

Division 3
Section One – Facility Operations
Volume III
Chapter Three

PRISON RAPE ELIMINATION ACT OF 2003

3-1-3-3. Sexual contact between Inmates

1. **Sexual Abuse** – When an inmate, employee or staff, or group of inmates, through the use of threats, intimidation, force, or other actions and/or communications causes an inmate to submit to sexual act against his/her will.
2. **Non-consensual Sexual Act** - An incident in which one or more of the following acts occurs without the inmates consent, or the inmate is unable to consent or refused:
 - a. contact between the penis and the vagina or the penis and the anus involving penetration, however slight. It does not include kicking, grabbing, or punching genitals when the intent is to harm rather than sexually exploit;
 - b. contact between the mouth and the penis, vagina, or anus;
 - c. penetration of the vagina or anus of another person by hand, finger, or other object.
3. **Non-consensual Sexual Contact** – Sexual contact without the inmates consent, or in which the inmate is unable to consent or refuse. This includes one or more of the following behaviors:
 - a. intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim;
 - b. sexual contact does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexual exploit.

3-1-3-3.1 Staff Responsibilities

1. The Administrator will assign a staff member to serve as the PREA Coordinator:
 - a. coordinates facility PREA-related activities;
 - b. ensure compliance with training requirements,
 - c. track and report PREA statistical data to the Sheriff/Administrator.
2. The PREA investigator will investigate all alleged sexual misconduct Incidents within the detention facility.

3-1-3-3.2 Inmate Orientation and Education

1. During orientation (State Inmates only), all inmates will receive information about sexual misconduct. Designated staff members will communicate the information verbally and in writing, in a manner that is clearly understood by the inmates. County and Federal inmates will be briefed at intake and view video clips during the course of their incarceration in this detention facility. Information provided will include,

but is not limited to:

- a. Presentation of this policy;
- b. CCDC 3-1-3-4 Sexual Misconduct & Reporting;
- c. CCDC 3-1-3-5 Staff Conduct with Inmates;
- d. CCDC 3-1-5-4 Grievance;
- e. Detention Facilities zero tolerance stance;
- f. Self Protection methods;
- g. Prevention and Intervention;
- h. Treatment and Counseling;
- i. Reporting Incidents;
- j. Protection against Retaliation;
- k. Consequences of False Allegations.

3-1-3-3.3 Inmate Reporting

1. Reporting Incidents
 - a. inmates who are victims of or have knowledge of sexual misconduct should immediately report the incident to a staff member.
 - b. inmates may utilize the “lock box” formal grievance procedure to report sexual misconduct in accordance with facility procedures and CCDC 3-1-5-4, Inmate Grievance Program, however, inmates are not required to go through the informal resolution step to report allegations of sexual misconduct. Designated staff members will process such grievances as a high priority in accordance with established facility emergency grievance procedures and immediately forward copies to the PREA coordinator.
 - c. inmates may use a DOC (State Inmates Only) approved free confidential telephone hotline to report sexual misconduct (we do not have this capability at our facility using the current phone system in place, it is being addressed by the Department of Corrections and Montana State Prison).
2. Inmates are not required to file written reports; however, staff who receive verbal reports from inmates are required to file written incident reports as set forth in this policy.
3. Additional methods for reporting incidents maybe developed.
4. False Reporting – substantiated deliberately malicious or false reports by inmates or other parties will result in disciplinary action or criminal charges.

3-1-3-3.4 Prevention

1. All staff and inmates will be alert to signs of potential situations in which sexual misconduct might occur.
2. This facility will identify, assess, and manage inmates with special needs, including those who are potentially vulnerable and potentially dangerous, to provide safe housing, adequate, and programmatic resources to meet their needs in accordance with CCDC 3-2-5-1 Special Needs Inmates.

3-1-3-3.5 Intervention

1. Staff who receives an initial report of sexual misconduct must separate the victim from the alleged assailant to protect the victim and prevent further violence. (Note: Any allegation from an inmate of sexual abuse at another facility, will be given to the PREA Coordinator and the Facility Head. As soon as possible or within 72 hours of receiving the complaint, the Head of the facility or agency where the sexual abuse incident occurred will be contacted.)
2. Staff who receives an initial report of sexual misconduct will promptly intervene on the victim's behalf to ensure the victim receives prompt medical and psychological assistance, as needed for the alleged offense. Victims of sexual misconduct must have an assessment for potential risk of suicide. This will be done by notifying Medical Staff who will conduct the assessment?
3. Psychological trauma may occur to individuals other than the victim of sexual misconduct. Mental Health staff must be available to support and assist those in need.
4. Appropriate staff must refer victims of sexual misconduct to a community health care facility for treatment and the gathering of evidence if the sexual misconduct is reported within **72 hours** of the incident. Staff will refer incidents of sexual misconduct reported more than 72 hours after the incident to "in house" health care providers who will:
 - a. complete a patient history and conduct an examination to document the extent of physical injury to determine whether referral to another medical facility is indicated;
 - b. offer to all victims, as appropriate, prophylactic treatment and follow up care for sexually transmitted or other communicable disease (e.g. HIV, hepatitis B);
 - c. arrange an evaluation by a qualified mental health professional for crisis intervention counseling and long term follow up;
 - d. submit a report to the appropriate staff to effect separate housing assignments for the victim and his/her assailant.

3-1-3-3.6 Services Provided

1. Facility and program staff will coordinate available services to inmates who allege that they are victims of sexual misconduct.
2. Facility and program managers will ensure that inmates who allege that they are victim of sexual misconduct will have access to the following services:
 - a. medical examination, documentation, and treatment of injuries, including testing for HIV and other sexually transmitted disease;
 - b. mental health crisis intervention (Victim Witness/Voices of Hope) and treatment;
 - c. social, family, and peer support; and
 - d. reasonable measures taken to protect and prevent future assaults.

3-1-3-3.7 Examination of Sexual Assault Victims

1. If the alleged sexual misconduct is reported within **72 hours** of the incident, facility and program staff will immediately transport the victim to a community medical facility equipped to evaluate and treat sexual assault/rape victims.

2. If the alleged sexual misconduct is reported **more than 72 hours** after the incident, law enforcement may request that facility and program staff transport the victim to a community medical facility for evidence collection.

3-1-3-3.8 Tracking Sexual Assault

The PREA Coordinator will track sexual misconduct reports to collect data on victims, assailants, crime characteristics and action taken.

3-1-3-3.9 Staff Reporting

1. Detention staff, contract employees and volunteers who receive information, regardless of its source, concerning inmate on inmate sexual misconduct, or who observe an incident of inmate on inmate sexual misconduct, must immediately report the information or incident directly to their immediate supervisor or shift sergeant, who will notify the MSP Command Post at (406) 846-1320, ext. 2250 (State Inmates Only). The Command Post will follow the PREA protocols for receiving reported allegations. All alleged reports dealing with County and Federal Inmates will be handled by the detective's unit within the Sheriff's Office.
2. Detention staff, contracted employees and volunteers who receive information regardless of its source, concerning staff on inmate sexual misconduct, or who observe an incident of staff on inmate sexual misconduct, must immediately report the information or incident directly to the PREA Coordinator in accordance with **CCDC 3-1-3-4, Sexual Misconduct & Reporting Procedures**. The facility PREA Coordinator or designee will notify the PREA Investigator or designee of all reported staff on inmate sexual misconduct allegations.
3. Any employee or volunteer who fails to report an allegation or coerces or threatens another person to submit inaccurate, incomplete, or untruthful information with the intent to alter a report, may face disciplinary action up to and including dismissal.
4. Detention staff will report incidents and complete reports in accordance with **CCDC 3-1-3-4, Sexual Misconduct & Reporting Procedures**.

3-1-3-3.10 1st Responders - Security Procedures

1. Detention staff will follow appropriate security procedures which include;
 - a. providing medical assistance for the alleged victim as soon as possible.
 - b. separating the victim from the alleged perpetrator.
 - c. contact law enforcement.
 - d. offer victim-witness advocate.
 - e. securing the scene so items cannot be removed or introduced.
 - f. request from the victim and perpetrator not to take any action that could destroy evidence (washing, brushing teeth, urinating, defecating, changing clothes, eating/drinking, etc.)
 - g. taking reasonable measures to identify, isolate and separate witnesses.
 - h. explain the need for an exam.
 - i. allowing only assigned investigators to assess the scene.
2. **Non-Detention staff will request from the victim;**
 - a. **not to take any action that could destroy evidence (washing, brushing teeth, urinating, defecating, changing clothes, eating/drinking, etc.)**
 - b. **notify the detention staff.**

3-1-3-3.11 Investigative Protocols of Sexual Assaults

1. The shift sergeant will initiate the Sexual Assault checklist (refer to Attachment A).
2. Detention staff who respond to the incident will submit reports to the facility PREA Coordinator and PREA Investigator assigned by the Sheriff. Reports will be submit to MSP Command Post and they will disseminate the information according to their PREA protocol (state inmates).
3. The PREA Investigator assigned to the incident will ensure compliance of the Sexual Assault Investigators protocol.

3-1-3-3.12 Documentation

1. All staff who witness or have knowledge of alleged sexual misconduct must submit an incident report to the shift sergeant before the end of their assigned shift.
2. At the completion of the investigation, the investigator assigned to the incident or designee will notify the Administrator, PREA Coordinator and victim (verbally or in writing) of the outcome.

3-1-3-3.13 Treatment for Victims

1. Victim services for inmates will include crisis intervention and trauma-specific treatment provided by mental health and/or medical professionals while in custody.
2. Victim services will be made available to all inmates who were victims of sexual misconduct by detention staff, contract employees, volunteers or other inmates while in a contracted correctional facility.

3-1-3-3.14 Staff Training

1. All detention staff, contracted employees and volunteers with direct or incidental contact with inmates will receive documented PREA training during orientation or Correctional Detention Officer Basic (CDOB) and annually thereafter.
2. Training will include:
 - a. review of this policy (Prison Rape Elimination Act of 2003), DOC Policy 1.3.12 (Staff Association and Conduct with Inmates), **CCDC 3-1-3-3 thru 3-1-3-5** and any other state or federal laws which apply.
 - b. prevention, investigation and prosecution of sexual misconduct.
 - c. zero tolerance.
 - d. recognition of sexual misconduct, predatory inmates, potential victims and or staff involvement.
 - e. facility procedures on sharing confidential information.
 - f. reporting procedures.
3. The training section will document all PREA related training.
4. The Sheriff's Office will provide specialized training to staff who respond to and or investigate allegations of sexual misconduct. Training includes crime scene management, investigation, victim sensitivity and crisis intervention.

3-1-3-3.15 Data Collection and Tracking

1. The PREA Coordinator will compile records and report statistical data to the Administrator and Sheriff when requested.
2. The PREA Coordinator will retain incident, investigative reports, inmate information and case disposition. All medical and mental health findings and recommendations for post release treatment or counseling will be held by the Medical Director.
3. **The SART team conducts reviews at the conclusion of every sexual abuse investigation and within 30 days, unless the allegation has been determined to be unfounded.**
4. After consultation with the Sheriff, any exceptions to this procedure must be approved by the Administrator.

CLOSING: Policy and Procedures will be trained to before effective date of implementation.

The effective date of this **procedure** is: _____.

Questions concerning this policy should be directed to the Administrator.

Approved: _____ Date: _____
Dan O’Fallon, Chief Captain-Administrator

Reviewed: _____ Date: _____

Revised Date: January 30, 2013

Revised Date: August 23, 2013

Revised Date: January 31, 2014

Revised Date: May 23, 2014

Attachment A



Attachment A

Sexual Abuse Check List

Report Received By: _____ Shift Supervisor: _____ Date: _____

Time Received: _____ Incident Type: _____ PREA #: _____ SO#: _____

Location Occurred: _____ Shift: _____

Persons Involved: (S-suspect, V-victim, W-witness)

Name: _____ DOB: __/__/__ S V W

1st Responder Responsibilities

(Check all that apply)

Detention Officer's will:

- Separate the victim and suspect.
- Preserve, Protect and Secure the crime scene and/or evidence.
- Notify chain of command and Facility PREA Coordinator.
- Request the victim not wash, brush teeth, change clothes, urinate, defecate, smoke, eat, or drink.
- Ensure the suspect not wash, brush teeth, change clothes, urinate, defecate, smoke, eat, or drink.

Deputies will:

- Take Initial Report.
- Notify Detention Staff.
- Notify PREA Investigator.
- Ensure the Suspect and Victim not wash, brush teeth, change cloths, urinate, defecate, smoke, eat, or drink.
- Preserve, Protect and Secure crime scene and immediately collect all evidence which could be lost or destroyed.

Medical and Mental Health Care

Was the victim offered SA exam/health care? Yes No Date: _____ Time: _____
If "No", provide reason: _____
Was the victim offered mental health care? Yes No Date: _____ Time: _____
If "No", provide reason: _____
Was the suspect referred to mental health? Yes No Date: _____ Time: _____
If "No", provide reason: _____

Segregation

Victim(s) placed in segregation: Yes No
Placed: Date: _____ Time: _____
Released: Date: _____ Time: _____
If longer than 24 hours, provide reason: _____
If longer than 30 days, provide reason: Inmate Safety No alternative means of separation
 Other, provide reason: _____
Date 30 day review conducted: _____
Suspect(s) placed in segregation: Yes No
Placed: Date: _____ Time: _____
Released: Date: _____ Time: _____
If longer than 24 hours, provide reason: _____
If longer than 30 days, provide reason: Inmate Safety No alternative means of separation
 Other, provide reason: _____
Date 30 day review conducted: _____

Sheriff's – Investigative Unit

(Note: All PREA Investigations will be referred to the County Attorney's Office for Review)

Referred to Deputy: Yes No
Given to Lead PREA Investigator: Yes No
Investigative Findings: Substantiated Unsubstantiated Unfounded
If "Substantiated", was an arrest made: Yes No
If "No" provide reason: _____

Victim Advocate

For all allegations of rape, sexual abuse, non-consensual sexual acts (inmate on inmate) or staff sexual misconduct, was the victim offered access to a Victim Advocate? Yes No
If "No", provide reason: _____
Name of Advocate(s): _____
Victim Advocate services were: Accepted Declined
Advocate participated in: Investigative Interview Crisis Intervention/Emotional Support
 Forensic Examination

Victim Notification

The victim was notified of the findings of the investigation: Yes No Date: _____
If “No”, provide reason: _____

Administrative Review Process

Final determination of the case: Substantiated Unsubstantiated Unfounded

Investigation was staffed/reviewed at the SART meeting on: Date: _____

Did the investigation review determine changes in Policy, Procedure, or Equipment was needed:

Yes No

If “Yes”, were they implemented: Yes No If “No”, provide reason:

I have reviewed this report to ensure all the necessary information is attached.

PREA Coordinator

Date

Please enter packet number and information in the excel PREA spreadsheet.....