

Sixth District Department of Correctional Services POLICY	Issue Date 10/18/13	Effective Date 05/01/15	Policy Number 2400-15
Subject <b>SEXUAL MISCONDUCT WITH OFFENDERS COMMUNITY CONFINEMENT STANDARDS (PREA PREVENTION PLANNING)</b>		Review Month June	Author 0102/0120 (JAL/CDE)
Rescinds  2400-13	Reference: Prison Rape Elimination Act-Community Confinement Standards, US Dept. of Justice Final Rule 28 C.F.R. Part 115, Docket No. OAG-131, RIN 1105-AB34, May 17, 2012 PREA Standards: §115.211, 115.212, 115.213,(115.214 reserved), 115.215, 115.216, 115.217, 115.218		

**PURPOSE:**

To establish a policy in regard to Prison Rape Elimination Act (PREA) Prevention Planning.

**POLICY:**

It is policy of the Sixth Judicial District, Department of Correctional Services, to provide a safe, humane, and secure environment, free from the threat of sexual violence and sexual harassment for all offenders, by maintaining a program of education, prevention, detection, response, investigation, prosecution and tracking. The Sixth Judicial District Department of Correctional Services has zero tolerance for sexual violence of any kind.

This policy applies to all employees, prospective employees, interns, volunteers and contractors of the Sixth Judicial District, Department of Correctional Services and is maintained current by the District Director or the designee.

**PROCEDURE:**

1. Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator §115.211:
  - A. The Department has a zero tolerance policy toward all forms of sexual abuse and sexual harassment and outlines the agency's approach to preventing, detecting and responding to such conduct in the Prison Elimination Act policies.
  - B. The Assistant Director or designee as the PREA Coordinator oversees the Department's efforts to comply with the PREA standards.
2. Contracting with other entities for the confinement of offenders §115.212:
  - A. The Department does not contract with other entities for the confinement of offenders.

**POLICY NUMBER 2400-15**  
**PAGE 2 OF 5**

**PROCEDURE:** (continued)

3. Supervision and monitoring §115.213:
  - A. There is a documented staffing plan that provides for adequate levels of staffing and where applicable video monitoring to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, consideration is given to:
    - 1) The physical layout of each facility;
    - 2) The composition of offender population;
    - 3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
    - 4) Any other relevant factors.
  - B. In circumstances where the staffing plan is not complied with, the facility documents and justifies all deviations from the plan.
  - C. Whenever necessary, but no less frequently, that once each year, the facility assesses, determines and documents whether adjustments are needed to:
    - 1) The staffing plan established pursuant to paragraph (3.A.) of this section;
    - 2) Prevailing staffing patterns;
    - 3) The facilities deployment of video monitoring systems and other monitoring technologies; and
    - 4) The resources the facility has available to commit to ensure adequate staffing levels.
4. Limits to cross-gender viewing and searches §115.215:
  - A. Staff do not conduct cross-gender strip searches or cross gender visual body cavity searches (meaning a search of the anal or the genital opening) except in exigent circumstances or when performed by medical practitioners.
  - B. Effective August 20, 2015 facilities that house more than 50 offenders, and as of August 21, 2017 facilities that house less than 50 offenders, do not permit cross-gender pat-down searches of female offenders, absent exigent circumstances. The facility does not restrict female resident's access to regularly available programming or other outside opportunities in order to comply with this provision.

**POLICY NUMBER 2400-15**

**PAGE 3 OF 5**

**PROCEDURE:** (continued)

- C. The facility documents all cross-gender/trans-gender strip searches and cross-gender/trans-gender visual body cavity searches, and all cross-gender pat down searches of female offenders (2400A, 2400B). This documentation is maintained by the Residential Manager, Residential Supervisor or Executive Officer.
  - D. Offenders may shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks. Staff of the opposite gender must announce their presence when entering an area where offenders are likely to be showering, performing bodily functions or changing clothing.
  - E. Employees do not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown it is determined during conversations with the offender, by reviewing medical records, or if necessary, by learning that information as part of a broader medical examination, conducted in private by a medical practitioner.
  - F. Staff are trained in how to conduct cross-gender pat down searches and searches of transgender and intersex offenders in a professional and respectful manner and in the least intrusive manner possible consistent with security needs.
5. Offenders with disabilities and offenders who are limited English proficient §115.216:
- A. Offenders with disabilities (including, for example, those who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of efforts to prevent, detect and respond to sexual abuse and sexual harassment. Such steps 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. In addition, written materials are provided in formats or through methods that ensure effective communication with offenders with disabilities, including offenders who have intellectual disabilities, limited reading skills, or who are blind or who have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens, as those terms are used in regulations promulgated under Title II of the Americans With Disabilities Act, 28 CFR 35.164.

**PROCEDURE:** (continued)

- B. The Department takes 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 (or a full roster of Iowa's State Court Interpreters go to <http://www.iowacourts.gov/wfdata/frame15169-1521/File1.pdf>).
  - C. The Department does 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, the performance of first-response duties under §115.264 or the investigation of the offender's allegations.
6. Hiring and promotion decisions §115.217:
- A. The Department does not hire or promote anyone, or enlist the services of any contractor, who may have contact with offenders, that have:
    - 1) Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C. 1997);
    - 2) 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
    - 3) Been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.
  - B. The Department considers 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.
  - C. Before hiring new employees or promoting current employees who may have contact with offenders, the Department:
    - 1) Performs a criminal background records check; and
    - 2) 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. **All applicants who were previously employed by an institution must sign an Authority for Release of Information form.**

**POLICY NUMBER 2400-15**  
**PAGE 5 OF 5**

**PROCEDURE:** (continued)

- D. The Department also performs a criminal background records check before enlisting the services of any contractor who may have contact with offenders.
  - E. The Department either conducts criminal background records checks when an employee is being considered for a promotion or at least every five (5) years on current employees and contractors who may have contact with offenders or have in place a system for otherwise capturing such information for current employees.
  - F. The Department also asks all applicants and employees who may have contact with offenders directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The Department also imposes upon employees a continuing affirmative duty to disclose any such misconduct.
  - G. Material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination.
  - H. Unless prohibited by law, the Department provides 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.
7. Upgrades to facilities and technologies §115.218:
- A. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Department considers the effect of the design, acquisition, expansion or modification upon the agency's ability to protect offenders from sexual abuse.
  - B. When installing or updating a video monitoring system, electronic surveillance system, other monitoring technology, the Department considers how such technology may enhance the agency's ability to protect offenders from sexual abuse.

BY ORDER OF:

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Bruce Vander Sanden, Director