

PREA

PURPOSE

This policy provides guidance for compliance with the Prison Rape Elimination Act (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent detect and respond to sexual abuse and sexual harassment.

DEFINITIONS

Intersex: A person whose sexual reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Sexual Abuse: Any of the following act, if the inmate 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
- 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 (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the inmate, detainee or resident:

- 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 moth and any body part where the staff member, contractor or volunteer with the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a finger, object, hand, or other instrument that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire

- Any other intentional contact, either directly or through the clothing , of or with, the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any attempt, threat or request by a staff member, contractor or volunteer to engage in activities described above
- Any display by a staff member, contractor or volunteer oh his/her uncovered genitalia, buttocks or breast in the presence of an inmate, detainee or resident
- Voyeurism by a staff member, contractor or volunteer (28-CFR-115.6)

Sexual Harassment: Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate that are directed toward another; repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor or volunteer including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28-CFR 115.6)

Transgender: A person whose gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth.

POLICY

The Houston County Sheriff's Office and the Houston County Detention Center has zero tolerance with regard to sexual abuse and sexual harassment in this facility and will take appropriate affirmative measures to protect all inmates from sexual abuse and harassment and to promptly and thoroughly investigate all allegations of sexual abuse and sexual harassment (28 CFR 115.11)

PREA COORDINATOR

The Jail Administrator shall appoint an upper-level manager to be responsible for implementation and oversight of compliance with PREA standards. The PREA Coordinator shall review facility policies and practices and make appropriate compliance recommendations to the Jail Administrator (28-CFR 115.11)

The PREA Coordinator's responsibilities shall include:

(a) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and facility management to an incident of sexual abuse

(b) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect inmates from sexual abuse. This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year (28-CFR 115.13)

(c) Ensuring that any contract for the confinement of Houston County inmates includes the requirement to comply with the PREA standards.

(d) Making reasonable efforts to enter into an agreement with community service providers to provide inmates with confidential, emotional support services related to sexual abuse.

(e) Ensuring the protocol describing the responsibilities of the Houston County Sheriff's Office and of another investigating agency, if another law enforcement agency will be responsible for conducting any sexual abuse or sexual harassment investigations, is published on the facility website (28-CFR-115.22)

(f) Implementing a process by which inmates may report sexual abuse and sexual harassment to a public or private entity or office that is not part of the Office and that the outside entity or office is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to the Jail Administrator, allowing the inmate anonymity.

(g) Establishing a process to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under the direct control of this office, using a standardized instrument.

1. The date collected shall include at minimum, the data necessary to answer all of the questions from the most recent version of the Survey of Sexual Violence conducted by the U.S. Department of Justice (DOJ)
2. The date shall be aggregated at least annually

(h) Establishing a process to monitor the conduct and treatment of inmates or staff who have reported sexual abuse and the conduct and treatment of inmates who were reported to have suffered sexual abuse.

(i) Ensuring that the following are published on the Detention Center website or other means, if no website exists:

1. Policy governing investigations of allegations of sexual abuse and sexual harassment or the referral of such investigations of sexual abuse or sexual harassment unless the allegation does not involve potentially criminal behavior
2. Information on how to report sexual abuse and sexual harassment on behalf of an inmate. (28-CFR-115.54)

(j) Ensuring audits are conducted pursuant to 28-CFR-401-405 (28-CFR-115.93)

(k) Implementing a protocol requiring mid-level or higher-level supervisors to conduct and document unannounced inspections to identify and deter sexual abuse and sexual harassment. The protocol shall prohibit announcing when such inspections are to occur, unless it is necessary for operational considerations. (28-CFR-115.13)

Reporting Sexual Abuse, Harassment and Retaliation

Any employee, agency representative, volunteer or contractor who becomes aware of an incident of sexual abuse, sexual harassment or retaliation against inmates or staff shall immediately notify a supervisor, who will forward the matter to an investigator. Staff may also privately report sexual abuse and sexual harassment of inmates. (I.e. report to the Jail Administrator)

The facility shall provide information to all visitors or third parties on how they may report any incident, or suspected incident of sexual abuse or sexual harassment to a staff member. (28-CFR-115.54)

Inmates may report sexual abuse or sexual harassment incidents anonymously or to any staff member they choose. Staff shall accommodate all inmate requests to report allegations of sexual abuse or harassment. Staff shall accept reports made verbally, in writing, anonymously or from third parties and shall promptly document all verbal reports.

Threats or allegations of sexual abuse and sexual harassment, regardless of the source, shall be documented and referred for investigation. Sexual abuse and sexual harassment reports shall only be made available to those who have a legitimate need to know, and in accordance with this policy and applicable law.

If there is an allegation that an inmate was sexually abused while he/she was confined at another facility, the Jail Administrator shall notify the head of that facility as soon as possible but no later than 72 hours after receiving

the allegation. The Jail Administrator shall ensure that the notification has been documented. (28-CFR-115.63)

Retaliation:

All inmates and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation.

Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates or staff who fear retaliation shall be utilized

The Jail Administrator or the authorized designee shall assign a supervisor to monitor, for at least 90 days, the conduct and treatment of inmates or staff who report sexual abuse or sexual harassment and inmates who were reported to have suffered sexual abuse to determine if there is any possible retaliation. The supervisor shall act promptly to remedy any such retaliation. The assigned supervisor should consider inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignment of staff members. Monitoring may continue beyond 90 days if needed. Inmate monitoring shall also include periodic status checks. The Jail Administrator should take reasonable steps to limit the number of people with access to the names of the individuals being monitored and should make reasonable efforts to ensure that staff members who pose a threat of retaliation are not entrusted with monitoring responsibilities.

If any other individual who cooperates with an investigation expresses a fear of retaliation the facility shall take reasonable measures to protect that individual against retaliation (28-CFR-115.67)

First Responders

If an allegation of inmate sexual abuse is made, the first corrections officer to respond shall:

(a) Separate the parties.

(b) Request medical assistance as appropriate. If no qualified health care or mental health professionals are on-duty when a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate health care and mental health professionals (28 CFR 115.82)

(c) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.

(d) If the time period allows for collection of physical evidence, request that the alleged victim, and the alleged abuser, do not take any actions that could destroy physical evidence (i.e. washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating).

(e) Consider whether a change in classification or housing assignment for the victims needed or whether witnesses to the incident need protection, both of which may include reassignment of housing.

(f) Determine whether the alleged perpetrator should be administratively segregated or administratively transferred during the investigation.

If the first responder is not a corrections officer, the responder shall request the alleged victim to refrain from any actions that could destroy physical evidence and then immediately notify a corrections officer.

Should an investigation involve inmates who have disabilities or who have limited English proficiency, the first responder shall not rely on inmate interpreters, inmate readers or other types of inmate assistants, except in limited circumstances where an extended delay in obtaining an interpreter could compromise inmate safety, the performance of first responder duties or the investigation or sexual abuse or sexual harassment allegations. (28-CFR-115.16)

Sexual Abuse and Sexual Harassment Investigations

An administrative investigation, criminal investigation or both shall be completed for all allegations of sexual abuse and sexual harassment (28-CFR-115.22) Administrative investigations shall include an effort to determine whether the staff's actions or inaction contributed to the abuse (28 CFR-115.71). Only investigators who have completed office-approved training on sexual abuse and sexual harassment investigation shall be assigned to investigate these cases.

When practicable, an investigator of the same sex as the victim should be assigned to the case. Sexual abuse and sexual harassment investigations should be conducted promptly and continuously until completed.

Investigators should evaluate reports or threats of sexual abuse and sexual harassment without regard to an inmate's sexual orientation, sex or gender identity. Investigators should not assume that any sexual activity among inmates is consensual.

If the investigation is referred to another agency for investigation, the referral shall be documented.

If criminal acts are identified as a result of the investigation, the case shall be presented to the appropriate prosecutor's office for filing new charges.

If a victim is under the age of 18 or considered a vulnerable adult under state law, the assigned investigator shall report the allegation to the designated social services agency as required by (28-CFR 115.61)

Investigative Findings

All completed investigations shall be forwarded to the Jail Administrator or if the allegations may reasonably involve the Jail Administrator, County Sheriff or Chief Deputy shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.72)

The staff shall be subject to disciplinary sanctions, up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for staff members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the staff member's discipline history, and the sanctions imposed for comparable offenses by other staff with similar histories.

All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the law enforcement agency that would handle any related investigation and to any relevant licensing bodies (28 CFR-115.76)

Reporting to Inmates

The Jail Administrator or the authorized designee shall inform a victim inmate whether an allegation has been substantiated, unsubstantiated or unfounded. (28 CFR-115.73).

If a staff member is the accused (unless the Office has determined that the allegation is unfounded) the inmate shall also be informed whenever:

(a) The staff member is no longer assigned to the inmate's unit or employed at that facility.

(b) The Office learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility.

If another inmate is the accused, the alleged victim shall be notified whenever the Office learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.

All notifications or attempted notifications shall be documented.

Sexual Abuse and Sexual Harassment between Staff and Inmates

Sexual abuse and sexual harassment between staff, volunteers or contract personnel and inmates is strictly prohibited. The fact that an inmate may have initiated a relationship or sexual contact is not recognized as a defense to violating this policy.

Sexual Abuse by Contractor or Volunteer

Any contractor or volunteer who engages in sexual abuse within the facility shall be immediately prohibited from having any contact with inmates. He/she shall be promptly reported to the law enforcement agency that would investigate such allegations and brought to the attention of any relevant licensing bodies. (28 CFR 115.77).

Sexual Abuse Victims

Inmates who are victims of sexual abuse shall be transported to the nearest appropriate location to handle the treatment of injuries, the collection of evidence and to receive crisis intervention services (28 CFR 115.82). Depending on the severity of the injuries, transportation may occur by a staff member or by ambulance, in either case with appropriate security to protect the staff, the inmate and the public, and to prevent escape. A victim advocate from a crisis center should be made available to the victim. If a rape crisis center is not available, the Office shall make available a qualified member of a community-based organization, or a qualified member health care or mental health professional from this facility. These services shall be at no cost to the victim. Efforts to secure services from a crisis center shall be documented.

Examination, Testing and Treatment

Examination, testing and treatment shall include the following:

(a) Examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), where possible. If they are not available, the examination can be performed by other qualified medical practitioners. The Detention Center shall document its efforts to provide SAFEs or SANEs (28 CFR 115.21)

(b) If requested by the victim, a victim advocate, qualified detention staff member or a qualified community organization staff member shall accompany the victim through the forensic medical examination process and investigatory interviews. That person will provide emotional support, crisis intervention, information and referrals. These services shall be of no cost to the victim.

(c) Victims should be offered information about and given access to pregnancy tests, emergency contraception and sexually transmitted infections prophylaxis and follow-up for sexually transmitted diseases (28 CFR 115.82). This shall be done in a timely manner.

(d) A mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Protective Custody

Inmates at high risk for sexual victimization shall not be placed in involuntary protective custody unless an assessment of available alternatives has been made and it has been determined that there is no reasonably available alternative means of separation. Inmates may be held in involuntary protective custody for less than 24 hours while an assessment is completed.

If an involuntary protective custody assignment is made because of a high risk for victimization, the Jail Administrator shall clearly document the basis for the concern for the inmate's safety and the reasons why no alternative means of separation can be arranged (28 CFR-115.43)

The facility shall assign these inmates to involuntary protective custody only until an alternative means of separation from likely abusers can be arranged.

Inmates placed in temporary protective custody shall continue to have reasonable access to programs, education and work opportunities. If restrictions are put in place, the Jail Administrator shall document the following:

- (a) The opportunities that have been limited
- (b) The duration of the limitation
- (c) The reasons for such limitations

Every 30 days, the Jail Administrator shall afford each such inmate a review to determine whether there is a continuing need for protective custody. (28 CFR-115.43).

Sexual Abuse Incident Review

Sexual Abuse Incident Reviews

- (a) The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- (b) The review team shall include upper management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
- (c) The review team shall:
 - (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
 - (2) Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim's race, ethnicity, sexual orientation, gang affiliation, or other group dynamics at the facility.
 - (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - (4) Assess the adequacy of staffing levels in that area during different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

(6) Prepare a report of its finding and any recommendations for improvement and submit such report to the facility head and PREA coordinator, if any.

Data Collection

The Houston County Detention Center will collect accurate data using the Survey of Sexual Violence. This data will be entered the PREA Coordinator.

Data Reviews

The Detention Center shall conduct an annual review of collected and aggregated incident-based sexual abuse data to identify problem areas, corrective actions taken, progress in addressing sexual abuse and comparing annual data with past data.

Reporting

The Houston County Detention Center will post a copy of the annual report on the Houston County Web site. These reports will be read and approved by the Sheriff. No personal data will be posted in the report. All names will be removed.

Records

All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information and all other data associated with the incident shall be retained in accordance with the privacy laws. All written reports pursuant to this policy shall be retained for as long as the alleged abuser is held or employed by the detention center plus 5 years. (28 CFR 115.71)

All other data collected pursuant to this policy shall be securely maintained for at least 10 years after the date of initial collection, unless federal or local law requires otherwise (28 CFR 115.89)

Unannounced Rounds

The Houston County Detention Center will have intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and

deter staff sexual abuse and sexual harassment. These rounds will take place on night shifts as well as day shifts

Detention Center is prohibited from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.