



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**DEPARTMENT WIDE**  
OFFENDER/SPANISH MANUALS

REVISION DATE  
9/19/16

PAGE NUMBER  
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NUMBER  
**DOC 490.860**

**POLICY**

TITLE  
**PRISON RAPE ELIMINATION ACT (PREA)  
INVESTIGATION**

**REVIEW/REVISION HISTORY:**

Effective: 10/1/13  
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**SUMMARY OF REVISION/REVIEW:**

I.A.1. - Moved language to expand applicability  
 II.B.2. - Adjusted language for clarification

**APPROVED:**

Signature on file

\_\_\_\_\_  
**RICHARD "DICK" MORGAN**, Secretary  
 Department of Corrections

9/16/16

\_\_\_\_\_  
 Date Signed

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## REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [RCW 9A.44.160](#); [RCW 9A.44.170](#); [RCW 42.56](#); [RCW 72.09.225](#); [WAC 137-28-190](#); [DOC 280.515 Electronic Data Classification](#); [DOC 320.180 Separatee and Facility Prohibition Management](#); [DOC 420.365 Evidence Management for Work Release](#); [DOC 420.375 Contraband and Evidence Handling](#); [DOC 420.395 Evidence/Property Procedures for Field](#); [DOC 450.050 Prohibited Contact](#); [DOC 460.050 Disciplinary Sanctions](#); [DOC 460.130 Response to Violations and New Criminal Activity](#); [DOC 460.135 Disciplinary Procedures for Work Release](#); [DOC 490.800 Prison Rape Elimination Act \(PREA\) Prevention and Reporting](#); [DOC 490.820 Prison Rape Elimination Act \(PREA\) Risk Assessments and Assignments](#); [DOC 530.100 Volunteer Program](#); Collective Bargaining Agreements; [PREA Standards](#); [Prison Rape Elimination Act](#); [Records Retention Schedule](#)

## POLICY:

- I. The Department will thoroughly, promptly, and objectively investigate all allegations of sexual misconduct involving offenders under the jurisdiction or authority of the Department.
  - A. Investigations will be completed even if the offender is no longer under Department jurisdiction or authority and/or the accused staff, if any, is no longer employed by or providing services to the Department.
  - B. Allegations may be referred to law enforcement agencies for criminal investigation.
- II. The Department may discipline and refer for prosecution, when appropriate, individuals determined to be perpetrators of sexual misconduct. Investigations involving represented employees will be conducted per the provisions of the applicable collective bargaining agreement.
- III. Information related to investigations of sexual misconduct is confidential and will only be disclosed when necessary for related treatment, security, and management decisions. Staff who breach confidentiality may be subject to corrective/disciplinary action.
  - D. This provision is not intended to affect the Department's obligation to gather, review, and potentially gather, review, and potentially produce records of allegations or incidents of sexual misconduct as required per RCW 42.56.
- IV. Terms used in this policy are defined in DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting.

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**DIRECTIVE:**

I. Investigations

- A. The PREA Coordinator/designee will review all allegations, determine which allegations fall within the definition of sexual misconduct, and forward those allegations to the appropriate Appointing Authority for investigation.
  1. The Appointing Authority/designee may review the allegation with the PREA Coordinator/designee if s/he disagrees with the decision,
  2. All allegations that appear to be criminal in nature will be referred for law enforcement investigation by the Appointing Authority/designee. Referrals may be made using DOC 03-505 Law Enforcement Referral of PREA Allegation.
    - a. Investigation reports received from law enforcement will be an attachment to the final PREA investigation report submitted.
  3. For allegations involving employees, the Appointing Authority/designee will notify the local Human Resource Representative of the investigation.
  4. If an allegation is determined not to fall within the definition of sexual misconduct, the PREA Coordinator/designee will notify the Appointing Authority/designee, who will ensure the reporting offender is notified and any necessary action is taken.
    - a. If an Appointing Authority disagrees with the decision and requests to have a PREA investigation initiated, the PREA Coordinator/designee will defer to the Appointing Authority.
- B. Investigators will be assigned by the Appointing Authority/designee and must be trained per DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting. Investigators will:
  1. Interview alleged victims, accused offenders/staff, and witnesses. Individuals interviewed will be provided and asked to sign DOC 03-484 Interview Acknowledgment.
  2. Refer the offender for mental health assessment using DOC 13-509 PREA Mental Health Notification if the investigation uncovers new information that the offender was the victim of any physical and/or emotional trauma of a sexual nature, whether in an institutional setting or in the community.

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3. Collect any additional evidence per DOC 420.375 Contraband and Evidence Handling, DOC 420.365 Evidence Management for Work Release, or DOC 420.395 Evidence/Property Procedures for Field, as applicable.
- C. Investigators will submit the investigation report and DOC 02-382 PREA Data Collection Checklist to the appropriate Appointing Authority/designee. All reports will follow DOC 02-351 Investigation Report Template.
1. Photocopies/photographs of all physical evidence and evidence cards will be included in the investigation report.
  2. Electronic evidence (e.g., video recording, JPay message, telephone recording) used as part of an investigation will be submitted with the investigation report.
- D. The Appointing Authority will review the report and prior complaints/reports of sexual misconduct involving the accused, when available, and ensure DOC 02-382 PREA Data Collection Checklist is completed.
1. Previous complaints/reports of sexual misconduct involving the alleged victim may be reviewed, as applicable.
- E. For each allegation in the report, the Appointing Authority will determine whether the allegation is:
1. **Substantiated:** The allegation was determined to have occurred by a preponderance of the evidence,
  2. **Unsubstantiated:** Evidence was insufficient to make a final determination that the allegation was true or false, or
  3. **Unfounded:** The allegation was determined not to have occurred.
- F. Once the Appointing Authority has made a determination, the alleged victim will be notified of the findings.
1. The Appointing Authority/designee of the facility where the offender is housed will inform the offender of the findings in person, in a confidential manner.
  2. If the offender has been released, the Appointing Authority will inform the offender of the findings in writing to the offender's last known address as documented in his/her electronic file.

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- G. Findings and notification of the alleged victim will be documented on DOC 02-378 Investigative Finding Sheet.
  - H. For allegations against offenders, the Appointing Authority/designee will notify the accused of the findings in writing using DOC 02-400 Notice of PREA Investigation Findings.
  - I. For allegations against staff, the Appointing Authority/PREA Compliance Manager or Human Resources Manager will verbally notify the accused of the findings. If the allegation is substantiated, the notification may be provided during the pre-disciplinary process.
  - J. When a substantiated allegation is criminal in nature, the Appointing Authority/designee will notify:
    - 1. Law enforcement, unless such referral was made previously during the course of the investigation, and
    - 2. Relevant licensing bodies.
  - K. For substantiated allegations of offender-on-offender sexual assault/abuse or staff sexual misconduct, the Appointing Authority or designee will notify the assigned Classification Counselor, who will complete a for cause PREA risk assessment per DOC 490.820 Prison Rape Elimination Act (PREA) Risk Assessments and Assignments to reflect the determination.
  - L. For substantiated allegations of offender-on-offender sexual assault or abuse, the Appointing Authority will ensure the offenders are separated per DOC 320.180 Separatee and Facility Prohibition Management. The Appointing Authority will determine the required level of separation.
  - M. The Appointing Authority/designee will submit the following to the PREA Coordinator/designee:
    - 1. DOC 02-378 Investigative Finding Sheet
    - 2. The complete investigation report, including copies of electronic evidence
    - 3. DOC 02-382 PREA Data Collection Checklist
- II. Retaliation
- A. Staff and offenders who cooperate with an investigation will report all concerns regarding retaliation to the Appointing Authority. The Appointing Authority will take appropriate measures to address the concerns.

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- B. When an investigation of offender-on-offender sexual assault/abuse or staff sexual misconduct is initiated, the Appointing Authority/designee of the facility where the alleged victim is housed will monitor to assess indicators or reports of retaliation against alleged victims and reporters. If another Appointing Authority is assigned to investigate, s/he or his/her designee will notify the applicable Appointing Authority to initiate monitoring.
1. Indicators of retaliation may include, but are not limited to:
    - a. Disciplinary reports,
    - b. Changes in grievance trends,
    - c. Housing/program changes and reassignments, or
    - d. Negative performance reviews.
  2. The Appointing Authority of the facility where the alleged victim is housed will notify the following employees, as applicable, when monitoring is required, but will not provide specific details regarding the allegation and investigation:
    - a. The PREA Compliance Manager/Specialist at the facility where the report was made will ensure alleged victims and offender reporters are monitored and met with at least monthly.
    - b. The local Human Resource Manager/Community Corrections Supervisor will monitor employee reporters.
    - c. The PREA Compliance Manager/Specialist at the facility where the report was made will monitor contract staff and volunteer reporters.
  3. Any report of retaliation expressed or indicated during the monitoring period will be immediately reported to the Appointing Authority, who will take appropriate action.
  4. Retaliation monitoring will continue for 90 days following notification, or longer if the Appointing Authority determines it is necessary.
    - a. The PREA Compliance Manager/Specialist will complete and submit DOC 03-503 PREA Monthly Retaliation Monitoring Report to the Appointing Authority each month. No monitoring-related activities will be documented in chrono entries or supervisory files.

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- b. If a reporter or alleged victim transfers to another facility during the monitoring period, the receiving facility will assume monitoring responsibilities.
- c. Monitoring activities may be discontinued if the allegation is determined to be unfounded.
- d. The Appointing Authority will notify the PREA Compliance Manager/Specialist or Human Resource Manager when monitoring activities are no longer required.

C. For allegations of sexual harassment, retaliation monitoring for reporters and alleged victims may occur at the discretion of the Appointing Authority.

### III. Multidisciplinary PREA Review

- A. For each substantiated or unsubstantiated finding of offender-on-offender sexual assault/abuse and staff sexual misconduct, the Appointing Authority/designee will convene a local PREA Review Committee to examine the case.
  - 1. Unfounded investigations and any investigation of sexual harassment may be reviewed at the discretion of the Appointing Authority.
  - 2. For Prisons, if the Superintendent of the facility where the allegation took place is not the Appointing Authority, the Superintendent or his/her designee will be on the committee.
- B. The committee will meet every 30 days, or as needed.
- C. The committee will be multidisciplinary and include facility management, with input from supervisors, investigators, and medical/mental health practitioners.
- D. The committee will review policy compliance, causal factors, and systemic issues using DOC 02-383 Local PREA Investigation Review Checklist.

### IV. Staff Discipline

- A. Employees may be subject to disciplinary action, up to and including termination, for violating Department PREA policies.
- B. Contract staff and volunteers who are found to have committed staff sexual misconduct will be terminated from service and prohibited from contact with offenders. For any other violations of Department PREA policies, appropriate actions will be taken.

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1. For contract staff terminations:
  - a. The Appointing Authority will notify the contract staff/organization in writing with a copy to the PREA Coordinator/designee, who will alert all facilities of the termination.
  - b. Facilities will establish procedures to track contract staff terminations and notify appropriate control points to ensure facility access is not granted to terminated individuals.
2. Volunteer terminations will be tracked per DOC 530.100 Volunteer Program.

C. In cases of substantiated staff sexual misconduct:

1. Telephone, mail including eMessaging, and visiting restrictions will be imposed between the employee/contract staff/volunteer and the named offender victim(s) per DOC 450.050 Prohibited Contact.
2. The Appointing Authority will ensure the finding(s) is reported to relevant licensing bodies.

D. Any other substantiated misconduct discovered during a PREA investigation will be reported to relevant licensing bodies.

V. Offender Discipline

A. Prison and Work Release offenders may be subject to disciplinary action per DOC 460.050 Disciplinary Sanctions or DOC 460.135 Disciplinary Procedures for Work Release for violating Department PREA policies.

1. For substantiated allegations against an offender, an infraction must be written against the perpetrator for the applicable violation listed:
  - a. 635 - Committing sexual assault against another offender, as defined in Department policy (i.e., aggravated sexual assault or offender-on-offender sexual assault)
  - b. 637 - Committing sexual abuse against another offender, as defined in Department policy
  - c. 659 - Committing Sexual harassment against another offender, as defined in Department policy
2. If the accused offender transfers to another facility before a hearing is held, the sending Appointing Authority/designee will forward an electronic

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copy of the investigation report to the receiving Appointing Authority/designee.

3. Hearings on PREA-related infractions will not be heard by alternate Hearing Officers.
  4. The Hearing Officer may request access to review the investigation report from the Appointing Authority/designee. The review will be conducted in the location where the records are maintained. Copies will not be made for this purpose.
  5. Appeals of findings or sanctions imposed for PREA-related infractions will be submitted to the Prisons Command B Deputy Director.
- B. Alleged victims are not subject to disciplinary action related to violating PREA policies except when:
1. An investigation of staff sexual misconduct determines that the staff did not consent to the contact.
  2. The Appointing Authority determines, by a preponderance of evidence, that the offender caused an innocent person to be accused by providing false or misleading information during any stage of the investigation.
    - a. The Appointing Authority must authorize a 549 violation before it is written and served.
    - b. A report of sexual abuse made in good faith will not constitute providing false information, even if the investigation does not establish sufficient evidence to substantiate the allegation.
- C. Community custody offenders may be subject to sanction for violating conditions of supervision per DOC 460.130 Response to Violations and New Criminal Activity.

#### VI. Victim Services for Offenders

- A. Victims of sexual misconduct will be provided information on community victim service providers from health services employees/contract staff, Classification Counselors, and Community Corrections Officers/Supervisors. Information is available on the Prison Rape Elimination Act page on iDOC.
- B. Victim services for offenders in Prisons and Work Releases include crisis intervention and trauma-specific treatment. The Appointing Authority, in

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conjunction with mental health professionals, will determine if victim services are necessary beyond resources available through the Department.

## VII. Staff Resources

- A. Staff Counselors and the Employee Assistance Program are available to assist staff in addressing issues such as false accusations, stress management, conflict resolution, and fear of victimization. Specific information regarding resources is available from supervisors and Human Resources offices.

## VIII. Ongoing Notifications to Alleged Victims

- A. The Department will make the following notifications, in writing, to alleged victims until they are no longer under Department jurisdiction:

### 1. Offender-on-Offender Allegations of Sexual Assault or Abuse

- a. The alleged victim will be notified if the Department learns that the accused has been indicted on or convicted of a charge related to sexual assault or abuse within the facility.
- b. The PREA Coordinator/designee will track all cases and make required notifications.

### 2. Substantiated/Unsubstantiated Allegations of Staff Sexual Misconduct

- a. The alleged victim will be notified:
  - 1) When the accused staff is no longer regularly assigned to the offender's housing unit,
  - 2) When the accused staff no longer works at the same facility as the offender, and
  - 3) If the Department learns that the accused staff has been indicted on or convicted of any charge related to staff sexual misconduct within the facility.
- b. The Appointing Authority/designee will track all cases, make required notifications, and forward copies to the PREA Coordinator.

- B. Notifications will be provided to alleged victims in a confidential manner through legal mail or by another method determined by the Appointing Authority.

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IX. Data Collection and Reporting

- A. All PREA data containing personal identifying information will be maintained as Category 4 data per DOC 280.515 Electronic Data Classification.
- B. Data will be collected by the PREA Coordinator/designee for each allegation of sexual misconduct.
  - 1. Data will be aggregated at least annually and include available information from investigation reports and incident review committees, as well as from each private facility contracted to confine or house Department offenders.
  - 2. Data will be analyzed to identify factors contributing to sexual misconduct in Department facilities and offices.
- C. The PREA Coordinator will generate an annual report of findings.
  - 1. The report will include:
    - a. An analysis of PREA prevention and response for the Department and for each facility, including high-level summary information and detailed facility data analysis.
    - b. Findings and corrective actions at facility and Department levels.
    - c. An assessment of the Department's progress in addressing sexual misconduct, including a comparison with data and corrective actions from previous years.
  - 2. The report requires Secretary approval. Approved reports will be made available to the public through the Department website.
    - a. Information may be redacted from the report when publication would present a clear and specific threat to facility security, but the report must indicate the nature of the material redacted.
- D. All data/reports will be provided on request to the U.S. Department of Justice.

X. Record Retention

- A. Records associated with allegations of sexual misconduct will be maintained according to the Records Retention Schedule.
  - 1. PREA records may include, but will not be limited to:

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- a. Incident reports
- b. Investigation reports
- c. Electronic evidence
- d. Investigation findings/dispositions
- e. Law enforcement referrals
- f. Criminal investigation reports
- g. Required report forms
- h. Documentation of:
  - 1) Local PREA Review Committees,
  - 2) Completed DOC 02-382 PREA Data Collection Checklists, and
  - 3) Ongoing notifications.

B. The Appointing Authority/designee will maintain original PREA case records as general investigation reports per the Records Retention Schedule.

C. The PREA Coordinator will maintain electronic PREA case records per the Records Retention Schedule.

**DEFINITIONS:**

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Trauma. Other words/terms appearing in this policy may also be defined in the glossary section.

**ATTACHMENTS:**

None

**DOC FORMS:**

- [DOC 02-351 Investigation Report Template](#)
- [DOC 02-378 Investigative Finding Sheet](#)
- [DOC 02-382 PREA Data Collection Checklist](#)
- [DOC 02-383 Local PREA Investigation Review Checklist](#)
- [DOC 02-400 Notice of PREA Investigation Findings](#)
- [DOC 03-484 Interview Acknowledgment](#)
- [DOC 03-503 PREA Monthly Retaliation Monitoring Report](#)
- [DOC 03-505 Law Enforcement Referral of PREA Allegation](#)
- [DOC 13-509 PREA Mental Health Notification](#)