

Sixth District Department of Correctional Services POLICY		Issue Date 10/18/13	Effective Date 12/23/15	Policy Number 2405-15
Subject SEXUAL MISCONDUCT WITH OFFENDERS COMMUNITY CONFINEMENT STANDARDS (PREA Official Response Following An Offender Report)		Review Month June	Author 0102/0120 (JAL/CDE)	
Rescinds 2405-13	Reference	Prison Rape Elimination Act-Community Confinement Standards, United States Department of Justice Final Rule 28 C.F.R. Part 115, Docket No. OAG-131, RIN 1105-AB34, May 17, 2012,		
	PREA Standards	§115.261, 115.262, 115.263, 115.264, 115.265, 115.266, 115.267		

PURPOSE:

To establish procedures following an offender PREA related report made or observed by staff.

POLICY:

It is the 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. Staff and Department Reporting Duties §115.261:
 - A. Staff are required to immediately report any knowledge, suspicion or information regarding an incident of offender sexual abuse or sexual harassment to the PREA Coordinator or designee where the alleged incident occurred at a federal, state, county, juvenile correctional, residential, jail setting; treatment facility or while under field services supervision at the federal, state, county or juvenile levels. Incidents of retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation is also reported to the PREA Coordinator or designee.
 - B. Apart from reporting to PREA Coordinator/designee, staff does not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, to make treatment, investigation and other security decisions.

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PROCEDURE: (continued)

- C. Unless otherwise precluded by Federal, State, or local law, mental health practitioners are required to report sexual abuse pursuant to paragraph A of this section and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
 - D. If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a State or local vulnerable persons statute, the Department reports the allegation to the designated State or local services agency under applicable mandatory reporting laws.
 - E. The facility reports all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the Assistant Director or designee.
2. Agency Protection Duties §115.262:
- A. When staff learns that an offender is subject to a substantial risk of imminent sexual abuse, they take immediate action to protect the offender.
3. Reporting to Other Confinement Facilities §115.263:
- A. Upon receiving an allegation that an offender was sexually abused while confined at another facility, the staff receiving such a report contacts the District PREA Coordinator or designee who notifies the head of the facility or appropriate office of the agency where the alleged abuse occurred.
 - B. Such notification is provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
 - C. The PREA Coordinator documents such notification.
 - D. The facility head or agency office that receives such notification ensures that the allegation is investigated in accordance with these standards.
4. Staff First Responder Duties §115.264:
- A. Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report is required to:
 - 1) Separate the alleged victim and abuser;
 - 2) Preserve and protect any crime scene until appropriate steps are taken to collect any evidence (when law enforcement arrives);

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PROCEDURE: (continued)

- 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating; and
 - 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
- B. If the first staff responder is not a residential staff member, the responder is required to request that the alleged victim not take any actions that could destroy physical evidence and then notify residential staff.
5. Coordinated Response §115.265:
- A. There is a written plan (flow charts) to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators and facility leadership. (Attachment-flow chart)
6. Preservation of Ability to Protect Offenders From Contact With Abusers §115.266:
- A. Neither the Department nor any other governmental entity responsible for collective bargaining on the Departments behalf enters into or renews any collective bargaining agreement or other agreement that limits the Department's ability to remove alleged staff sexual abusers from contact with offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
 - B. Nothing in this standard restricts the entering into or renewal of agreements that govern:
 - 1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §115.272 and §115.276; or
 - 2) Whether a no-contact assignment that is imposed pending the outcome of an investigation is expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

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PROCEDURE: (continued)

7. Agency Protection Against Retaliation §115.267:
 - A. The Department protects all 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 designates which staff members or departments are charged with monitoring retaliation.
 - 1) The PREA Coordinator, Compliance Manager or designee monitors any reports of retaliation as noted above.
 - B. The Department employs multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims and emotional support services for offenders or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
 - C. For at least ninety (90) days following a report of sexual abuse, the Department monitors the conduct and treatment of offenders or staff who reported the sexual abuse and of offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by offenders or staff, and acts promptly to remedy any such retaliation. Items the agency monitors include any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. The Department continues such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.
 - D. In the case of offenders, such monitoring also includes periodic status checks.
 - E. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department takes appropriate measures to protect that individual against retaliation.
 - F. The Department's obligation to monitor terminates if the Department determines that the allegation is unfounded.

BY ORDER OF:

Bruce Vander Sanden, Director