



WAYNE COUNTY CORRECTIONAL FACILITY

Policy Statement

NUMBER: PS 6400
DATE: May 19, 2014
SUBJECT: Zero Tolerance- Prison Rape
Elimination Act

PURPOSE: To establish a standard for how the Wayne County Correctional Facility Staff will implement the Facility's zero tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment.

POLICY: It is the policy of the Wayne County Correctional Facility to prohibit any form of sexual contact or harassment with an offender. An offender, staff member, visitor, volunteer, or contracted service provider found to be in violation of this policy is subject to disciplinary action, termination of services or contracts, sanctions, and may be subject to criminal prosecution. A claim of consent is not an acceptable defense for participating in sexual contact or harassment with an offender.

Any staff member, volunteer, visitor, or contracted service provider must report any incident witnessed to the Lieutenant on duty or most senior officer on duty. Failure to report an incident may also result in disciplinary action or termination of services. Retaliatory action against any person reporting a sexual assault or harassment incident is prohibited.

It is also the policy of the Wayne County Correctional Facility to appoint a PREA Coordinator to oversee the all aspects of this policy.

DEFINITIONS OF PROHIBITED BEHAVIORS:

1. Sexual Abuse includes-
 - A. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
 - B. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.
2. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident 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:
 - A. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

- 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 hand, finger, object, or other instrument; and
 - 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.
3. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:
- A. Contact between the penis and vulva or the penis and the anus, including penetration, however slight;
 - B. Contact between the mouth and penis, vulva, or anus;
 - C. 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;
 - D. Penetration of the anal or genital opening, however slight by 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;
 - E. Any 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;
 - F. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above in this section
 - G. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
 - H. Voyeurism by a staff member, contractor, or volunteer.
 - I. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.
4. Sexual Harassment includes-
- A. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another.; and
 - B. 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.

PROCEDURE:

❖ **TRAINING:**

1. Employee Training

- A. The agency shall train all employees who may have contact with inmates on:
 - a. It's zero tolerance policy for sexual abuse and sexual harassment;
 - b. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - c. Inmates' right to be free from sexual abuse and sexual harassment;
 - d. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e. The dynamics of sexual abuse and sexual harassment in confinement;
 - f. The common reactions of sexual abuse and sexual harassment victims;
 - g. How to detect and respond to signs of threatened and actual sexual abuse;
 - h. How to avoid inappropriate relationships with inmates;
 - i. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
 - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- B. All current employees who have not received such training shall be trained within one year of the effective date of the PREA Standards, the agency shall provide each employee with refresher training every year during annual refresher training to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures.
- C. The agency shall document, through employee signature that employees understand the policy they have received.
- D. The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

2. Volunteer and Contractor Training

- A. The agency shall ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
- B. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact

with inmates will be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

- C. The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

3. Inmate Education

- A. During the intake process, inmates 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.
- B. Within 30 days of intake, the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.
- C. Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards.
- D. The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.
- E. The agency shall maintain documentation of inmate participation in these education sessions.
- F. In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

4. Specialized Training: Investigations

- A. In addition to the general training provided to all employees, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
- B. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case or administrative action or prosecution referral.
- C. The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.
- D. Any state entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

5. Specialized Training: Medical and Mental Health

- A. All full and part time medical and mental health care practitioners who work in the facility will be trained in

- a. How to detect and assess signs of sexual assault and sexual harassment;
- b. How to preserve physical evidence of sexual abuse;
- c. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
- d. How and to whom to report allegations or suspicions of sexual abuse or sexual harassment.
- e. The Training Lieutenant shall maintain documentation that the medical and mental health practitioners have received the mandatory training.
- f. Medical and mental health practitioners shall also receive the training mandated under Sections 1 and 2 as applicable.

❖ **HIRING AND PROMOTION DECISIONS**

1. The Warden 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:
 - A. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
 - B. 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
2. Before hiring new employees who may have contact with inmates, the agency shall:
 - A. Perform a criminal background records check; and
 - B. Contact prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
3. Criminal background records checks will be performed before enlisting the services of any contractor who may have contact with inmates.
4. Criminal background record checks will be performed at least every five years of current employees and contractors who may have contact with inmates.

❖ **PREVENTION**

5. PREA Coordinator:
 - A. The PREA Coordinator will evaluate and report regularly to the Warden on the facility's supervision and monitoring.
 - B. The PREA Coordinator shall document observations and provide recommendations to the Warden on the status of staff planning. The staff planning shall provide 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, the following shall be considered:
 - a. All components of the facility's physical plant such as, "blind spots" or areas where staff or offenders may be isolated.
 - b. The composition of the inmate population.
 - c. The number and placement of supervisory staff.

- d. Facility programs occurring on a particular shift.
- C. Whenever necessary, but no less than once a year, in consultation with the PREA coordinator, the Warden shall assess, determine, and document whether adjustments need to be made to:
 - a. The staffing plan,
 - b. The facility's deployment of video monitoring systems and other monitoring technologies, and
 - c. Documentation of intermediate-level and higher-level supervisors unannounced rounds to identify and deter sexual abuse and sexual harassment on each shift. It is prohibited for staff to alert other staff that the unannounced rounds are occurring unless it is related to operational functions of the facility.

❖ **YOUTHFUL OFFENDERS**

- 1. A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate.
- 2. Supervision will be provided for youthful offenders on a one on one basis with a staff member of the same gender.
- 3. Absent exigent circumstances, daily recreation shall not be restricted.

❖ **SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS AND USE OF SCREENING INFORMATION**

- 1. All inmates will be assessed during the intake process. Intake screening shall ordinarily take place within 72 hours of arrival at the facility, and such assessments shall be conducted using an objective screening instrument. The following criteria is used to assess inmates for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.
 - A. Mental, physical, or developmental disability
 - B. Age
 - C. Physical build
 - D. Previous incarcerations
 - E. Whether the inmate's criminal history is exclusively nonviolent;
 - F. Prior sex offenses against a child or adult
 - G. Is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
 - H. Previous experienced sexual victimization
 - I. Offender's own perception of vulnerability
 - J. Whether the inmate is detained solely for civil immigration purposes.
- 2. All concerns noted by the medical or psychology staff regarding an offender's sexual victimization history or predatory behavior will be communicated to the Records Department for appropriate housing assignments.
- 3. Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness

based upon any additional, relevant information received by the facility since the intake screening.

4. An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.
5. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to the assessment.
6. The facility shall use information from the risk screening to inform housing, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
7. The Facility will make individualized determinations about how to ensure the safety of each inmate.
8. Placement and programming assignments for each transgender or intersex inmates shall be reassessed at least twice a year to review any threats to safety experienced by the inmate.
9. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

❖ **HOUSING ASSIGNMENTS**

1. Inmates at a high risk for sexual victimization or inmates that have alleged sexual abuse may not be placed in Administrative Custody until all other means of separation have been exhausted.
2. Inmates placed in segregated housing for this purpose shall have accesses to programs, privileges, education, and work opportunities to the extent possible. If restrictions to programs, privileges, education, and/or work opportunities occur, the PREA coordinator shall document:
 - A. The opportunities that have been limited;
 - B. The duration of the limitation; and
 - C. The reason for such limitations
3. If an inmate is placed in protective custody, the PREA Coordinator will document:
 - A. The basis for concern for the inmate's safety; and
 - B. The reason why no alternative means of separation could be arranged.
4. Every 30 days, the facility shall review protective custody status for continued need for separation from the general population.

❖ **LIMITS TO CROSS GENDER VIEWING AND SEARCHES**

1. Staff of the opposite gender shall announce their presence every time when entering an inmate housing unit in accordance with the following:
 - A. In a male housing unit, "Female on unit" or in a female housing unit, "Male on unit"
2. Staff shall not conduct cross gender strip searches or cross gender visual body cavity searches, except in exigent circumstances or when provided by medical practitioners and shall document all cross-gender pat-down searches of female inmates. In exigent circumstances, if a cross gender strip search is conducted, documentation will be forwarded to the supervisor.

3. Inmates shall be able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. This limitation not only applies to in-person viewing but also remote viewing as well.
4. A transgender or intersex shall not be searched or physically examined by facility staff for the sole purpose of determining gender. If gender is unknown, it may be determined by conversation with the offender, by reviewing medical documentation or if necessary an exam conducted in private by a medical practitioner.

❖ **REPORTS OF SEXUAL CONTACT**

1. The agency shall provide multiple internal ways 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.
2. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.
3. Offenders may use any telephone in each housing unit to report any acts of sexual contact or misconduct. Refer to PS 6420.
4. Retaliatory action against an inmate for reporting sexual abuse or sexual harassment or for providing information during an investigation is prohibited. Any individual who seeks to deter an offender from reporting sexual activity or intimidates any person who reports the alleged act is subject to discipline.
5. All reports of sexual contact with an offender will be kept confidential.

❖ **INVESTIGATING ALLEGATIONS OF SEXUAL HARASSMENT OF INMATES**

1. An allegation of harassment shall be investigated thoroughly and objectively.
2. The PREA coordinator will interview the offender complainant or complainant and obtain a written statement following the interview. If the offender refuses to be interviewed or provide a written statement, document the refusal and keep it in the investigation file.
3. The PREA coordinator will interview any inmate or staff witnesses and collect reports if necessary.
4. Video footage will be reviewed and saved to a media storage device to submit with the investigation.
5. When appropriate, review all housing unit log books, medical documentation, misconduct reports, inmate grievances, and other pertinent documentation specific to the allegation of sexual abuse and include the documentation in the investigation report.
6. All interviews will be conducted in a professional, non-abusive, and non-threatening manner.
7. 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 inmate or staff.

❖ **RESPONDING TO REPORTS OF SEXUAL ABUSE**

6. A Report of Extraordinary Occurrence must be completed in every case where sexual contact of any kind is reported.
7. Every allegation of sexual contact will be investigated thoroughly and promptly. The preliminary investigation will be conducted by the Lieutenant on duty. The Pennsylvania State Police will be contacted to conduct a criminal investigation.
8. A copy of the investigation report will be forwarded to the Pennsylvania State Police in all cases of sexual contact with an offender.
9. The following steps shall be taken immediately after a report of sexual assault or abuse:
 - A. Immediately separate the alleged victim and alleged abuser
 - B. The victim will be taken to the Medical Department
 - C. the alleged victim/ offender will be advised that he/she should not shower or clean him/herself, not drink or brush his/her teeth, or take any action that may damage evidence and then will be escorted to the hospital for evaluation.
 - D. The location of the incident will be closed off. Evidence will be gathered and pictures may be taken.
 - E. If the perpetrating inmate is wearing clothing that may have been worn during the incident, it will be removed and collected as evidence in a paper bag.
 - F. The perpetrating inmate will be placed in administrative custody pending the outcome of the investigation.

❖ MEDICAL

1. The offender will be escorted to the Medical Department in any situation where there is an allegation of sexual abuse of an inmate.
2. The offender will be examined by the medical staff immediately, to ensure the absence of any injury requiring urgent treatment. It will not be necessary for staff to examine the offender's genitalia unless urgent medical treatment is necessary because the offender will be sent to an outside facility for an examination. Additionally, photographs of the offender will not be taken at the facility, if they are sent to an outside facility, as the photographs will be taken there.
3. If sexual misconduct is suspected and the inmate/ victim reports an allegation of vaginal, oral, and/or anal penetration by a body part or inanimate object, and the most recent act occurred within the past 96 hours, then he/she will be transported to a medical facility to be examined by a medical professional who is skilled and experienced in the use of a rape kit for the collection of evidence. The offender will be transported to a medical facility that employs a SANE (Sexual Assault Nurse Examiner) If the offender refuses to undergo this examination, he/she must sign a refusal of treatment.
4. The offender will receive testing for sexually transmitted diseases while at the medical facility. At minimum the testing will include the following:
 - Gonorrhea
 - Human Immunodeficiency Virus
 - Hepatitis C

- Hepatitis B
 - Chlamydia Trachomatis
 - Syphilis
 - Pregnancy test for Females only
 - Other tests as determined by the physician
5. The victim may receive post-exposure prophylaxis treatment in the form of antibiotics. The offender may refuse treatment and this will be documented.
 6. The Facility physician will consult with the outside provider to determine a need for antivirals. This decision will be based on the type and risk of HIV exposure.
 7. If pregnancy results for the abuse, the offender will receive information about lawful pregnancy related services.
 8. If the offender was exposed to Hepatitis B, the inmate will receive Hepatitis B immune globulin within seven days from exposure and if the offender is not vaccinated, will receive the vaccine series.
 9. Treatment services for the victim will be provided at no cost to the offender. This includes co-pays. The alleged victims care will be consistent with the level of care provided in the community.
 10. The offender/victim will be referred to the Facility Mental Health Provider for assessment within forty eight hours.
 11. Ongoing medical and mental health treatment shall be available for inmates who have been victimized by sexual assault.

❖ **INMATE ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES**

1. Outside victim advocates for emotional support services related to sexual abuse will be available to all victims of sexual abuse. Addresses, telephone numbers, and other information shall be posted in each housing unit so reasonable communication between inmates and organizations may be kept as confidential as possible.
2. Offenders shall be informed, prior to receiving access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. All agreements with outside agencies shall be documented.

❖ **STAFF DISCIPLINE**

1. Any employee, contract service provider, volunteer, inter, or any individual that conducts business with the Wayne County Correctional Facility who engages in, fails to report, or knowingly condones sexual abuse or harassment of any offender will be subject to appropriate disciplinary action.
2. Any accused staff member, volunteer, visitor, contracted service provider may be suspended pending investigation of any allegations. The Warden will make this decision on a case by case basis, based on evidence and severity of the alleged offense.

❖ **INMATE DISCIPLINE**

1. Offenders will be subject to disciplinary action pursuant to the formal disciplinary process. Criminal charges may also be filed.
2. A reporting inmate may be subject to disciplinary action if the report is determined to be unfounded at the conclusion of the investigation.
3. All sexual activity between inmates is prohibited and will be subject to discipline.
4. An offender may be disciplined for sexual contact with staff only upon finding that the staff member did not consent to the contact.

❖ **REPORTING TO INMATES**

1. Following an investigation into an inmate's allegation that he or she suffered sexual abuse in the facility, the PREA coordinator shall inform the inmate.
2. Following an inmate's allegation that a staff member has committed sexual abuse, the PREA coordinator will notify the inmate:
 - A. If the staff member is no longer posted within the inmate's unit;
 - B. The staff member is no longer employed at the facility
 - C. The PREA Coordinator learns of the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - D. The PREA Coordinator learns that the staff member has been convicted on a charge related to sexual abuse
3. Following an inmate's allegation that he or she has been abused by another inmate, the PREA Coordinator will notify the inmate:
 - A. If the PREA Coordinator learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - B. The PREA coordinator learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

❖ **PROTECTION AGAINST RETALIATION**

1. Any inmate or staff member that reports sexual abuse or harassment or cooperates with an investigation shall be protected from retaliation from staff or other inmates.
2. The PREA coordinator shall be designated to monitor potential retaliation.
3. The PREA coordinator shall employ multiple protection measures, such as housing changes, removal of staff abusers from contact with victims, and emotional support for inmates or staff who fear retaliation.
4. For ninety days following a report of sexual abuse, the PREA coordinator shall monitor the conduct and treatment of inmates or staff involved to observe any changes that may occur to suggest retaliation and act promptly to remedy any such retaliation.
5. The Facility's obligation to monitor the situation shall terminate if the PREA coordinator deems the allegation unfounded.

Kevin Bishop

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