

TITLE: SEXUAL MISCONDUCT AND PREA

Effective: 07/11/05 Revised: 09/07/10, 08/28/12

POLICY: The Corrections Bureau has a zero tolerance standard on sexual assault/abuse against persons in our custody and observes the standards established in the Prison Rape Elimination Act (PREA). Every effort will be made to prevent sexual misconduct incidents and each incident will be thoroughly investigated and documented.

Sexual contact and displays of affection of any kind between two inmates is prohibited by PCADC rules regardless of consent between the two participants.

This policy is applicable to staff-on-inmate and inmate-on-inmate sexual conduct, sexual harassment and sexual misconduct only. It does not apply to Staff-on-Staff conduct.

**See Corrections Bureau Policy and Procedures -
Corrections Automated Incident Reports
Contraband, Crime Scenes, and Criminal Evidence
Medical Care
Inmate Rights and Privileges
Classification Process
Search of Persons and Places
Visual and Video Recording of Jail Activities
Inmate Grievance Procedure
Housing and Direct Supervision of Inmates
Voluntary Programs
Major Disciplinary Process
Inmate Segregation**

I. DEFINITIONS

Sexual Conduct: As defined by the PCADC includes any sex crimes, sexual acts, sexual proposals, incident exposure, sexual harassment or displays of affection; such as, but not limited to, hand holding, hugging, kissing, etc. regardless of consent by both parties.

The following definitions are based on PREA guidelines:

Sexual Misconduct: The act of perpetrating Sexual Abuse, Sexual Harassment, or Voyeurism against an individual by an inmate, staff member, contractor, or volunteer.

Sexual Abuse: When used in this policy the term 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:

Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

Contact between the mouth and the penis, vulva, or anus;

Contact between the mouth and any body part where the individual has the intent to abuse, arouse, or gratify sexual desire;

Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument;

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, pat down search;

Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in this definition;

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

Voyeurism by a staff member, contractor, or volunteer.

By definition Sexual Abuse does not apply to:

Pat down searches, strip searches, and body cavity inspections as necessary and conducted by Correctional professionals in accordance with their duties.

Security or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating sexual abuse, and in the course of providing other medical care;

The use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment related to sexual abuse;

The use of a health care provider's hands or fingers and/or the use of instruments to perform body cavity searches in order to maintain the security and safety within the Pima County Adult Detention Complex (PCADC), provided that the search is conducted in a manner consistent with constitutional requirements.

Voyeurism: The invasion of the privacy of an inmate by an individual for reasons **unrelated to official duties**, such as peering at an inmate who is using a toilet in his/her cell to perform bodily functions; requiring an inmate to expose his/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.

Sexual Harassment: 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 directed toward another; or by a staff member/contractor or volunteer to an inmate.

This includes demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Note: Inmate-on-staff sexual harassment or misconduct does not fall under PREA; however, it will be taken seriously and investigated as part of the in-house disciplinary process or criminal investigations aspect, whichever is applicable.

Exigent Circumstances: Any set of temporary and unforeseen circumstances.

II. GENERAL PROCEDURES

- A. Arizona Revised Statute (ARS 13-1419) states that consensual sexual conduct cannot occur between a staff member and an inmate.
- B. Sexual contact and displays of affection of any kind between two inmates is prohibited by the PCADC rules regardless of consent between the two participants.

- C. Although PREA does not include the reporting of **consensual** sexual conduct between inmates, all incidents of sexual conduct must be reported to the PREA Coordinator.
- D. Informational posters containing reporting mechanisms will be displayed in public areas (Front Desk lobbies and visitation areas) advising members of the public how to report suspected abuse.
- E. Inmates will be educated and encouraged to report abuse during the Classification Process and through the use of informational posters in each housing unit.
- F. A PREA Coordinator will be designated for each complex, the PCADC and Ajo Detention Center.
- G. All allegations of alleged sexual misconduct will be investigated at some level. Based on the actual allegation, this may include criminal investigations, administrative investigations and in-house inmate investigations.
- H. The Correction Bureau will provide sexual misconduct victims with Medical and Mental Health Unit services consistent with the community level of care.
- I. The Correction Bureau shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 72 hours of learning of such abuse history, and will offer treatment when deemed appropriate by the Mental Health Unit.

J. Policy Application

- 1. This policy does not apply to allegations of sexual misconduct that occur while out-of-custody (e.g. Work Program participants). These allegations should be reported to, and investigated by, the appropriate law enforcement agency.
- 2. This policy is applicable to staff-on-inmate and inmate-on-inmate sexual conduct, sexual harassment and sexual misconduct only.
- 3. This policy does not apply to staff-on-staff conduct.
- 4. This policy does not apply to inmate-on-staff sexual harassment or misconduct. Such conduct does not fall under PREA. However, it will be taken seriously and investigated as part of the in-house disciplinary process or criminal investigations aspect, whichever is applicable.
- 5. PREA guidelines and standards do not apply to allegations or observed consensual inmate/inmate sexual misconduct.

K. PREA Training Requirements

- 1. The Corrections Bureau will provide initial training on PREA to all Correction Bureau staff, volunteers and contractors upon initial hiring or during facility orientation.
- 2. All Corrections Bureau staff members and contractors will receive refresher training and PREA updates annually.
- 3. PREA training criteria at a minimum will include:
 - a. The Bureau's zero tolerance policy on sexual misconduct;
 - b. The right for inmates and staff to be free from sexual misconduct;
 - c. The various processes used to report sexual misconduct;

- d. How to fulfill their responsibilities under Corrections Bureau sexual misconduct prevention, detection, reporting, and response policies and procedures;
- e. The right for inmates and staff to be free from retaliation for reporting sexual misconduct or assisting in the investigation of an alleged sexual misconduct violation;
- f. The dynamics of sexual misconduct in confinement;
- g. The common reactions of sexual misconduct victims;
- h. How to detect and respond to signs of threatened and actual sexual misconduct;
- i. How to avoid inappropriate relationships with inmates;
- j. How to communicate effectively and professionally with inmates, including homosexual, bisexual, transgender, intersex, or gender nonconforming inmates;
- k. How to comply with relevant laws related to mandatory reporting of sexual misconduct to outside authorities.

L. PREA Coordinator Responsibilities

1. The Planning and Research Commander will be designated as the main PREA Coordinator.
2. The Ajo Detention Center Sergeant will be designated as the Ajo Detention Center PREA Coordinator.
3. The PREA Coordinator will develop, implement, and oversee the Bureau's efforts to comply with the PREA standards.
4. Once a year the PREA Coordinator shall assess, determine, and document whether adjustments are needed to:
 - a. The established staffing plan;
 - b. The Bureau's deployment of video monitoring systems and other monitoring technologies;
 - c. The resources the Corrections Bureau has available to commit to ensure adherence to the staffing plan.
5. The PREA Coordinator will retain any and all Incident Reports regarding sexual misconduct for future litigation and reporting to the Department of Justice, as required. Any original Incident Report copies will be placed in the appropriate inmate Classification file.
6. The PREA Coordinator will act as the point of contact for any investigating agency.

III. REPORTING SEXUAL MISCONDUCT

A. Staff Members Reporting Sexual Misconduct

1. Any staff member who is aware of an alleged incident or complaint regarding inmate-on-inmate or staff-on-inmate sexual misconduct, retaliation by other inmates or staff for reporting sexual misconduct, or staff neglect/violations of responsibilities which may contribute to sexual misconduct shall report the information to the on-duty Shift Supervisor immediately.

2. Staff members reporting such incidents will maintain the confidentiality of the information and shall not reveal any information related to a sexual misconduct incident to anyone other than to the extent necessary to begin treatment, investigation, and other security and management decisions.
 - a. All emails regarding the complaint, involved parties, and investigative details should be sent to those in command positions who have a need to know.
 - b. To preserve confidentiality, the integrity of the complaint, and the investigative information, group emails should not be sent. Information will be disseminated on a need to know basis.
3. Upon the discovery or report of an alleged sexual misconduct incident staff members shall complete a detailed Incident Report of the alleged incident and forward the information to the Shift Supervisor.

B. Inmates Reporting Sexual Misconduct

1. Inmates may report sexual misconduct, retaliation by other inmates or staff for reporting sexual misconduct, and staff neglect or violations of responsibilities which may contribute to sexual misconduct by any of the following means:
 - a. An Inmate Grievance form.
 - i. No time limit will be set on when an inmate may submit an Inmate Grievance regarding alleged sexual misconduct.
 - ii. Inmates do not have to attempt to resolve alleged incidents of sexual misconduct with staff.
 - iii. An Inmate Grievance which alleges a staff member engaged in sexual misconduct will not be referred to said staff member.
 - b. A Health Service Request form (Medical Slip).
 - c. A Specialist Request form.
 - d. The sexual misconduct hotline.
 - e. Anonymously by placing a written note in the inmate mailbox.
 - f. Verbally to any staff member or PCADC volunteer.
 - g. Through the toll free reporting number provided in each inmate housing location;
 - h. Through outside agencies;
 - i. Through PCSD Internal Affairs.
2. Inmates who report sexual misconduct, or assist in the investigation of an alleged sexual misconduct violation, will be protected against retaliation from other inmates and staff by any of the following means:
 - a. Housing change or transfers for inmate victims/abusers;
 - b. Removal of alleged staff or inmate abuser from contact with victim;

- c. Segregation may be utilized if there are no other means to ensure the safety of the victim.

IV. ACCESS TO REPORTING MECHANISMS AND POLICIES

A. Reporting Mechanisms for Inmates

1. Equal access to various reporting mechanisms will be available to all inmates.
2. Inmates will be allowed to report sexual misconduct or alleged sexual misconduct in writing, verbally to staff or by calling a toll free number provided for that purpose.
3. Inmates requiring interpretation services due to limited English proficiency, speech or hearing impairments will be provided access to these services as part of the complaint and investigative process.
 - a. Written prevention and reporting information will be provided in both English and Spanish to the public and to the inmates.
 - b. Corrections Bureau employees shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants.
4. Inmates that have a fear of reprisal for reporting sexual misconduct or assisting in the investigation of an alleged sexual misconduct violation will be assured that any information given will only be shared with those persons to which it is necessary.

B. Inmate's ability to Access Information

1. Information on reporting sexual misconduct will also be included in the Inmate Handbook.
2. Copies of the entire Sexual Misconduct policy will be provided to inmates upon individual request.
3. Annual PREA statistics will be made available to inmates upon individual request.

C. Reporting Mechanisms for the Public

1. The Corrections Bureau will display informational posters in the PCADC Front Desk/Lobby Areas that will be used to inform the public of the Bureau's zero tolerance policy regarding sexual misconduct.
2. A toll free phone number will be provided to the public for reporting sexual misconduct incidents on behalf of individuals confined within the PCADC. The public will be encouraged to use this number if they need to report this type of situation.

D. Public Access to Information

1. The PCADC policy regarding sexual misconduct will be posted on the PCSD website.
2. The Department will accept third party and anonymous complaints from the public on behalf of inmates in the custody of the PCADC. Complaints may be filed through the public reporting line or to Internal Affairs.
3. Annual statistics regarding sexual misconduct at the PCADC will be posted on the Department's website as required.

V. INITIAL RESPONSE AND INVESTIGATION

- A.** All staff members, regardless of rank, responding to a sexual misconduct incident will thoroughly document all actions taken and any allegations they may receive.

B. Staff-On-Inmate Misconduct

1. The Bureau Chief will be advised immediately of any allegation of sexual abuse or misconduct involving a staff member, prior to any investigative action being taken.
 - a. The person taking the complaint shall not interview the staff member or request any written statements from the staff member regarding the allegation. Doing so may compromise any future criminal charges and is a violation of PREA.
 - b. The inmate making the allegations may be interviewed by the Shift Supervisor to obtain the necessary information regarding the complaint.
 - i. The inmate will not be shown pictures of staff in order to make a positive identification.
 - ii. The inmate may be asked for the time, date, and locations of the incidents and a description of the staff member.
 - iii. Further investigation will be at the direction of the Bureau Chief.
2. If the allegation is criminal in nature, the PCSD CID Sex Crimes Unit will be responsible for the initial investigation. Once cleared by CID, the investigation may be investigated administratively by Internal Affairs or by the PREA Coordinator, as directed by the Bureau Chief.
3. Once the investigation is complete, the PREA Coordinator will document the finding of the investigation as substantiated, unsubstantiated, or unfounded.
4. A PREA file will be maintained by the PREA Coordinator on all such allegations. This file will include all documentation and actions taken.

C. Inmate-On-Inmate Misconduct

1. If the allegation is criminal in nature, the PCSD CID Sex Crimes Unit will be responsible for the initial investigation. Once cleared by CID, the investigation may be investigated in-house by the Housing Commander or their designee.
2. Follow up investigative actions or documentation may be requested by the PREA Coordinator.

D. Once cleared by CID, the Mental Health/Medical Unit will provide follow-up medical care and mental health treatment for the victim.**E. Staff First Responder Duties**

1. Upon learning of an allegation that an inmate has been a victim of sexual misconduct, or upon witnessing a sexual misconduct incident, the first security staff member on scene shall:
 - a. Immediately take appropriate means to stop the sexual misconduct if it is still taking place, ensuring to maintain personal safety and the security and safety of the inmates.

- b. Ensure the inmates involved are separated to prevent further misconduct.
 - c. Secure, preserve, and protect the location of the incident as a crime scene until appropriate steps can be taken to collect any evidence.
 - d. Secure any and all contents involved in the sexual misconduct incident area as evidence.
 - e. If the crime scene cannot be secured:
 - i. The area will be video recorded and photographed. All videos and photographs will be given to the investigator(s).
 - ii. Any potential evidence (clothing, bedding, penetration items, etc.) in the area will be photographed in place then secured in a paper bag, handled as evidence and given to the investigator(s).
- Reference: Correction Bureau Policy and Procedure Ch. 3, Sec. 4 - Contraband, Crime Scenes, and Criminal Evidence.**
- f. Immediately notify the appropriate Medical and Mental Health Unit staff.
2. The first responder or staff member shall **request** that the alleged victim **NOT** take any actions that could destroy physical evidence; and **ensure** the alleged abuser **DOES NOT** take any actions to destroy physical evidence. This includes (as appropriate):
- a. Showering or otherwise cleaning him/her self;
 - b. Removing or discarding any clothing items;
 - c. Brushing his/her teeth if the misconduct was oral;
 - d. Urinating, defecating, drinking, or eating.
3. Advise the alleged victim that medical examination and evidence collection will be directed by the investigator(s). This includes rape kits, swabs, victim and alleged perpetrator blood sample collection, etc. or any other necessary tests.

F. Shift Supervisors Responsibilities

- 1. The on-duty Shift Supervisor shall ensure the first responder actions have been met and direct the investigation from that point forward.
- 2. If the complaint involves a staff-on-inmate allegation, the on-scene Shift Supervisor will call their Section Commander before proceeding with any investigation or actions, other than those necessary to provide immediate protection for the victim.
- 3. The on-scene Shift Supervisor will also complete the following tasks:
 - a. Ensure the inmates involved have Keep Separate alerts issued to prevent further interaction and sexual misconduct.
 - b. Ensure that the victim is in a safe and secure location pending the initial interview with the criminal investigator. If necessary, the inmate may be reclassified to more appropriate housing.

- c. If the alleged perpetrator is a staff member, remove the staff member from any inmate contact/areas and place the individual in a no-inmate contact duty post pending the initial investigation by CID/IA and review by the Bureau Chief or designee.
 - d. If the Sexual Misconduct allegation is criminal in nature, contact PCSD Communications and request the CID Sex Crimes Unit Supervisor be notified and requested to respond to the incident location as soon as possible.
 - e. Ensure the Section Commander is notified of the incident.
 - f. Ensure the investigator(s) receive assistance as needed (e.g. transport the victim to the appropriate medical examination facility, facilitate access to the crime scene, coordinate access to other inmates, etc.).
 - g. Ensure copies of all documentation and original photos/videos are provided to the investigator(s).
4. After the investigator(s) examine the victim, collect the appropriate evidence, and release the victim, the Shift Supervisor shall:
- a. Ensure the victim is afforded the opportunity to take care of hygiene issues. If necessary hygiene supplies, clean clothing, and bedding will be provided.
 - b. Ensure Mental Health staff evaluates the victim.
 - c. Ensure all Incident Reports are completed.
 - d. Ensure the alleged perpetrator is served with an Inmate Notification-Violation of Rules if appropriate.
 - e. Ensure all necessary reports and photographs are forwarded to the following individuals:
 - i. The PREA Coordinator for review and inquiry (in necessary);
 - ii. The Facility Commander for review;
 - iii. The Division Commander for review.

G. After Action Follow-Up with Victims

1. Following an investigation into an inmate's allegation that he/she is a victim of a sexual misconduct incident, the PREA Coordinator shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. Follow-up is not required on unsubstantiated or unfounded complaints.
3. For substantiated claims against a staff member, the inmate should be notified of the following actions:
 - a. When the staff member is no longer posted within the inmate's unit;
 - b. When the staff member is no longer employed at the facility;
 - c. When the PCADC learns that the staff member has been indicted and/or convicted on a charge related to sexual misconduct within the facility.

4. For substantiated claims against another inmate, the inmate should be notified of the following actions:
 - a. When the PCADC learns that the alleged abuser has been indicted and/or convicted on a charge related to sexual misconduct within the facility;
 - b. When the alleged abuser has been released from custody.
5. All such notifications or attempted notifications will be documented.
6. Reporting and follow-up requirements are not required if the victim inmate has been released from PCADC custody.

H. Protection Against Retaliation

1. For at least 90 days following a report of sexual misconduct, the Corrections Bureau shall monitor the conduct and treatment of inmates/staff who have reported sexual misconduct, and of inmates who claim to be a victim of sexual misconduct, to see if there are changes that may suggest possible retaliation by inmates/staff. The Corrections Bureau shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.
2. The Corrections Bureau shall act promptly to remedy any form of retaliation against inmates or staff.
3. If an individual who cooperates with an investigation expresses a fear of retaliation, the Corrections Bureau shall take appropriate measures to protect that individual against retaliation.

VI. VICTIM TREATMENT SERVICES

A. Confidentiality

1. Any information related to sexual victimization or abusiveness that occurred in an institutional setting will be strictly limited to Medical and Mental Health Unit practitioners and other staff, as necessary, to form treatment plans and make security and management decisions.
 - a. All emails regarding the complaint, involved parties, and investigative details should be sent to those in command positions who have a need to know.
 - b. To preserve confidentiality, the integrity of the complaint, and the investigative information, group emails should not be sent. Information will be disseminated on a need to know basis.
2. Medical and Mental Health Unit practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting.

B. In-House Victim Treatment Services

1. Inmate victims of sexual misconduct will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by Medical and Mental Health Unit practitioners according to their professional judgment.
2. Inmate victims will not be charged for provided treatment services for sexual misconduct that occurs within the PCADC.

3. The evaluation and treatment of sexual misconduct victims will include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
4. While incarcerated inmate victims of sexual misconduct will be offered timely access to information about emergency contraception and sexually transmitted infection prophylaxis and testing, in accordance with professionally accepted standards of care, where medically appropriate.
 - a. Female inmate victims of sexually abusive vaginal penetration will be offered pregnancy tests.
 - b. If pregnancy results from a sexual misconduct incident, the victim will receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.

C. Outside Victim Support Services

1. The Corrections Bureau shall provide inmates with access to outside victim advocates for emotional support services related to sexual misconduct.
2. The Corrections Bureau shall enable reasonable communications between inmates and outside victim advocacy organizations and agencies, in as confidential a manner as possible.

VII. DATA COLLECTION AND REVIEW

A. Sexual Misconduct Incident Reviews

1. The PREA Coordinator shall conduct a sexual misconduct incident review at the conclusion of every sexual misconduct investigation, excluding unfounded complaints.
2. Sexual misconduct incident reviews will occur within 30 days of the conclusion of the investigation barring exigent circumstances. Exigent circumstances must be documented for the time extension to be valid.
3. Sexual misconduct incident reviews will be conducted by a designated review team. The review team shall:
 - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual misconduct incidents.
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; homosexual, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
 - d. Assess the adequacy of staffing levels in that area during different shifts.
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
 - f. Prepare a report of the team's findings, including, but not necessarily limited to:

- i. Any determinations made concerning policy, abuser motivation, or staffing levels;
 - ii. Any recommendations for improvement to the facilities structure or technology.
- g. The review team shall submit their report and recommendations to the Bureau Chief.
4. The Corrections Bureau shall implement the recommendations for improvement, or shall document its reasons for not doing so.

B. Data Collection, Storage, Publication and Archiving

1. The Corrections Bureau shall collect accurate, uniform data for every allegation of sexual misconduct using a standardized instrument and set of definitions. This data will be reported annually.
2. The Corrections Bureau shall provide all such data from the previous calendar year to the Department of Justice, upon request, no later than June 30.
3. Annual PREA statistics (as reported to the Bureau of Justice) shall be reported on the PCSD website.
4. The Corrections Bureau shall maintain collected sexual misconduct data for at least 10 years after the date of the initial collection.

VIII. CORRECTIVE AND DISCIPLINARY ACTIONS

A. Staff, Contractors and Volunteers

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating Corrections Bureau sexual misconduct policies.
2. Any contractor or volunteer who engages in sexual misconduct will be prohibited from contact with inmates.
3. Any contractor or volunteer who engages in such conduct will be reported to the PCSD CID, and to any relevant licensing bodies, unless the activity was clearly not criminal.

B. Disciplinary Sanctions for Inmates

1. Inmates will be subject to major disciplinary sanctions following an administrative finding that the inmate engaged in inmate-on-inmate sexual misconduct, or following a criminal finding of guilt for inmate-on-inmate sexual misconduct.
2. Inmates will not be disciplined for sexual contact with staff unless the staff member did not consent to such contact.