

# Prison Rape Elimination Act

## 606.1 PURPOSE AND SCOPE

This policy provides guidance for compliance with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse and sexual harassment (28 CFR 115.11 a).

## 606.2 POLICY

This office has zero tolerance with regard to sexual abuse and sexual harassment in this facility. This office will take appropriate affirmative measures to protect all inmates from sexual abuse and harassment, and promptly, thoroughly, and objectively investigate all allegations of sexual abuse and sexual harassment (28 CFR 115.11 a; 28 CFR 115.71 a).

Any contracts with private agencies or other entities this office enters into for the confinement of its inmates shall include in any new contract or contract renewal the other entity's obligation to adopt and comply with the PREA standards. Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contract is complying with the PREA standards (28 CFR 115.12).

This policy in its entirety shall be published on the Delaware County Sheriff's Office webpage, [www.delawarecountysheriff.com](http://www.delawarecountysheriff.com), or made readily available through Public Records (28 CFR 115.22 b).

## 606.3 DEFINITIONS

Definitions related to this policy include (28 CFR 115.6):

**Contractor** - A person who provides services on a recurring basis pursuant to a contractual agreement with this agency.

**Gender Expression** - The way in which a person expresses their gender identity, typically through their appearance, dress, and mannerisms.

**Gender Identity** - An individual's personal sense of having a particular gender.

**Intersex** - 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 sex development.

**Juvenile** - Any person who is under that age of 18, unless under adult court supervision and confined or detained in a prison or jail.

**Sexual abuse** - Any of the following acts, if the inmate does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight

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- (b) Contact between the mouth and the penis, vulva or anus
- (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- (d) 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

Sexual abuse by a staff member, contractor or volunteer as follows, with or without consent of the inmate, detainee or resident:

- (a) Any conduct listed above that defines sexual abuse
- (b) 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
- (c) 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
- (d) Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- (e) Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of an inmate, detainee or resident
- (f) Voyeurism by a staff member, contractor or volunteer

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate, detainee or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to an inmate, detainee or resident 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.

**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.

**Voyeurism** - An invasion of privacy of an inmate for reasons unrelated to official duties, such as peering at an inmate who is using a toilet to perform bodily functions; requiring an inmate to expose their buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

**Vulnerable Adult** - A person 18 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness or disability, or advanced age, is unable to meet the person's own needs or to seek help without assistance.

**Youthful Inmate** - Any person under the age of 18 that is under adult court supervision and confined or detained in a prison or jail.

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#### **606.4 PRESERVATION OF ABILITY TO PROTECT INMATES**

The Office shall not enter into or renew any labor agreement or other agreement that limits the office's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted (28 CFR 115.66 a).

#### **606.5 PREA COORDINATOR**

The Jail Director shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee office efforts to comply with the PREA standards. The PREA coordinator shall review facility policies and practices, and make appropriate compliance recommendations to the Jail Director (28 CFR 115.11 b).

The PREA coordinator's responsibilities shall include:

- (a) Developing a written plan to coordinate response among staff members, medical and mental health practitioners, investigators, and facility management to an incident of sexual abuse.
- (b) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees from sexual abuse. See Staffing Policy.
- (c) Ensuring that, when designing, acquiring, expanding or modifying facilities, or when installing or updating a video-monitoring system, electronic surveillance system, or other monitoring technology, consideration is given to the office's ability to protect inmates from sexual abuse (28 CFR 115.18 a).
- (d) Establishing a process to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under the direct control of this office, using a standardized instrument and set of definitions.
- (e) Ensuring audits are conducted pursuant to 28 CFR 115.401 et seq. (28 CFR 115.93).
- (f) Ensuring agreements with outside investigating agencies include PREA requirements, including a requirement to keep the Office informed of the progress of the investigation (28 CFR 115.71 l).

#### **606.6 REPORTING SEXUAL ABUSE, HARASSMENT AND RETALIATION**

This agency employs multiple mechanisms for staff, volunteers, contractors, inmates, and third-party entities to report knowledge and/or suspicions of sexual abuse and sexual harassment that occurs within this facility. Any employee, agency representative, volunteer or contractor who becomes aware of an incident of sexual abuse, sexual harassment or retaliation against inmates or staff shall immediately notify a supervisor, who will forward the matter to a sexual abuse investigator.

Sexual abuse and sexual harassment reports shall only be made available to those who have a legitimate need to know, and in accordance with this policy and applicable law (28 CFR 115.61 b).

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#### 606.6.1 STAFF AND AGENCY REPORTING

All staff are required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in any facility. Staff are also required to report any retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation (28 CFR 115.61 a).

Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse under the same requirements of facility staff, and are required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. (28 CFR 115.61 c).

If the alleged victim is under the age of 18 or is considered a vulnerable adult under a state or local vulnerable persons statute, this facility shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws (28 CFR 115.61 d).

This facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the designated investigators. (28 CFR 115.61 e).

#### 606.6.2 INMATE REPORTING

Inmates shall be provided multiple internal avenues for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents (28 CFR 115.51 a):

- (a) Verbally report to an officer, staff member, volunteer, or contractor
- (b) Submit a complaint via the inmate kiosk
- (c) Request a medical or mental health visit
- (d) Submit a letter to the Jail Director in a sealed envelope
- (e) Have family, friends, attorney, or other person report to the facility on their behalf

Inmates may also report anonymously and toll-free via the inmate phone system. The phone menu option will redirect calls to a Westerville Division of Police non-emergency line (28 CFR 115.51 b). Westerville Division of Police dispatchers will immediately forward all information collected to the PREA Coordinator or designee for investigation

#### 606.6.3 THIRD-PARTY REPORTING

This office shall accept any third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate. These reports must be referred for investigation. Information shall be available on the agency webpage, [www.delawarecountysheriff.com](http://www.delawarecountysheriff.com), and posted in the facility lobby and visitation area (28 CFR 115.54).

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#### 606.6.4 REPORTING TO OTHER FACILITIES

If there is an allegation that an inmate was sexually abused while he/she was confined at another facility, the Jail Director shall notify the head of that facility as soon as possible but not later than 72 hours after receiving the allegation (28 CFR 115.63 a; 28 CFR 115.63 b). The Jail Director shall ensure that the notification has been documented (28 CFR 115.63 c).

#### 606.6.5 REPORTING FROM OTHER FACILITIES

If the Jail Director receives notification from the head of another facility that there is an allegation that an inmate was sexually abused or harassed while he/she was confined at the Delaware County Jail, the Jail Director shall ensure that the allegation is investigated in accordance with PREA Standards (28 CFR 115.63 d).

#### 606.7 RETALIATION

All inmates and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations, shall be protected from retaliation (28 CFR 115.67 a).

Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates or staff who fear retaliation, shall be utilized (28 CFR 115.67 b).

If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall take reasonable measures to protect that individual against retaliation (28 CFR 115.67 e).

Monitoring may terminate if the investigation indicates the allegation is unfounded (28 CFR 115.67 f).

#### 606.8 RESPONSE

There is a written 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 administration.

If the initial staff member responding is not a corrections officer, the staff member shall request the alleged victim to refrain from any actions that could destroy physical evidence and then immediately notify a corrections officer (28 CFR 115.64 b).

For more information see Procedure: [PREA Coordinated Response Plan](#).

#### 606.9 SEXUAL ABUSE VICTIMS

Inmates who are victims of sexual abuse shall be transported to the nearest appropriate location for treatment of injuries and collection of evidence, and for crisis intervention services. The nature and scope of services are determined by medical and mental health practitioners according to their professional judgment. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, corrections officers shall take preliminary steps to protect

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the victim and shall immediately notify the appropriate medical and mental health practitioners (28 CFR 115.82 a-b).

A victim advocate from Helpline of Delaware County shall be made available to the victim. A Supervisor shall call the Helpline hotline at 1-800-684-2324 and speak with a representative. An advocate will be dispatched by Helpline to the local emergency department or the jail (28 CFR 115.21 d).

This Office provides inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including a toll-free hotline number for Helpline of Delaware County, and, for persons detained solely for civil immigration purposes, immigration services agencies. This Office shall enable reasonable communication between inmates and these organizations, in as confidential a manner as possible. Inmates shall be informed of the extent to which these communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws (28 CFR 115.53 a-b).

This Office shall enter, or attempt to enter, into a memorandum of understanding with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. This Office shall maintain copies of written agreements, or documentation of attempts to enter into such agreements (28 CFR 115.53 c).

#### **606.10 EXAMINATION, TESTING AND TREATMENT**

This office and its designated investigators shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions (28 CFR 115.21 a).

Forensic medical examinations shall be performed as evidentiary or medically appropriate, without financial cost to the victim. Where possible, these examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANE)s. Organized emergency services provide access to a forensic examination 24 hours a day under (ORC § 2907.29).

Evidence collection protocols shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the US DOJ Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents", or similarly comprehensive and authoritative protocols developed after 2011 (28 CFR 115.21 b).

If requested by the victim, a victim advocate, a qualified office staff member or a qualified community organization staff member shall accompany the victim through the forensic medical examination process and investigatory interviews. That person will provide emotional support, crisis intervention, information and referrals (28 CFR 115.21 e).

Victims of sexual abuse shall be offered information about, and given access to, emergency contraception, prophylaxis for sexually transmitted infections and follow-up treatment for sexually

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transmitted diseases. This shall be done in a timely manner and at the a level consistent with the community level of care (28 CFR 115.82 c; 28 CFR 115.83 c).

Victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the abuse, such victims shall receive comprehensive information about, and access to, all lawful pregnancy-related medical services (28 CFR 115.83 d - e). This shall be done in a timely manner.

Victims of sexual abuse while in a confinement setting shall be offered medical and mental health evaluations and, as appropriate, treatment (28 CFR 115.83 a).

Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.82 d; 28 CFR 115.83 g).

#### **606.11 SEXUAL ABUSE AND SEXUAL HARASSMENT INVESTIGATIONS**

An administrative investigation, criminal investigation or both shall be completed for all allegations of inmate sexual abuse and sexual harassment (28 CFR 115.22 a). The agency receiving the referral for criminal investigation, whether a part of this agency or an outside entity, shall have the legal authority to conduct such criminal investigations (28 CFR 115.22 b). This policy outlines the responsibilities of this agency as well as any outside entity receiving a referral for investigation (28 CFR 115.22 c). All administrative and/or criminal investigations shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

Sexual abuse and sexual harassment investigations should be conducted promptly and continuously until completed.

If the investigation is referred to another agency for investigation, the Office shall request that the investigating agency follow the requirements as provided in 28 CFR 115.21 (a) through (e) (28 CFR 115.21 f). The referral shall be documented. The Office shall cooperate with the outside agency investigation and shall request to be informed about the progress of the investigation (28 CFR 115.71 l). Circumstances in which an outside agency is requested to conduct an investigation may be determined by a staff member's position or rank as an alleged perpetrator, or other factors identified in an allegation or report.

If criminal acts are identified as a result of the investigation, the case shall be presented to the appropriate prosecutor's office for filing of new charges (28 CFR 115.71 h).

If a victim is under 18 or considered a vulnerable adult under state law, the assigned investigator shall report the allegation to the designated social services agency as required (28 CFR 115.61 d).

For more information, see [PREA Coordinated Response Plan - Investigations Procedure](#).

##### **606.11.1 STAFF SANCTIONS**

Staff shall be subject to disciplinary sanctions, up to and including termination, for violating this policy (28 CFR 115.76 a). Termination shall be the presumptive disciplinary sanction for

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staff members who have engaged in sexual abuse (28 CFR 115.76 b). All discipline 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 (28 CFR 115.76 c).

All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the law enforcement agency that would handle any related investigation and to any relevant licensing bodies (28 CFR 115.76 d).

#### 606.11.2 REPORTING TO INMATES

The Jail Director or the authorized designee shall inform a victim inmate in writing whether an allegation has been substantiated, unsubstantiated or unfounded (28 CFR 115.73 a). If the Office did not conduct the investigation, the Office shall request relevant information from the investigative agency in order to inform the inmate (28 CFR 115.73 b).

If a staff member is the accused (unless the Office has determined that the allegation is unfounded), the inmate shall also be informed whenever (28 CFR 115.73 c):

- (a) The staff member is no longer assigned to the inmate's unit or employed at the facility.
- (b) The Office learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility.

If another inmate is the accused, the alleged victim shall be notified whenever the Office learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility (28 CFR 115.73 d).

All notifications or attempted notifications shall be documented (28 CFR 115.73 e). When notification is made while the inmate is in custody, the inmate will sign a copy of the notification letter. The letter will be added to the case file (28 CFR 115.73 f).

#### **606.12 SEXUAL ABUSE AND SEXUAL HARASSMENT BETWEEN STAFF AND INMATES**

Sexual abuse and sexual harassment between staff, volunteers or contract personnel and inmates is strictly prohibited. The fact that an inmate may have initiated a relationship or sexual contact is not a defense to violating this policy.

Any incident involving allegations of staff-on-inmate sexual abuse or sexual harassment shall be referred to the Chief Deputy or authorized designee for investigation.

##### 606.12.1 SEXUAL ABUSE BY CONTRACTOR OR VOLUNTEER

Any contractor or volunteer who engages in sexual abuse within the facility shall be immediately prohibited from having any contact with inmates. He/she shall be promptly reported to the law enforcement agency that would investigate such allegations and brought to the attention of any relevant licensing bodies (28 CFR 115.77).



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#### **606.13 ADMINISTRATIVE SEGREGATION**

Inmates at high risk for sexual victimization shall not be placed in involuntary protective custody unless an assessment of available alternatives has been made and it has been determined that there is no reasonably available alternative means of separation. Inmates may be held in involuntary protective custody for less than 24 hours while an assessment is completed.

If an involuntary protective custody assignment is made because of a high risk for victimization, the Jail Director or authorized designee shall clearly document the basis for the concern for the inmate's safety and the reasons why no alternative means of separation can be arranged (28 CFR 115.43).

The facility shall assign these inmates to involuntary protective custody only until an alternative means of separation from likely abusers can be arranged, not ordinarily in excess of 30 days.

Inmates placed in temporary protective custody shall continue to have reasonable access to programs, privileges, education and work opportunities. If restrictions are put in place, the Jail Director or authorized designee shall document the following:

- (a) The opportunities that have been limited
- (b) The duration of the limitation
- (c) The reasons for such limitations

Every 30 days, the Jail Director shall afford each such inmate a review to determine whether there is a continuing need for protective custody (28 CFR 115.43).

Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the same requirements listed above (28 CFR 115.68).

#### **606.14 SEXUAL ABUSE INCIDENT REVIEW**

An incident review shall be conducted at the conclusion of every sexual abuse investigation unless the allegation has been determined to be unfounded (28 CFR 115.86 a). The review should occur within 30 days of the conclusion of the investigation (28 CFR 115.86 b).

The review team shall include upper-level management officials and seek input from line supervisors, investigators and qualified health care and or mental health professionals, as appropriate (28 CFR 115.86 c).

The review team shall, at a minimum (28 CFR 115.86 d):

- (a) Consider whether the investigation indicates a need to change policy or practice in order to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification status or perceived status; gang affiliation; or other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers may enable abuse.

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- (d) Assess the adequacy of staffing levels in the area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- (f) Prepare a written report of the team's findings including, but not limited to, determinations made pursuant to paragraphs (a)-(e) of this section, and any recommendations for improvement. The report should be submitted to the Jail Director and the PREA coordinator.

The Jail Director or the authorized designee shall implement the recommendations for improvement or document the reasons for not doing so (28 CFR 115.86 e).

#### **606.15 DATA COLLECTION (28 CFR 115.87 A-F)**

The PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. Upon request, the PREA Coordinator shall provide all such data from the previous calendar year to the U.S. Department of Justice (DOJ) no later than June 30.

The PREA Coordinator shall aggregate the incident-based sexual abuse data at least annually. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the U.S. DOJ.

The data shall be maintained, reviewed and collected from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews and any incident-based and aggregated data from any private facility with which it contracts for the confinement of inmates.

All aggregated data shall be made readily available to the public through the Sheriff's Office webpage or through Public Records.

#### **606.16 DATA REVIEWS**

This office shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training by (28 CFR 115.88 a; 28 CFR 115.88 b; 28 CFR 115.88 c):

- (a) Identifying problem areas.
- (b) Identifying corrective actions taken.
- (c) Recommending corrective actions.
- (d) Comparing current annual data and corrective actions with those from prior years.
- (e) Assessing the office's progress in addressing sexual abuse.

The reports shall be approved by the Jail Director and made available through the office website (28 CFR 115.89 b). Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the facility. However, the nature of the redacted material shall be indicated (28 CFR 115.88 d).

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All aggregated sexual abuse data from Delaware County Sheriff's Office facilities and private facilities with which it contracts shall be made available to the public at least annually through the office website. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.89 c).

#### **606.17 RECORDS**

All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment or counseling shall be securely retained in accordance with confidentiality laws.

The Office shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Office, plus five years (28 CFR 115.71 i).

All other data collected pursuant to this policy shall be securely maintained for at least 10 years after the date of the initial collection, unless federal, state or local law requires otherwise (28 CFR 115.89 d).