



Arkansas Community Correction

Two Union National Plaza Building
105 West Capitol, 3rd Floor
Little Rock, AR 72201-5731
501-682-9510 (office) 501-682-9513 (fax)

ADMINISTRATIVE DIRECTIVE: AD 17-33 Prison Rape Elimination Act (PREA)

TO: Arkansas Community Correction (ACC) Employees

FROM: Sheila Sharp, Director

SUPERSEDES: AD 14-01

APPROVED: _____ Signature on File

EFFECTIVE: August 6, 2017

- I. APPLICABILITY.** This policy applies to ACC employees, offenders (residents, parolees, and probationers), volunteers, interns, and medical staff.
- II. POLICY.** The ACC has a zero tolerance for all forms of sexual abuse and sexual harassment. Incidents, allegations, and suspicions must be promptly reported, investigated, and appropriate action taken. Perpetrators will be held accountable and where appropriate, criminal charges will be filed. (PREA 115.211(a); 4-ACRS-7E-04; 4-APPFS-3E-05[P])
- III. GUIDANCE.**
 - A. Sexual Abuse, Sexual Harassment, Voyeurism, and Retaliation (PREA 115.6)**
 1. Sexual abuse in general includes
 - a. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
 - b. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, volunteer, or intern.
 2. Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident 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:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - d. 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.

3. Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, volunteer, or intern includes any of the following acts, with or without consent of the inmate, detainee, or resident:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, 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;
 - e. 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;
 - f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs 3a through 3e of this section;
 - g. 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
 - h. Voyeurism by a staff member, contractor, or volunteer.
4. Voyeurism by a staff member, contractor, volunteer, or intern means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her housing area to perform bodily functions; requiring an inmate to expose his or 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.
5. Sexual harassment includes
 - a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an inmate, detainee, or resident directed toward another; and
 - b. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident 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.
6. Retaliation includes adverse or unfavorable action taken against a person because of his or her claim, ostracism, or other acts aimed at embarrassing or humiliating a claimant.

B. Resident Training. (PREA 115.233)

1. During orientation and upon transfer
During orientation, new residents must receive verbal and written information about sexual harassment and sexual abuse. This training must include the agency's zero-tolerance stance, how to report incidents and suspicions of sexual abuse/harassment; policy/procedures for responding to incidents; zero tolerance of retaliation against claimants, and other relevant aspects of this policy. Upon transferring into another facility, staff must provide refresher information.

2. Residents with Disabilities and Limited English Proficiency
Instructors must ensure training is in formats accessible to all residents including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, and residents with low literacy levels. (PREA 115.216)

C. Deputy Director of Residential Services Responsibilities.

The Deputy Director of Residential Services has responsibility at the ACC centers for compliance with Prison Rape Elimination Act (PREA) Standards and this policy.

The Deputy Director must also ensure that only in emergency circumstances in which all-reasonable attempts to find a private agency or other entity in compliance with the PREA standards have failed, will ACC enter into a contract with an entity that fails to comply with PREA standards. In such a case, there must be documentation of ACC's unsuccessful attempts to find an entity that is compliant with the standards. (PREA 115.212 [P])

The Deputy Director must ensure resident training is conducted and documented pursuant to the PREA standard and this policy (PREA 115.233).

The Deputy Director must designate an upper-level, agency-wide PREA Coordinator and allow sufficient time and authority to develop, implement, and oversee agency efforts to comply with PREA standards in all ACC centers and contracted facilities. (PREA 115.211(b))

Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Deputy Director of Residential Services must notify the head of the facility where the alleged abuse occurred (PREA 115.263)

D. Assistant Director of Reentry Services.

Assistant Director of Reentry Services responsibilities are:

- The Assistant Director of Reentry Services has responsibility for ensuring compliance with PREA standards applicable to his/her area.
- The Assistant Director of Reentry Services must ensure contracts for transitional housing and any other contracts that may require compliance with PREA standards contain appropriate language requiring compliance with PREA standards when such facilities are required to comply. For each facility with which the ACC contracts for transitional housing, the Assistant Director of Reentry Services must determine whether the facility is required to comply. Contracted facilities with populations consisting of at least 50% ACC offenders for a majority of the contract year must comply. The Assistant Director of Reentry Services must ensure transitional houses are properly monitored. When a contractor is non-compliant, the Director and Deputy Directors of Residential Services and Administrative Services will be informed.(PREA 115.212 [P])

E. Parole/Probation Managers and Central Office Supervisors.

Parole/Probation Managers and Central Office Supervisors must ensure employees, volunteers, and interns receive annual training on relevant aspects of this policy. (PREA 115.231)

F. PREA Coordinator Responsibilities.

The PREA Coordinator has responsibility for monitoring and facilitating compliance with PREA standards. The PREA Coordinator will:

- ensure a Victim Support Advocate is available for each ACC residential facility (PREA 115.221).
- ensure a process is established for resident access to outside confidential support services (PREA 115.253)
- ensure recurring PREA training is available annually for Residential Services staff, volunteers, and interns who are assigned to correction centers and others as appropriate (PREA 115.215(f), 115.231, 115.232)
- gather data required by PREA standards.
- Ensure compliance with PREA data and audit standards. (PREA 115.286, 115.287, 115.288, and 115.289, 115.293, 115-401 through 115.405, and 115.501)

G. Center Supervisor Responsibilities.

The Center Supervisor has responsibility for ensuring compliance with PREA standards and related ACC policies including the following:

- developing and maintaining a written facility plan to coordinate actions taken in response to sexual abuse incidents by staff who respond first, medical/mental health practitioners, investigators, victim advocates and facility/agency leadership. The plan must be compatible with policy and PREA standards and address applicable aspects of PREA standards 115.282 and 115.283. The “Sexual Abuse Checklist” form (AD 17-?? Form 3) may be modified for use with the plan. (PREA 115.265, 115.282, and 115.283)
- developing and managing a documented staffing plan as described in the Residential Facilities policy.
- ensure center staff who are designated to conduct administrative investigations of alleged PREA incidents are appropriately trained.
- ensuring appropriate actions and remedial measures are taken (up to and including employment termination) when policy is violated by staff.
- ensuring appropriate remedial measures, to include considering whether to prohibit further contact with residents when policy is violated by a contractor, volunteer, or intern. (PREA 115.277(b))
- working with the Internal Affairs Investigator (IAA) to ensure reporting to law enforcement agencies unless the activity clearly was not criminal, and ensuring the IAA reports to any relevant licensing body when an investigation determines that a contractor, volunteer, or intern engaged in sexual abuse. (PREA 115.277(a))

- ensuring the supervisor complies with the Employee Discipline policy when an investigation determines that an employee violated policy.
- ensure PREA investigations are conducted pursuant to the Reporting and Investigating Incidents, Hazards and Maltreatment policy.
- ensuring residents who report sexual abuse are notified of significant updates in investigations pursuant to PREA requirements. (PREA 115.273)
- ensure required sexual abuse incident reviews are conducted.

H. Training Administrator Responsibility.

The Training Administrator must ensure appropriate PREA training is available for all agency personnel. The PREA Resource Center has training material that can be used.

I. Center Staff Assigned to Conduct Administrative PREA Investigations.

Center Staff Assigned to Conduct Administrative PREA Investigations must obtain appropriate training and must investigate pursuant to PREA standards and the Reporting and Investigating Incidents, Hazards and Maltreatment policy.

J. Shift Supervisor and Senior Residential Supervisor Responsibility.

The Shift Supervisor and Senior Residential Supervisor must ensure a resident who is an aggressor or is substantially at risk of being victimized has housing and job assignments that minimize opportunities for sexual acts. If a resident is subject to a substantial risk of imminent sexual abuse, immediate action must be taken to protect the resident. The Senior Residential Supervisor, with the support of the shift supervisor (and all staff), must monitor for retaliation by other staff or residents and must report and take appropriate actions if retaliation occurs. (PREA 115.262 [P]; 115-267(a))

K. Internal Affairs Investigator (IAA) Responsibilities.

Obtain appropriate training necessary for conducting investigations of alleged PREA incidents.

The IAA must investigate alleged PREA incidents pursuant to PREA standards and guidance in the Reporting and Investigating Incidents, Hazards and Maltreatment policy.

L. Medical Contractor Responsibilities.

The medical services contract provider must comply with applicable PREA standards to include submitting necessary reports to ACC and providing contractor staff training. Medical staff must be allowed to participate in and provide ACC PREA training classes. Medical contractor staff must comply with applicable guidance in this policy in addition to any contractor-provided guidance pertaining to PREA.

(PREA standards to include 115.232, 115.235, 115.277, and 115.282(a), 115.283)

M. Resident Assessments, Protection, and Related Actions. (PREA 115.267)

1. **Transgender or Intersex Resident.** If staff is informed of a transgender or intersex offender assigned to or at a center, the staff must promptly inform the Center Supervisor and/or the Deputy Director of Residential Services. Upon notification, the Center Supervisor / Deputy Director must decide whether to assign the resident to a male or female facility, and must consider related housing and programming assignments. Such decisions must be made on a case-by-case basis to determine whether placement would ensure the resident's health and safety, and whether the placement would present management or security problems. A transgender or intersex resident's own views with respect to his or her own safety must be given serious consideration. (PREA 115.242)
2. **Intake Officer.** The Intake Officer must complete "Sexual Victimization/Abusiveness Assessment – Intake" form for each incoming resident.
3. **Primary Counselor.** The Primary Counselor must use the form "Sexual Victimization/Abusiveness Assessment-Follow-Up" for each resident within 30 days of admission to conduct a re-assessment, and take into account any new information learned since the intake assessment. The counselor must also complete this form at other times when warranted due to a referral, request, incident of sexual abuse, or receipt of information pertaining to sexual victimization or abusiveness. The form instructions require notification to the Treatment Supervisor and Senior Residential Supervisor when a resident is a potential victim or aggressor.
4. **The Resident Management Team.** The Resident Management Team which consists of the Treatment Supervisor, Senior Residential Supervisor, and Assistant Center Supervisor must:
 - a. take appropriate actions with regard to housing, bed assignment, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. (PREA standards to include 115.242)
 - b. take appropriate actions to separate alleged staff and resident abusers from contact with victims / alleged victims (PREA 115.267(b))
 - c. provide emotional support services for residents who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
 - d. have available multiple protection measures and use them appropriately to include resident housing/room changes and transfer to another facility.
5. **Treatment Coordinator.** For at least 90 days following a report of sexual abuse, the Treatment Coordinator must monitor the conduct and treatment of residents who reported sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff. Any retaliation activity must be promptly reported to the Resident Management Team. Monitoring must include periodic status checks. Items to monitor include any resident disciplinary reports, housing, or program changes. This monitoring must continue beyond 90 days if the initial monitoring indicates a continuing need. The requirement to monitor ends if the IAA determines that the allegation is unfounded.

6. Resident Management Team. The Resident Management Team must work together and with staff to facilitate the intent of this policy. One specific aspect of this is ensuring any report of retaliation is promptly addressed. Whenever a resident expresses a fear of retaliation for cooperating with an investigation, appropriate measures must be taken to protect the resident against retaliation. The requirement to monitor ends if the IAA determines that the allegation is unfounded.
7. Center Supervisor. The Center Supervisor is responsible for monitoring retaliation against staff to include negative performance evaluations or reassignment. He/she must also ensure staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations are aware of available emotional support services.

For at least 90 days following a report of sexual abuse, the Center Supervisor must monitor the conduct and treatment of staff who report sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff. This monitoring must continue beyond 90 days if the initial monitoring indicates a continuing need. The requirement to monitor ends if the IAA determines that the allegation is unfounded. If retaliation exists, prompt action must be taken to remedy such retaliation. (PREA 115-267)

N. Reporting Incidents, Allegations and Suspicions of Sexual Harassment, Sexual Abuse, and Retaliation.

All employees, contractors, volunteers, and interns must accept reports of alleged incidents and suspicions of sexual harassment, sexual abuse and retaliation that are made verbally, in writing, anonymously and from third parties and must promptly document any verbal reports. This includes reports concerning confinement at facilities outside of ACC, such as a county jail or a Department of Correction facility. (115.251) At Parole/Probation offices, accept any report made by an offender and provide the information to the Area Manager, who will follow procedures outlined in the policy entitled, "Reporting and Investigating Incidents, Hazards and Maltreatment. At the Central Office, any such reports should be forwarded to the appropriate Deputy Director or the Chief Deputy Director who will follow procedures.

At residential facilities, follow any facility-specific guidance, this policy guidance and the Reporting and Investigating Incidents, Hazards and Maltreatment policy.

Upon receipt of a report, supervisors must act pursuant to applicable policy, to include "Reporting and Investigating Incidents, Hazards and Maltreatment" and "Employee Discipline."

All employees, contractors, volunteers, and interns must NOT reveal any information related to a sexual abuse report to anyone other than to the extent necessary as specified in policy, and to facilitate treatment, investigation, and other security and management decisions. (PREA 115.261 (b))

O. Residents with Disabilities or Limited English Proficient. (PREA 115.216)

1. Residential facility staff must take appropriate steps to ensure residents with disabilities and/or limited English proficiency have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. (PREA 115.216 (a) and (b))
2. Residential facility staff must not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties, or the investigation of the resident's allegations. (PREA 115.216(c))

P. Resident Privacy Protection. (PREA 115.215 [P])

All staff, contractors, volunteers, and interns must ensure residents are allowed to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine security checks. Specifically, staff, contractors, volunteers, and interns of the opposite gender must announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

Q. Sexual Abuse Incident Review.

The Center Supervisor must conduct a sexual abuse incident review when required by the Reporting and Investigating Incidents, Hazards and Maltreatment policy.

R. Notices and Information. The PREA Coordinator must develop and distribute a PREA notice.

Center Supervisors and Area Managers must ensure all ACC offices/facilities display the PREA notice in prominent places. In addition to training, key information must be continuously available or visible to offenders. (PREA 115.233 [P])

IV. REFERENCES.

[Prison Rape Elimination Community Confinement Standards](#) are available on the Internet

The [PREA Resource Center](#) website has a variety of useful information

The [U.S. Equal Employment Opportunity Commission](#) (EEOC) website has information about harassment to include prevention

United States Code (law) 42 U.S.C. Section 2000e and 29 Code of Federal Regulations section 1604.11 pertain to this topic

V. ATTACHMENTS.

- AD 17-33 Form 1 Sexual Victimization/Abusiveness Assessment – Intake
- AD 17-33 Form 2 Sexual Victimization/Abusiveness Assessment – Follow-Up
- AD 17-33 Form 3 Sexual Abuse Checklist