



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
DEPARTMENT WIDE
FACILITY/SPANISH MANUALS

REVISION DATE
11/24/22

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DOC 490.860

POLICY

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

REVIEW/REVISION HISTORY:

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- Revised: 9/29/20
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- Revised: 11/24/22

SUMMARY OF REVISION/REVIEW:


II.C.4.a. & d. - Adjusted language for clarification

APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

11/16/22
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 Data Classification and Sharing; DOC 320.180 Separation and Facility Prohibition Management; DOC 420.365 Evidence Management for Work/Training Release; DOC 420.375 Contraband and Evidence Handling (RESTRICTED); DOC 420.395 Evidence/Property Procedures for Field; DOC 450.050 Prohibited Contact; DOC 460.000 Disciplinary Process for Prisons; 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 individuals under the jurisdiction or authority of the Department.
 - A. Investigations will be completed even if the individual 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.


- II. The Department may discipline and refer for prosecution, when appropriate, persons 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.
 - A. 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.

DIRECTIVE:


- I. Investigations

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- A. The Prison Rape Elimination Act (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 alleged victim will be notified of formal review decisions (e.g., case initiated, appended to existing case, not PREA) using DOC 02-015 PREA Triage Results Letter.
 - a. The Reentry Center Administrator will make notifications if the alleged victim is housed in a Reentry Center. If notification cannot be made in person, the United States Postal Service will be used to make notification.
 2. The Appointing Authority/designee may review the allegation with the PREA Coordinator/designee if the Appointing Authority/designee disagrees with a decision to open an investigation.
 3. All allegations that appear to be criminal in nature will be referred to law enforcement for 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 submitted as an attachment to the final PREA investigation report.
 4. For allegations involving employees, the Appointing Authority/designee will notify the local Human Resource Representative and the employee of the investigation. Appointing Authorities/designees are encouraged to verbally notify employees when possible.
 5. 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 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. The Appointing Authority/designee may place a confidential PREA hold on an individual in the electronic file as needed to ensure the individual is not transferred during the course of an investigation.

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- C. 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. If requested by an alleged victim of individual-on-individual sexual assault/abuse or staff sexual misconduct, initiate arrangements with the Office of Crime Victims Advocacy (OCVA) for a victim advocate to be present during the investigatory interview by calling 1-855-210-2087 Monday through Friday 8:00 a.m. - 5:00 p.m. to reach an OCVA PREA Support Specialist.
 - a. Interviews will be scheduled when the advocate is available, who will participate by telephone.
 2. Interview alleged victims, accused individuals/staff, and witnesses in a confidential location. Persons interviewed will be asked to sign DOC 03-484 Interview Acknowledgment.
 3. Refer the individual for mental health assessment using DOC 13-509 PREA Mental Health Notification if the investigation uncovers new information that the individual was the victim of any physical and/or emotional trauma of a sexual nature, whether in an institutional setting or in the community.
 4. Collect any additional evidence per DOC 420.375 Contraband and Evidence Handling (RESTRICTED), DOC 420.365 Evidence Management for Work/Training Release, or DOC 420.395 Evidence/Property Procedures for Field.
- D. 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.
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.
- E. 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.

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1. Previous complaints/reports of sexual misconduct involving the alleged victim may be reviewed, as applicable.
- F. 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.
- G. 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 individual is housed will inform the individual of the findings in person, in a confidential manner.
 - a. Notification may be provided in writing if the individual is in restrictive housing.
 2. If the individual has been released, the Appointing Authority will inform the individual of the findings in writing to the last known address as documented in the electronic file.
- H. If the Appointing Authority is responsible for an investigation and is not the Superintendent/Reentry Center Administrator where the individual is housed, the Appointing Authority will notify the Superintendent/Reentry Center Administrator of administrative findings, local PREA Review Committee outcomes, and changes to the status of involved employees.
1. Investigation reports will be made available to the Superintendent/Reentry Center Administrator upon request.
- I. Findings and notification of the alleged victim will be documented on DOC 02-378 Investigative Finding Sheet.
- J. For allegations against an incarcerated individual, the Appointing Authority/designee will notify the accused of the findings in writing using DOC 02-400 Notice of PREA Investigation Findings.

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- K. 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 predisciplinary process.
 - L. 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.
 - M. For substantiated allegations of individual-on-individual sexual assault/abuse or staff sexual misconduct, the Appointing Authority/designee will notify the assigned case manager, 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.
 - N. For substantiated allegations of individual-on-individual sexual assault or abuse, the Appointing Authority will ensure the individuals are separated per DOC 320.180 Separation and Facility Prohibition Management. The Appointing Authority will determine the required level of separation.
 - O. The Appointing Authority/designee will use DOC 02-014 PREA Investigation Checklist to compile the investigation packet and submit it to the PREA Coordinator/designee.
 - 1. Investigation reports will only be closed when all applicable documents are received.
- II. Retaliation
- A. Retaliation against anyone for reporting sexual misconduct or participating in an investigation of such misconduct is prohibited, and may result in disciplinary actions if found to have:
 - 1. Engaged in retaliation,
 - 2. Failed to report such activities, or
 - 3. Failed to take immediate steps to prevent retaliation.
 - B. Anyone who cooperates with an investigation will report all concerns regarding retaliation to the Appointing Authority. The Appointing Authority/designee will take appropriate measures to address the concerns.

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- C. When an investigation of individual-on-individual 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.
1. Indicators of retaliation may include, but are not limited to:
 - a. Disciplinary reports,
 - b. Housing/program changes and reassignments, or
 - c. Negative performance reviews.
 2. The Appointing Authority/designee 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 incarcerated 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 as follows, with appropriate action taken by the Appointing Authority/designee.
 - a. In a Prison, information will be reported to the Shift Commander.
 - b. In a Reentry Center, information will be reported to the Reentry Center Administrator or Duty Officer.
 4. Retaliation monitoring will continue for 90 days following notification, or longer if the Appointing Authority/designee determines it is necessary.
 - a. The Correctional Unit Supervisor/case manager will complete and submit DOC 03-503 PREA Monthly Retaliation Monitoring Report to the Appointing Authority/designee each month. No monitoring-related activities will be documented in chronological entries or supervisory files.

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- b. If a reporter or alleged victim transfers to another facility during the monitoring period, the PREA Compliance Manager/designee at the sending facility will notify the PREA Compliance Manager/designee at the receiving facility. The receiving facility will assume monitoring responsibilities and provide monthly monitoring documentation to the sending facility.
- c. Monitoring activities may be discontinued if the allegation is determined to be unfounded or the individual is released from incarceration.
- d. The PREA Compliance Manager/Specialist will notify the CUS/case manager or Human Resource Manager when monitoring activities are no longer required.

D. 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. The Appointing Authority/designee will convene a local PREA Review Committee to examine the case for all substantiated and unsubstantiated investigations of individual-on-individual sexual assault/abuse and staff sexual misconduct.
 - 1. Investigations of sexual harassment or those in which all allegations were determined to be unfounded 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/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.
 - 1. Hearing Officers cannot serve as a PREA Review Committee member for any violation(s) for which they conducted the hearing.
- D. The committee will review policy compliance, causal factors, and systemic issues using DOC 02-383 Local PREA Investigation Review Checklist.


IV. Staff Discipline

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- 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 individuals under the Department’s jurisdiction. For any other violations of Department PREA policies, appropriate actions will be taken.
 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.
 2. Volunteer terminations will be tracked per DOC 530.100 Volunteer Program. Former volunteers with any:
 - a. PREA investigation finding of substantiated, where the volunteer is the accused, will not be able to apply for visits with an incarcerated individual for 3 years.
 - b. Substantiated allegations of sexual intercourse or staff sexual misconduct will not be able to communicate with an incarcerated individual (e.g., telephone, the mail, emessages) for one year.
- C. In cases of substantiated staff sexual misconduct:
 1. Telephone, mail including eMessaging, and visiting restrictions will be imposed between the employee/contract staff and the named 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. Discipline for Individuals under the Department’s Jurisdiction

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- A. Individuals in Prison and Reentry Centers 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 incarcerated individual, a 635, 637, or 659 violation must be written against the perpetrator as applicable.
 2. If the accused transfers to another facility before a hearing is held, the sending Appointing Authority/designee will forward an electronic copy of the investigation report to the receiving Appointing Authority/designee.
 3. Hearings on PREA-related violations will be heard by the primary Hearing Officer.
 - a. The Superintendent/designee may assign one alternate Hearing Officer per DOC 460.000 Disciplinary Process for Prisons.
 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 violations will be submitted to the Deputy Assistant Secretary for Prisons/Gender Responsive Administrator. The individual will be notified of the appeal decision on DOC 09-197 Disciplinary Hearing Appeal Decision.
- 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 formal PREA investigation resulted in a determination that the allegation was unfounded.
 - a. A 549 violation may be written and served upon completion of the investigation.
 - 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.

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- C. Individuals supervised in the community may be subject to sanction for violating conditions of supervision per DOC 460.130 Response to Violations and New Criminal Activity.

VI. Victim Services


- 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 the Department's internal website.
- B. Victim services for individuals in Prisons and Reentry Centers include crisis intervention and trauma-specific treatment. The Appointing Authority, in conjunction with mental health professionals, will determine if victim services are necessary beyond resources available through the Department.

VII. Staff Resources

- A. Staff Psychologists 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 Resource 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. Individual-on-individual 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 against employees:
 - a. The alleged victim will be notified:
 - 1) When the accused employee no longer works at the facility,

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2) When the accused employee is no longer regularly assigned to the individual's housing unit, and

3) If the Department learns that the accused employee 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.

IX. Data Collection and Reporting

A. All PREA data containing personal identifying information will be maintained as Category 4 data per DOC 280.515 Data Classification and Sharing.

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 individuals under the Department's jurisdiction.

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.

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2. The report requires Secretary approval. Approved reports will be made available to the public through the Department's 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. Records Retention

- A. Records associated with allegations of sexual misconduct will be maintained per the Records Retention Schedule.
 1. PREA records may include, but will not be limited to:
 - 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) Ongoing notifications,
 - 2) Local PREA Review Committees, and
 - 3) Completed DOC 02-382 PREA Data Collection Checklists.
- B. The Appointing Authority/designee will maintain original PREA case records as general investigation reports per the Records Retention Schedule.
- C. The PREA Coordinator/designee will maintain electronic PREA case records per the Records Retention Schedule.
 1. Prior to destruction, all investigation records will be reviewed to ensure the accused has been released from incarceration or Department employment for a minimum of 5 years. If a review of the investigation records reveals that the accused person does not meet this 5 year requirement, the records will be maintained until this requirement is met, even if it exceeds the established retention schedule.

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DEFINITIONS:

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

ATTACHMENTS:

None

DOC FORMS:

- DOC 02-014 PREA Investigation Checklist
- DOC 02-015 PREA Triage Results Letter
- DOC 02-351 Investigation Report
- 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 09-197 Disciplinary Hearing Appeal Decision
- DOC 13-509 PREA Mental Health Notification