



Department of
Corrections
WASHINGTON STATE

Prison Rape Elimination Act (PREA) & Sexual Misconduct Training

Initial and Annual Training for Contractors and Volunteers

Lesson Objectives

- Differentiate between PREA and Sexual Misconduct.
- Define 'Zero Tolerance'.
- Understand your responsibilities for preventing, detecting, reporting, and responding to sexual misconduct in accordance with PREA standards, state law, and the Department of Corrections (DOC) policies.
- Understand how to report instances of PREA and sexual misconduct.

Terms

The term “Individual” is used throughout this training and refers to all of the following:

- Incarcerated Individuals
- Individuals in Reentry Centers
- Individuals who are under Community Supervision

ANYONE CURRENTLY UNDER THE JURISDICTION OF THE DOC

Terms

The term “Staff” is used throughout this training and refers to all of the following:

- Department Employees
- Contract Staff
- Vendors
- Volunteers

ANYONE CURRENTLY PROVIDING SERVICES IN DOC FACILITIES OR OFFICES

Understanding PREA & Sexual Misconduct

What are they?

What is PREA?

PREA stands for the Prison Rape Elimination Act.

It is federal legislation that addresses sexual assault, sexual abuse, and the harassment of adult and juvenile individuals, and applies to:

- Federal and state prisons, juvenile detention facilities, lock-ups, jails, and ICE detention facilities
- Public and private correctional institutions
- Certain community-based residential facilities (e.g., in-patient substance abuse treatment facilities for individuals on community supervision)

What is Custodial Sexual Misconduct?

Per RCW [9A.44.160](#): Custodial sexual misconduct in the first degree.

(1) A person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person:

(a) When:

- (i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities (Reentry Centers), or is under correctional supervision; and
- (ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest[,] or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the first degree is a class C felony.

What is Custodial Sexual Misconduct?

Per RCW [9A.44.170](#): **Custodial sexual misconduct in the second degree.**

(1) A person is guilty of custodial sexual misconduct in the second degree when the person has **sexual contact** with another person:

(a) When:

(i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities (Reentry Centers), or is under correctional supervision; and

(ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest, or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the second degree is a gross misdemeanor.

What is the difference?

PREA

- **FEDERAL LAW**
- Protects incarcerated adults and juveniles that are housed in federal, state, county, or city facilities or reentry/training release facilities.

CUSTODIAL SEXUAL MISCONDUCT

- **STATE LAW**
- Protects incarcerated adults and juveniles that are housed in federal, state, county, or city facilities or reentry/training release facilities.
- Protects individuals residing in the community who are under DOC jurisdiction

Understanding PREA & Sexual Misconduct

Definitions and Impact

Accountability

There is no such thing as a “consensual” sexual relationship between an individual under department jurisdiction and staff.

Due to the imbalance of power, in the eyes of the law, individuals under Department supervision (including those residing in the community) are NOT able to give consent to any type of sexual contact with staff.

- The individual under Department jurisdiction will ALWAYS be considered the victim.
- Staff will ALWAYS be considered the perpetrator.



Remember:
You ARE Staff!

Staff will be held accountable for any inappropriate relationships.

Sexual Misconduct Defined

The term “Sexual Misconduct” is an overall term that includes the following:

- Aggravated Sexual Assault
- Individual-on-Individual Sexual Assault
- Individual-on-Individual Sexual Abuse
- Sexual Harassment
- Staff Sexual Misconduct

PREA Terms Defined

Aggravated Sexual Assault

Includes sexual acts perpetrated by either staff or an incarcerated individual that occurred within the previous 120 hours and involve penetration or exchange of body fluids.

PREA Terms Defined

Individual-on-Individual Sexual ASSAULT

An incident in which one or more of the following acts occurs between 2 or more individuals 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.

1. Contact between genitalia (i.e., penis, vulva, vagina) or between genitalia and the anus involving penetration, however slight. This does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexually exploit.
2. Contact between the mouth and the penis, vulva, vagina, or anus.
3. Penetration of the anal or genital opening of another individual, however slight, by a hand, finger, or other instrument.
4. Coerced sexual activity in response to pressuring, offer of protection, payment of debt, etc.

PREA Terms Defined

Individual-on-Individual Sexual ABUSE:

Includes contact between 2 or more individuals 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, including any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttock of another person excluding contact incidental to a physical altercation.

This does not include kicking, grabbing, or punching when the intent is to harm or debilitate rather than sexually exploit.

Note: Consensual, non-coerced sexual activity between incarcerated individuals is prohibited by Department rule, but is not defined as a violation of PREA policies.

PREA Terms Defined

Staff Sexual Misconduct

Includes the following acts when performed by staff:

1. Engaging in sexual intercourse with an individual.
 - a. Sexual intercourse includes vaginal, anal and oral intercourse, as well as the penetration of an individuals anal or genital opening, however slight, by a hand, finger, object, or other instrument. Penetration with an object is not considered sexual intercourse when it is done for the purpose of a legitimate medical procedure.
2. Allowing an individual to engage in sexual intercourse as defined above with another staff.
3. Intentional contact either directly or through clothing, of or with the genitalia, anus, groin, thigh, or buttock of an individual that is unrelated to official duties or where the staff has the intent to abuse, arouse or gratify sexual desire.

PREA Terms Defined

Staff Sexual Misconduct (continued)

4. Compelling or allowing an individual to touch the genitalia, anus, groin, thigh, breast, or buttock of any staff or another individual, either directly or through clothing, that is unrelated to official duties or where the staff has the intent to abuse, arouse or gratify sexual desire.
5. Kissing an individual or allowing oneself to be kissed by an individual.
6. Any display by a staff of the staff's uncovered genitalia, breast, or buttock in the presence of an individual.
7. Voyeurism – an invasion of privacy of an individual by staff for reasons unrelated to official duties, such as peering at an individual who is using the toilet in the individual's cell to perform bodily functions, requiring an individual to expose buttocks, genitalia, or breast, or taking images of all or part of an individual's naked body or an individual performing bodily functions.

PREA Terms Defined

Staff Sexual Misconduct (continued)

8. Engaging in any of the following acts for the purpose of gratifying the sexual desire(s) of any person or getting an individual to engage in staff sexual misconduct, or when the act has sexual undertones (i.e. can reasonably be inferred to be sexual in nature, judged according to a reasonable person's reaction to a similar act under similar circumstances):
 - a. Writing letters, showing pictures, or offering gifts or special privileges to an individual.
 - b. Engaging in a personal relationship with an individual known to be under Department jurisdiction, without legitimate penological purpose unless expressly authorized by the Secretary/designee.
 - c. Pat or strip searches conducted in violation of DOC 420.310 Searches of Offenders, DOC 420.325 Searches and Contraband for Work Release, DOC 420.390 Arrest and Search, and/or operational memorandums.

PREA Terms Defined

Staff Sexual Misconduct (continued)

9. Threatening, bribing, or coercing an individual to engage in staff sexual misconduct. Writing letters, showing pictures, or offering gifts or special privileges to an individual.
10. Any attempt or request to engage in staff sexual misconduct.
11. Purposefully helping another person engage in staff sexual misconduct.
12. Discouraging or preventing individuals and/or staff from making good faith reports of staff sexual misconduct.

PREA Terms Defined

Sexual Harassment

1. Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one individual directed toward another, or
2. Deliberate and repeated verbal comments or gestures of sexual nature to an individual by staff, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures to include:
 - Comments made by staff about an individual's body intended to abuse, humiliate, harass, degrade, or arouse any person.
 - Demeaning or sexually oriented statements/gestures made by staff in the presence of an individual.

Impacts of Sexual Misconduct

The impacts of sexual misconduct are harmful to all!

- Violates constitutional rights
- Destroys trust among staff and individuals under the Department's jurisdiction
- Exposes staff to civil and criminal liability
- Exposes agency to civil liability
- Jeopardizes safety and security
- Undermines the public support and trust of the agency
- Victimizes those already vulnerable

Impacts of Sexual Misconduct

What could happen to you?

If you engage in Sexual Misconduct, you face the possibility that you may:

- Lose your job and career
- Lose your friends
- Lose your family
- Be fined and burdened with legal fees
- Be criminally prosecuted
- Be required to register as a sex offender
- Be sent to prison

Know that all allegations of sexual misconduct WILL:

- Be taken seriously and investigated.
- Be referred to local law enforcement when appropriate.

The Department will take appropriate action against perpetrators of sexual misconduct up to and including termination of contract and/or services. Criminal investigation may be conducted resulting in criminal charges.

The Department PROHIBITS retaliation against any person because of their involvement in the reporting or investigation of a PREA allegation.



Zero Tolerance

Per DOC Policy 490.800 -
The Department has zero tolerance
for all forms of sexual misconduct.

Reporting PREA Allegations

DOC Policy 490.850

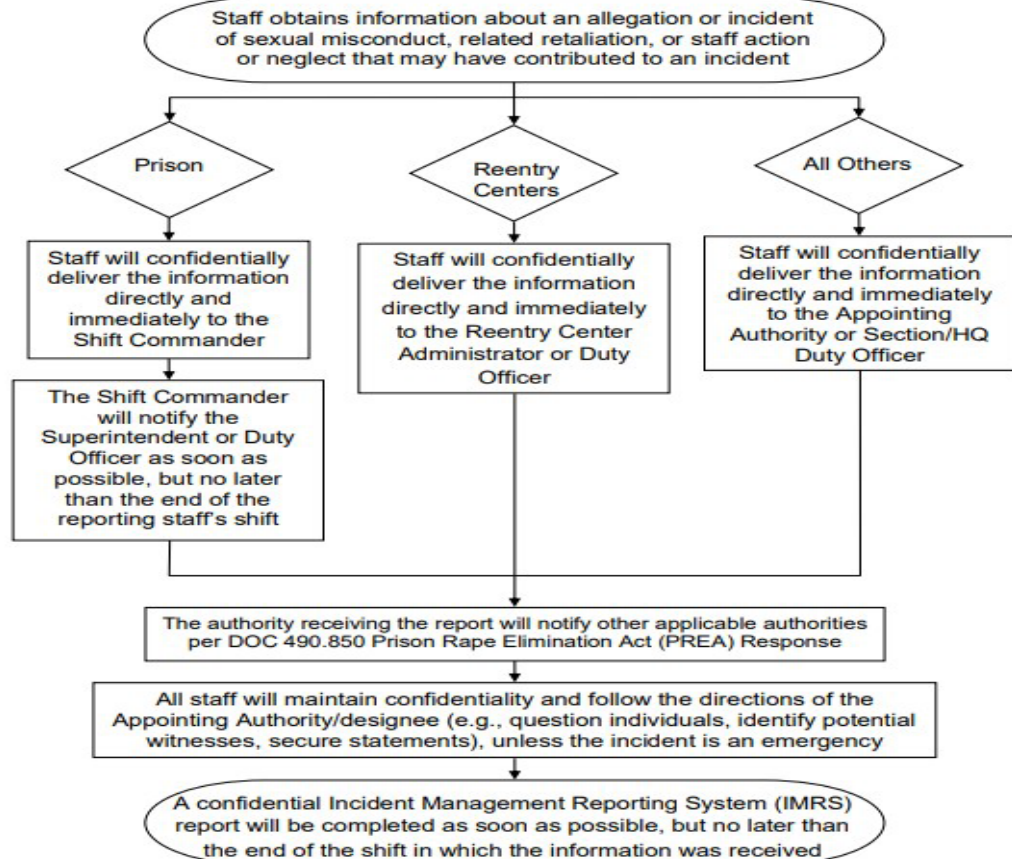
How to Report a PREA Allegation

If you become aware of sexual misconduct, YOU immediately become the First Responder.

As first responder, it is your responsibility to:

- Ensure the victim and the accused are separated.
- Tell an employee that you need to speak with the appropriate person (listed below) **immediately**. Due to confidentiality, you are **NOT** authorized to share details with any other person.
 - In a Prison facility: Shift Commander
 - In a Work Release: Reentry Center Administrator or Duty Officer
 - In Community Corrections: Appointing Authority or Section/HQ Duty Officer
- Follow instructions given by the appropriate authority listed above.
- Relay important observations.

PREA REPORTING PROCESS



Staff may report allegations of a highly sensitive nature (e.g., allegations against the Shift Commander/CCS or in which that person may have a conflict of interest) directly to the Appointing Authority or Duty Officer.

Allegations made against the Appointing Authority will be reported to the next higher authority.

Terms are defined in Attachment 1 of
DOC 490.800 Prison Rape Elimination Act (PREA) Prevention and Reporting

Rev. (1/22)

DOC 490.850 Attachment 2

The Importance of Confidentiality and PREA

Regardless of your role (medical, clergy, chemical dependency, mental health, etc.), if you become aware of a sexual misconduct situation, you are required to report.

You must not reveal any information related to sexual misconduct/PREA apart from reporting to the appropriate authority. Those who breach confidentiality may be subject to termination of services and/or contract.

Whether you are directly or indirectly involved, investigations can be very stressful. If necessary, you may take questions or concerns to your Appointing Authority (Superintendent, Reentry Center Administrator, or Field Administrator).

Communication

Diversity, Boundaries, Stereotyping & Secrets

Diversity & Communication

When working in a DOC facility or office, it is important to understand that there are underlying factors to consider when communicating with individuals. These factors are especially important when communicating about issues of a sensitive nature.

Gender:

Keep in mind that men and women may respond very differently to sexual assault and trauma. Some may wish to talk about it, some may not.

Geographical:

Misunderstanding may occur between people that come from rural setting and those that come from major cities. Their life experiences and awareness may be slightly different.

Diversity & Communication (continued)

Generational:

Older generations tend to be more private and may hesitate to disclose abuse; while younger generations may define sexual issues differently. For example, one generation may think that forced oral sex is not a form of sexual assault.

Cultural:

Be aware of cultural differences and understand that this may impact the way an individual communicates. Some cultures avoid direct eye contact, others have differing opinions on personal space and physical touch.

It is the Department's expectation that staff will communicate in a professional manner with all individuals under the Department's jurisdiction, regardless of similarities or differences.

Interactions with the LGBTI Community

Within the Department of Corrections there are individuals and staff who identify as lesbian, gay, bisexual, transgender, or intersex (LGBTI).

You are responsible for the way you interact with others.

- Create and maintain an environment that supports open dialogue.
- Be mindful of your own beliefs, cultural norms, and gaps in knowledge surrounding LGBTI issues and individuals.
- Treat everyone with respect.

Avoid Stereotyping

Be cautious not to make assumptions based upon stereotypes:

- Understand that anyone can be a victim.
- Do not assume, based on an individual's appearance, that they cannot be a victim.
- Do not assume that LGBTI individuals cannot be sexually assaulted.
- Do not assume that mentally ill individuals are not credible witnesses or that they are incapable of telling the truth.
- Do not assume that a history of prostitution means that individuals want to have sex with staff or other individuals.

Communication and You

- Take EVERY report of sexual abuse, assault, and/or harassment as credible.
- Promote a culture where individuals feel safe communicating with you.

Boundaries

Working with individuals who under the Department's jurisdiction is very rewarding.
It can also be challenging.

You may be surprised at some of the feelings, both positive and negative,
that you may develop.

It is important to pay close attention to your feelings and respond appropriately
to ensure your boundaries are not being compromised.

Red Flags

Red flags are behaviors that give you serious pause (or *should* give you serious pause)—and that could sometimes indicate a larger pattern.

Below are situations that should immediately cause a red flag for you! These are signs that your boundaries could be eroding.

- Do you talk about your personal issues with individuals?
- Are you keeping a secret with a specific individual?
- Do you believe you can ask an individual to do personal favors for you or they can ask personal favors of you.
- Do you seek personal advice from a specific individual?

Red Flags (continued)

- Are you saying anything to an individual that you would not want recorded?
- Would you be reluctant to have another staff member, or a family member, overhear a conversation that you are having with an individual?
- Do you find yourself looking for extra opportunities to be around a specific individual?
- Do you have thoughts or fantasies about touching or kissing a particular individual?
- Do you try to find ways to be alone with an individual?

Secrets

Remember – NO SECRETS!

Eroding boundaries are often characterized by the need to keep a secret.

1. Never share confidential information about one individual with another.
2. In your service to DOC, **you are obligated** to report situations that pose a risk to public safety, and/or are in violation of law, policy, agency rules, or conditions of confinement.

DOC Policies

Federal Law & State Law

Related DOC Policies & Laws

You must have access to iDOC to access policies via the links below. If you do not have access to iDOC, click to the next slide for additional information on how to access.

[490.800 PREA Prevention & Reporting](#)

[490.850 PREA Response](#)

[490.860 PREA Investigations](#)

[Public Law 108-79: Prison Rape Elimination Act of 2003](#)

[RCW 9A.44.160: Custodial Sexual Misconduct](#)

To view documents:

1. Place cursor over document you wish to open.
2. Right mouse click
3. Click on “open hyperlink”

Policies can also be found at DOC.WA.GOV

The link is located in the center column, second from the bottom.

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DOC Headquarters: [Phone](#) (360) 725-8213 [Email](#) [Home](#) PO Box 41100 • Olympia, WA 98504-1100

Final Steps


TO COMPLETE THE COURSE:

- ✓ Print the next slide: PREA Disclosure and Training Acknowledgement
(Content of the form is taken straight from DOC Form 03-523. The appearance has been altered to fit this PowerPoint)
- ✓ Read the form carefully and initial each statement.
- ✓ Sign the form and send a copy to your DOC contract manager, Community Partnership Program Manager, the facility PREA Compliance Manager, or your identified point of contact.

Training is due annually prior to June 30th of each year.

PREA DISCLOSURE AND TRAINING ACKNOWLEDGEMENT (03-523)

Initial on
lines



Print Full Name: _____

Start Date: _____

Facility(s) where you provide services: _____

_____ I confirm that I have not engaged in sexual misconduct with an individual under Department supervision. I acknowledge and understand that I have a continuing duty to disclose and immediately report to the Appointing Authority my involvement in any form of sexual misconduct.

_____ I have not engaged in sexual abuse in a prison/jail/lockup/community confinement/juvenile facility or other institution defined as follows:
Any facility or institution which is owned, operated, managed by, or providing services on behalf of the State, Federal Government, or political subdivision of a State (i.e., county, city or town). This does not include employment in privately owned and operated facilities such as nursing homes where the sole connection to the State is a state license to operate the establishment unless state and/or federal government agencies contract with the facility or its parent company to house incarcerated individuals. (e.g., facility for the mentally ill, disabled, chronically ill, or handicapped, residential care or treatment facility for juveniles, facility that provides skilled nursing, intermediate or long-term care, or custodial residential care).

_____ I have never been civilly or administratively adjudicated (there was a formal finding and a judgement or a decision was rendered in a civil or administrative proceeding) or otherwise found to have engaged or attempted to engage in sexual abuse/assault in any setting.

_____ I have never been accused of or investigated for sexual harassment or sexual involvement of any type in any place I have worked or volunteered.

_____ I have never been the subject of substantiated allegations of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment.

_____ I have not engaged in any incident of sexual harassment or sexual misconduct not addressed above.

_____ All answers and statements are true and complete to the best of my knowledge. I understand that untruthful answers or deliberate omissions may cause termination of volunteer services.

_____ I have successfully completed the Prison Rape Elimination Act (PREA) volunteer training. I verify that I have reviewed and understand all sections of the training course and all answers and statements are true and complete to the best of my knowledge.

Signature: _____

Date Training Completed: _____