
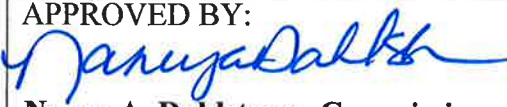


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	CHAPTER: 808	NUMBER: 808.20	P&P TYPE: Public	
	TITLE: Prison Rape Elimination Act (PREA) Investigations			
APPROVED BY:  Nancy A. Dahlstrom, Commissioner			DATE: 10/17/2019	
ATTACHMENTS / FORMS: A. Process for Notification of Sexual Abuse / Harassment B. Process for Sexual Abuse Allegations Reported Within 7 Days C. PREA Crime Scene Checklist D. PREA Investigation Flow Chart (Prisoner/Prisoner) E. PREA Investigation Flow Chart (Staff/Prisoner) F. PREA Case Closure / Finding G. PREA Retaliation Report		AUTHORITY / REFERENCES: AS 33.30.021 AS 330.30.011 DOC P&P 702.10 DOC P&P 808.19 DOC P&P 809.02 DOC P&P 809.04 28 CFR Ch. 1 §115.5-115.93		

POLICY:

- I. It is the policy of the Department of Corrections (DOC) to have in place procedures for the thorough, prompt and objective investigation of all allegations of sexual misconduct.
- II. It is the policy of the Department that investigations will be completed even if a prisoner has been released and is no longer in the Department's custody. Furthermore, investigations will be completed even when an accused employee, contractor or volunteer is no longer employed by or is no longer providing services for the Department.
- III. It is also the policy of the Department to refer all appropriate allegations to the Alaska State Troopers (AST) for criminal investigation when necessary.
- IV. Every institution shall develop Standard Operating Procedures (SOP) for addressing a coordinated response plan taken in response to an incident of sexual abuse which specifically addresses actions of first responders, medical and mental health practitioners, investigators and institution management.

APPLICATION:

This policy and procedure will apply to all Department employees, contractors, volunteers and prisoners.

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DEFINITIONS:

As used in this policy, the following definitions shall apply:

Preponderance of Evidence:

A preponderance of evidence means that a party has shown through evidence, that it’s version of facts, causes, damages or fault is more likely than not the correct version.

Additional terms used in this policy are defined in DOC P&P 808.19 (Sexual Abuse and Reporting).

PROCEDURES:

I. Investigators:

The institution Superintendent will assign investigators to conduct sexual assault / harassment investigations. Investigators must be provided training in the following:

- A. The requirements of DOC P&P 808.19, VII, A (Sexual Abuse and Reporting),
- B. The requirements of 28 CFR Chapter 1, §115.31 (Employee Training) and §115.34 (Investigations Training),
- C. Conducting investigations in confinement settings, and
- D. Techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings and criteria and evidence required to substantiate a case for administrative action or prosecution referral.

II. Initiating an Investigation:

Every PREA allegation must be vetted by the State PREA Coordinator for case assignment, PREA reference number assignment, tracking, recording and review. For further information refer to the Process for Notification of Sexual Abuse / Harassment (Attachment A).

- A. Upon receiving an allegation that a prisoner was sexually abused while confined at another institution, the Superintendent or designee of the receiving institution must notify the Superintendent of the institution that the allegation is reported to have occurred at. This notification must occur within 72 hours after receiving an allegation.
- B. The institution receiving the allegation must conduct the investigation and monitor for retaliation (see VIII below for retaliation monitoring).
- C. The State PREA Coordinator must ensure that the Classification / Furlough office is notified of the alleged victims “Do not transfer” status until the investigation has been completed. Medical and furlough considerations are exempt from this status.

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- D. The State PREA Coordinator must ensure that the Offender Management system is updated with a caution and alert for the pending PREA investigation as well as an informal separatee entry.
- E. PREA Compliance Managers (PCM) will ensure that each reported incident has a case file completed which is confidential and maintained for five (5) years after an alleged abuser is released from incarceration or employment from the Department. All forms associated with this policy shall be maintained and stored within the Confidential PREA case file maintained by the PCM.

III. Sexual Abuse Investigations:

All cases involving sexual abuse that rise to the definition of the offense or the elements of the offense in AS 11.41.410 (Sexual Assault in the First Degree), AS 11.41.420 (Sexual Assault in the Second Degree), AS 11.41.425 (Sexual Assault in the Third Degree), and AS 11.41.427 (Sexual Assault in the Fourth Degree), shall be referred immediately to the Alaska State Troopers (AST).

- A. Alleged aggressors will be immediately separated from the alleged victim and initially shall not be interviewed by institution staff or investigators. Refer to the Process for Sexual Abuse Allegations Reported Within 7 Days (Attachment B), for further information.
- B. First responders and investigators will refer to the PREA Crime Scene Checklist (Attachment C) for responsibilities.
- C. All referrals made to the local hospitals or emergency rooms relating to forensic medical examinations shall be made by the Alaska State Troopers. The investigating agency will arrange for transportation of the victim as well as for any related victim services.

IV. Sexual Harassment Investigations:

- A. With all cases involving prisoner on prisoner sexual harassment, investigators will refer to the PREA Investigation Flow Chart (Prisoner/Prisoner), attachment D of this policy.
 - 1. Cases involving the need for crime scene preservation or evidence preservation shall refer to the PREA Crime Scene Checklist (Attachment C) for responsibilities.
- B. With all cases involving staff on prisoner sexual harassment, investigators will refer to the PREA Investigation Flow Chart (Staff/Prisoner), attachment E of this policy.
- C. Cases involving the need for crime scene preservation or evidence preservation will refer to the PREA Crime Scene Checklist (Attachment C) for responsibilities.

V. Investigation Follow-up:

The PCM shall be responsible for monitoring the progress of a case that is referred to AST or the District Attorney's office. The PCM shall solicit status updates at least every 90 days, documenting the status in the PREA case file.

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- A. If a case is accepted for prosecution the PCM will assist the District Attorney's office in locating witnesses or other persons subject to subpoena who are Department employees, former employees, prisoners, probationers, or parolees. The PCM will continue to monitor the status of the case through conviction, dismissal or acquittal.
- B. If the case is declined for prosecution, it will be noted in the PREA case file.

VI. Investigation Findings:

- A. Upon completion of an administrative or criminal investigation, the Superintendent or designee shall make a finding determining whether an allegation was substantiated, unsubstantiated or if the case is unfounded.
 - 1. The finding by the Superintendent or designee shall be based upon a standard of proof, no higher than a preponderance of evidence.
 - 2. The Superintendent's findings shall be recorded on the PREA Case Closure / Finding (Attachment F).
- B. For substantiated cases the Institutional Probation Officer (IPO) shall complete a Central Monitoring Case Identification Form [Attachment A of DOC P&P 702.10 (Central Monitoring Cases)] for referral to Central Classification.
- C. For unsubstantiated cases, the PREA Coordinator shall make a closing date on the informal separatee entry under the Caution and Alerts tab in the DOC offender management system, which closes the informal separatee warning one (1) year from the date of the finding.
- D. Unfounded cases shall have the informal separatee warning closed upon the date of the finding.

VII. Debriefing:

- A. Upon completion of an investigation, the investigating institution must document and inform the alleged victim as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- B. Following a prisoner's allegation that a staff member has committed sexual abuse against the prisoner, the institution must document and inform the prisoner whenever:
 - 1. The staff member is no longer posted within the prisoner's unit;
 - 2. The staff member is no longer employed at the institution; or
 - 3. The institution learns that the staff member has been indicted or convicted on a charge

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related to sexual abuse.

- C. Following a prisoner's allegation that they have been sexually abused by another prisoner, the institution must document and inform the prisoner whenever the institution learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse.
- D. The institution's responsibility to inform the prisoner that notification under this section shall cease when the prisoner is released from custody.

VIII. Retaliation Monitoring:

- A. The institution PCM or designee will monitor changes in the status of all prisoners and staff who report sexual abuse or sexual harassment or those who cooperate with sexual abuse or sexual harassment investigations, from retaliation by other prisoners or staff.
- B. Following a report of sexual abuse or sexual harassment the institution PCM or designee will monitor for at least ninety (90) days the conduct and treatment of prisoners or staff who have reported sexual abuse or sexual harassment or witnessed such incidents.
 - 1. Monitoring will include periodic status checks accomplished at a minimum of 30-day increments. A status check shall include a face to face meeting with the person who reported or witnessed the allegation.
 - 2. Monitoring will include, but is not limited to, any inmate disciplinary reports, inmate housing or programing changes, negative performance reviews, overt acts of harassment or intimidation or reassignment of staff.
 - 3. Any reports of retaliation must be addressed promptly.
 - 4. Monitoring shall terminate if an allegation is determined to be unfounded.
 - 5. Monitoring may be extended beyond 90 days if the initial monitoring indicates a continuing need.
 - 6. If any other individual who cooperates with an investigation expresses a fear of retaliation, the institution will take appropriate measures to protect that individual against retaliation.
 - 7. The tracking of monitoring efforts must be recorded on the PREA Retaliation Report (Attachment G).
- C. The following protection measures against retaliation may be applied, but are not limited to:
 - 1. Housing changes for prisoner victims, witnesses or aggressors,

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2. Institution changes for prisoner aggressors,
3. Removal of staff from contact with victims, and
4. Emotional support services for prisoners, witnesses or staff.

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