90 days, absent exigent circumstances. The review team shall include the facility Warden or Deputy Warden, the facility PREA Compliance Manager, a facility or internal affairs investigator, medical/mental health administrators, the state-wide PREA Coordinator, and other staff deemed appropriate by the facility. The Bureau Chief will have final review of the CIR report.
- c. Substantiated and Unsubstantiated cases will be reviewed on site at the facility where the incident occurred. Unfounded cases will be reviewed by the same review team, but may be reviewed remotely by electronic means.
- d. The Department shall collect accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions. This will be automatically generated in the Delaware Automated Correctional System (DACS) upon completion of PREA Incident Reports.
- e. From DACS, the Department shall be able to obtain aggregated data as needed, and shall provide this information yearly to the United States Department of Justice.
- f. The Department shall review the aggregated data in order to assess and improve the effectiveness of its sexual abuse response plans, and this policy.
- g. An annual report of its findings and corrective actions for each facility, and the Department as a whole, will be prepared.
- h. This report will include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- i. The report shall be approved by the Commissioner of Correction, and will be available on the Department's website annually.
- j. No personal identifiers will be made publically available. Specific material that would present a clear threat to the safety and security of a facility will be redacted.
- k. The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.
- l. The agency shall retain all written reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

### **12. Audits**

- a. During the three-year period starting August 20, 2013, and during each three-year period thereafter, the Department shall ensure that each facility is audited at least once.
- b. The United States Department of Justice will issue an audit instrument that will provide guidance on the conduct, and contents of the audit.
- c. The Department shall bear the burden of demonstrating Standard compliance.

**Guidelines and Strategic  
Plan: Delaware  
Department of Correction  
Sexual Assault Response  
Team (SART)**



# DDOC SART TEAM

## **GUIDELINES FOR DELAWARE DEPARTMENT OF CORRECTION (DDOC) SEXUAL ASSAULT RESPONSE TEAM**

### **I. Purpose**

The purpose of these guidelines is to provide standardized structure and implementation of a Sexual Assault Response Team (SART) throughout the DDOC.

### **II. Introduction**

SART is a multidisciplinary team developed to improve services to victims of sexual assault. The team comprises representatives from the facility:

1. Security staff (first responder representative),
2. Institutional Investigator,
3. PREA Compliance Manager,
4. Treatment/Classification unit,
5. Medical , and
6. Mental Health.

The benefit of SART is the ability to provide a full range of comprehensive services to victims who have made the decision to report a sexual assault.

SART teams are established to do the following:

1. Meet the needs of the victim through crisis intervention and support services.
2. Provide a medical exam for sexual assault victims.
3. Provide a joint, effective, sensitive approach to victims of sexual assault.
4. Conduct an investigation of the reported sexual assault.
5. Document and preserve forensic evidence for potential prosecution.
6. Communicate progress to the victim.

### **III. SART Meetings**

The purpose of the SART meeting is to create a structure that provides for initial and ongoing management of the sexual assault response team. The meeting will serve as the structure for addressing any concerns that may arise and for monitoring quality control. SART meetings will include representatives from section II, 1-6 above. SART meetings will be held, at a minimum, in conjunction with each Critical Incident Review. Facilities may schedule more regular meetings at their discretion.

### **IV. Team Structure**

- A. **Security:** be the first responder to the scene of a sexual assault. They will preserve the scene and notify the facility administration through the chain of command. They will consider the immediate safety of the victim, ensuring they

## DDOC SART TEAM

receive emergent medical and mental health attention. Through their shift commander, they will ensure the victim is taken for a Sexual Assault Nurse Examination (SANE) to collect forensic evidence.

- B. Institutional Investigators:** The institutional investigator is to investigate and/or coordinate the investigation of a report of sexual abuse. If the investigator turns over the investigation to Internal Affairs and/or local police, they are responsible to follow the case to its closure as unfounded, substantiated or unsubstantiated.
- C. Treatment/Classification:** The treatment/classification member's role is to ensure that the victim and perpetrator are screened and housed appropriately. They may be assigned by the PREA Manager to follow the case to detect signs of retaliation or intimidation.
- D. Medical:** Medical staff are to provide initial emergent care only. Upon return from a SANE exam, medical staff will ensure that a victim receives timely information about, and timely access to, emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate. They will evaluate victims, develop treatment plans, and when necessary, make referrals for continued care following the victim's transfer to, or placement in other facilities. Medical may also make referrals at the time of release if needed.
- E. Mental Health:** Mental health staff are to initially offer crisis intervention services. Subsequent to this initial contact, mental health will offer ongoing treatment as needed, developing treatment plans and when necessary making referrals for continued care.
- F. PREA Facility Compliance Manager:** The PREA Compliance Manager will oversee the entirety of the sexual assault case. The manager will ensure an appropriate first response, and ensure the victim is seen and monitored by medical and mental health where appropriate. The manager will ensure a case is monitored for 90 days post incident for signs of retaliation. The manager ensures a victim is given case updates at each stage of the court process, on any case that is forwarded for prosecution.

### V. Training Recommendations

- A. Security First Responders:**
  - 1. Basic PREA education as provided by initial CEIT training and annual refresher training.
- B. Investigator:**
  - 1. Techniques for interviewing sexual abuse victims.
  - 2. Proper use of Miranda and Garrity warnings.
  - 3. Sexual abuse evidence collection.
  - 4. Special issues involved in investigating a case of sexual assault in a confinement setting.
  - 5. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

## DDOC SART TEAM

### **C. Treatment/Classification:**

1. Basic PREA education as provided by initial CEIT training and annual refresher training.

### **D. Medical:**

1. How to detect and assess signs of sexual abuse and sexual harassment,
2. How to preserve physical evidence,
3. How to respond effectively and professionally to victims of sexual abuse,
4. Basic PREA education as provided to all vendors.

### **E. Mental Health:**

1. How to detect and assess signs of sexual abuse and sexual harassment,
2. How to preserve physical evidence,
3. How to respond effectively and professionally to victims of sexual abuse,
4. Basic PREA education as provided to all vendors.

### **F. PREA Facility Compliance Manager:**

1. Detailed training on the PREA standards.
2. Techniques for interviewing sexual abuse victims.
3. Proper use of Miranda and Garrity warnings.
4. Sexual abuse evidence collection.
5. Special issues involved in investigating a case of sexual assault in a confinement setting.
6. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

## **VI. Victim Advocacy:**

**A.** The DDOC will work toward maintaining a Memorandum of Understanding (MOU) with a Rape Crisis Center.

**B.** A victim advocate will be allowed to be present with an victim during a SANE examination.

1. If no SANE exam is conducted, or if the victim wishes to receive additional advocacy contacts, mental health staff will be the point of contact to arrange these confidential advocate meetings. The advocate may speak with the victim by phone as specified in the MOU.

DDOC SART TEAM

**Delaware Department of Correction (DDOC) Sexual Assault Response Team (SART)**

**Mission:**

To ensure the coordination of a consistent, respectful, victim-centered response to cases of sexual abuse.

**Core Values:**

- Uphold a victims' dignity and confidentiality.
- Remain professional and innovative.
- Work openly and collaboratively.

**Goals:**

- An investigation will be conducted of all allegations of sexual abuse.
- Perpetrators will be held accountable.
- All SART team members will work together effectively.
- The victim will feel safe and supported in reporting a case of sexual abuse.
- The victim will be included as a vital participant in the case.
- Team members will recognize and support victims as they recover from sexual abuse.

**Action Plan:**

<b>Action Item 1: Report of Sexual Abuse is received.</b>
Responsibility: All staff, vendors, volunteers.
Resources/Collaborators: All staff, vendors, volunteers.
Challenges: Reluctance of victims to report.
<b>Action Item 2: First response.</b>
Responsibility: Security staff.
Resources/Collaborators: All other available staff.
Challenges: Initial training and annual refresher training for all Security staff.
<b>Action Item 3: Ensure safety of victim.</b>
Responsibility: Security & Treatment/Classification.
Resources/Collaborators: All staff.
Challenges: Complexity of housing assignments.

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<b>Action Item 4: Address emergent medical and/or crisis intervention needs.</b>
Responsibility: Medical and Mental Health
Resources/Collaborators: N/A
Challenges: Victim cooperation. Must have method to track and follow a case.
<b>Action Item 5: Ensure investigation is initiated (to include evidence collection and interviews).</b>
Responsibility: Institutional Investigators/IA/Police
Resources/Collaborators: All staff.
Challenges: Timeliness of report. Quality/availability of evidence.
<b>Action Item 6: Ensure victim is taken out for a Sexual Assault Nurse Examination.</b>
Responsibility: Security
Resources/Collaborators: Medical/Hospital/SANE Nurses
Challenges: Timeliness of report.
<b>Action Item 7: Ensure victim receives follow-up medical and mental health visits as needed.</b>
Responsibility: Medical and Mental Health/PREA Manager.
Resources/Collaborators:
Challenges: Must have method to track and follow a case.
<b>Action Item 8: Ensure victim is offered outside advocacy call.</b>
Responsibility: Security with assistance of Mental health. PREA Manager.
Resources/Collaborators: Rape crisis hotline staff.
Challenges: Education to each staff member's role and responsibility.
<b>Action Item 9: Ensure victim receives periodic updates on case.</b>
Responsibility: PREA Manager.
Resources/Collaborators: Investigators.
Challenges: Communication.
<b>Action Item 10: Ensure victim is monitored to guard against retaliation.</b>
Responsibility: PREA Manager.
Resources/Collaborators: Treatment/Classification and Investigators.
Challenges: Victim cooperation.

## DDOC SART TEAM

<b>Action Item 11: Ensure victim is reclassified and their status as a confirmed victim is noted.</b>
Responsibility: PREA Manager.
Resources/Collaborators: Facility staff responsible for housing assignments. Treatment/Classification.
Barriers: N/A
<b>Action Item 12: Ensure entirety of the PREA case is managed effectively.</b>
Responsibility: PREA Manager.
Resources/Collaborators: All staff.
Challenges: Education of all staff to the investigative process, roles and responsibilities.

### Protocols for a coordinated response:

The SART Team will review and ensure the following protocols were observed in each case:

1. The first staff member to be notified of an alleged case of sexual abuse shall immediately notify their direct supervisor.
2. The supervisor will immediately notify the on-site shift commander.
3. The shift commander will immediately notify the Warden.
4. The first responders [first Security staff member(s) on scene] will ensure that the victim is safe and is taken to medical for immediate attention.
5. The first responders will immediately secure the scene and attempt to preserve physical evidence.
6. If the assault occurred within the past five days, the shift commander ensures the alleged offender perpetrator is secured in a dry cell to preserve evidence.
7. If the crime is not believed to have occurred within seventy-two hours, the shift commander will maintain custody of any evidence until it can be turned over to the Delaware State Police.
8. If it is believed the crime occurred within the last 72 hours, the shift commander ensures the collection of both the victim and alleged perpetrators clothing.
9. The clothing of the victim and alleged perpetrator should be kept separately, in brown paper bags.

## DDOC SART TEAM

10. The shift commander will ensure that a documented chain of custody is kept on the clothing, and all other evidence, until such time the evidence can be turned over to the State Police.
11. The shift commander will contact the Internal Affairs Unit to request an immediate investigation.
12. The shift commander will contact the Delaware State Police at the direction of the Warden.
13. The shift commander will ensure the hospital is contacted to report that a rape victim is being transported.
14. The shift commander will ensure that the facility mental health director is notified.
15. The shift commander will notify the PREA compliance manager at the facility. If it is outside of normal business hours, the shift commander will ensure the facility PREA compliance manager is notified within twenty-four hours.
16. The shift commander will ensure that the victim is offered mental health services immediately, or immediately upon return from the hospital.
17. When in place, the shift commander will ensure the victim is offered contact by phone with an outside rape crisis hotline advocate.
18. The shift commander will ensure the victim is seen for emergency care immediately, and upon return from the hospital.
19. The shift commander will ensure that all involved DOC staff members, and contractor staff, complete DACS incident reports, as well as disciplinary reports, before they exit the facility that shift.
20. The shift commander will complete an incident report in DACS detailing the response to the assault.
21. The Warden will ensure that the reports are appropriately entered into DACS as PREA incidents.
22. The Warden will ensure that all allegations are investigated until a finding of substantiated, unsubstantiated, or unfounded can be made, including in cases where offenders depart a facility, or where alleged staff perpetrators resign.
23. The Warden will determine the need to transfer the victim, and/or perpetrator, to

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another facility.

24. Upon completion of the investigation, the Warden will ensure that a sexual abuse incident review team meets, within 30 days of the investigation being completed, to discuss the case.
25. The PREA Manager will ensure that the victim is followed for 90 days after the incident to ensure there is no retaliation as a result of the report of sexual abuse.
26. Where a case is sent for prosecution, the PREA Manager will ensure the victim is notified at each step of the prosecution of the case.

For further guidance, see DDOC Policy 8.60, Bureau of Prisons Policy 8.60, and Bureau of Community Corrections Policy 2.5.

### Measurement:

At each regularly scheduled SART meeting, the SART Team will objectively evaluate the performance of the facility response to each individual case. The team will use the Measurable Objectives below. A copy of each case reviewed will be kept on file with a copy of minutes from the SART meeting (See Attachment A).

### Measurable Objectives:

1. Was the victim separated from the perpetrator immediately upon staff receiving the report? YES\_NO
2. Was the scene of the incident secured to prevent contamination of evidence? YES\_NO\_N/A
3. Was an investigation begun without unreasonable delay? YES\_NO\_N/A
4. Was the victim taken to medical after the incident was reported? YES\_NO\_N/A
5. Was mental health called for crisis intervention? YES\_NO\_N/A
6. Did the victim go out of the facility for a SANE exam? YES\_NO\_N/A
7. Did the victim receive follow-up medical care upon return? YES\_NO\_N/A

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8. Did the offender-victim receive follow-up mental health care upon return to facility, or after return to a housing unit?  
YES\_NO\_N/A
9. Was the offender offered confidential third party sexual abuse victim advocacy?  
YES\_NO\_N/A
10. Was the offender notified of the outcome of the investigation (substantiated, unsubstantiated, unfounded)?  
YES\_NO\_N/A
11. Did the offender-victim receive periodic updates on the status of their perpetrator's case?  
YES\_NO\_N/A
12. Is classification aware of this incident, and did they internally reclassify and complete a new PREA sexual victimization/aggression screen?  
YES\_NO\_N/A
13. Was the victim monitored for 90 days post incident by the PREA manager, and was this documented?  
YES\_NO\_N/A
14. If the victim was transferred to another institution, was the receiving institution notified to track the victim for 90 days, and was this documented.  
YES\_NO\_N/A
15. Are there any other significant issues in this case which indicate a need for a change in policy?  
YES\_NO\_N/A - If so, describe below:

## DDOC SART TEAM

### Bibliography

Office of Justice Programs. SART Toolkit: Resources for Sexual Assault Response Teams. Downloaded August 2013, from: <http://ovc.ncjrs.gov/sartkit/>

San Diego County, Sexual Assault Response Team: Standards of Practice. April 2001. Downloaded August 2013 from: <http://www.sandiego.gov/police/pdf/standards.pdf>

Sexual Assault Response Team (SART) Guidelines. Printed 2002. Pennsylvania Coalition Against Rape. Downloaded August 2013, from: [http://www.pcar.org/sites/default/files/file/healthcare/SART\\_Guidelines.pdf](http://www.pcar.org/sites/default/files/file/healthcare/SART_Guidelines.pdf)

Minnesota Model: Sexual Response Protocol. June 2000. Downloaded August 2013, from: <http://www.mncasa.org/Documents/Best%20Practices.pdf>

DDOC SART TEAM

SART ATTACHMENT A

Investigation #: \_\_\_\_\_

Date of Review: \_\_\_\_\_

Team Members: \_\_\_\_\_

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Measurable Objectives:

1. Was the victim separated from the perpetrator immediately upon staff receiving the report? YES\_NO  
YES\_NO\_N/A
2. Was the scene of the incident secured to prevent contamination of evidence?  
YES\_NO\_N/A
3. Was an investigation begun without unreasonable delay?  
YES\_NO\_N/A
4. Was the victim taken to medical after the incident was reported?  
YES\_NO\_N/A
5. Was mental health called for crisis intervention?  
YES\_NO\_N/A
6. Did the victim go out of the facility for a SANE exam?  
YES\_NO\_N/A
7. Did the victim receive follow-up medical care upon return?  
YES\_NO\_N/A
8. Did the offender-victim receive follow-up mental health care upon return to facility, or after return to a housing unit?  
YES\_NO\_N/A
9. Was the offender offered confidential third party sexual abuse victim advocacy?  
YES\_NO\_N/A
10. Was the offender notified of the outcome of the investigation (substantiated, unsubstantiated, unfounded)?  
YES\_NO\_N/A

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11. Did the offender-victim receive periodic updates on the status of their perpetrator's case?

YES\_NO\_N/A

12. Is classification aware of this incident, and did they internally reclassify and complete a new PREA sexual victimization/aggression screen?

YES\_NO\_N/A

13. Was the victim monitored for 90 days post incident by the PREA manager, and was this documented?

YES\_NO\_N/A

14. If the victim was transferred to another institution, was the receiving institution notified to track the victim for 90 days, and was this documented.

YES\_NO\_N/A

15. Are there any other significant issues in this case which indicate a need for a change in policy?

YES\_NO\_N/A - If so, describe below:

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PREA MANAGER

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DATE



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

### RESPONSE TO A SEXUAL ABUSE INCIDENT:

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

- ⇒ The first staff member to be notified of an alleged case of sexual abuse shall immediately notify their direct supervisor.
- ⇒ The supervisor will immediately notify the on-site Shift Commander.
- ⇒ The Shift Commander will immediately notify the Warden.
- ⇒ The first responders [first Security staff member (s) on scene] will ensure that the victim is safe and is taken to medical for immediate attention.
- ⇒ The first responders will immediately secure the scene and attempt to preserve physical evidence. Designated facility investigators and/or Delaware State Police will have responsibility to secure/collect evidence.
- ⇒ Unless medical staff are needed to provide emergent medical care, once the scene is secured, only DOC and DSP investigators will be permitted to enter the area. A log will be kept of all those who do enter/exit the scene.
- ⇒ If the assault occurred within five days of the time it is first discovered, the Shift Commander will ensure the alleged perpetrator is secured in a dry cell to preserve evidence. A Sexual Assault Nurse Exam (SANE) will be considered in consultation with the Warden.
- ⇒ If the crime is not believed to have occurred within the last five days, the Shift Commander will maintain custody of any evidence until it can be turned over to the Delaware State Police.
- ⇒ If it is necessary to remove a victim's clothing (remove only if necessary for medical treatment) prior to the SANE exam, the Shift Commander will ensure the clothing is removed, over a clean, sanitary sheet, and that sheet collected immediately and kept in a separate paper evidence bag.
- ⇒ If a perpetrator's clothing must be removed prior to the arrival of the State Police, it should be collected in the same manner described above.
- ⇒ Clothing should be kept separately, in paper bags, and clearly labeled.
- ⇒ Until such times as an investigator can arrive at the scene, the Shift Commander will ensure that a documented chain of custody is kept on the clothing, and all other evidence, until such evidence can be turned over to the State Police.
- ⇒ Any evidence which must be collected will be clearly documented, to

- include: type of evidence, location collected, staff member who collected evidence, and where evidence was placed after retrieval.
- ⇒ The Shift Commander will contact the Internal Affairs Unit and Institutional Investigator to request an immediate investigation.
- ⇒ Latex gloves will be worn to prevent evidence contamination.
- ⇒ The Shift Commander will contact the Delaware State Police at the direction of the Warden.
- ⇒ The Shift Commander will ensure the hospital is contacted to report that a rape victim is being transported for the SANE exam.
- ⇒ The Shift Commander will ensure that the facility mental health director is notified.
- ⇒ The Shift Commander will notify the PREA compliance manager at the facility. If it is outside of normal business hours, the Shift Commander will ensure the facility PREA compliance manager is notified within twenty-four hours.
- ⇒ The Shift Commander will ensure that the victim is offered mental health services immediately, and/or immediately upon return from the hospital.
- ⇒ The Shift Commander will ensure the victim is offered contact by phone with an outside rape crisis hotline advocate.
- ⇒ The Shift Commander will ensure the victim is seen for emergency care immediately, and for follow-up care upon return from the hospital.
- ⇒ The Shift Commander will ensure that all involved DOC staff members, and contractor staff, complete DACS incident reports, as well as disciplinary reports, before they exit the facility that shift.
- ⇒ The Shift Commander will complete an incident report in DACS, detailing the response to the assault.
- ⇒ The Warden will ensure that the reports are appropriately entered into DACS as PREA incidents.
- ⇒ The Warden will ensure that all allegations are investigated until a finding of substantiated, unsubstantiated, or unfounded can be made, including in cases where offenders depart a facility, or where alleged staff perpetrators resign.
- ⇒ The Warden will determine the need to transfer the victim, and/or perpetrator, to another facility.
- ⇒ Upon completion of the investigation, the Warden will ensure that a sexual abuse Critical Incident Review team meets, within 30 days of the investigation being completed, to discuss the case.

#### STATE LAW—Sexual Relations in a Detention Facility:

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

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

## PREA Standards

PREA Standards: Written rules that require all correctional facilities to comply with minimum acceptable benchmarks in order to reduce and eliminate the incidence of prison rape. These standards are directed toward the states by the Federal government, as published in 28 CFR Part 115. The PREA standards can be viewed online at the PREA Resource Center: [www.prearesourcecenter.org](http://www.prearesourcecenter.org) and a copy will be available at each facility through the PREA compliance manager.

## Investigations

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

## Education

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

# DOC SEXUAL ABUSE RESPONSE PLAN



## PREA

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

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

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

## Screening

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

## Detection and Prevention

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

## Confidentiality

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

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

# **Standards for Adult Prisons and Jails**

## **Prevention Planning**

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

## **Responsive Planning**

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

## **Training and Education**

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

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

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

## **Reporting**

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

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

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

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

## **Investigations**

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

## **Discipline**

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

## **Medical and Mental Care**

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

## **Data Collection and Review**

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

## **Audits**

- 115.93 Audits of standards.

## **Auditing and Corrective Action**

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

## **State Compliance**

- 115.501 State determination and certification of full compliance.

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

*RMC* 8/16/15