

**Purpose**

To establish standards to ensure that the Sheriff's Office is in compliance with the Prison Rape Elimination Act (PREA) by maintaining procedures for the prevention, detection, reporting, response, discipline, and reduction of all forms of physical and mental abuse, harassment, sexual assault, threats of sexual assault, and retaliation. This policy shall be communicated to detainees, inmates, staff, volunteers, and contractual personnel regardless of race, religion, political affiliation, sexual orientation/identity, intellectual abilities, mental or physical disabilities or language barriers.

**Reference**

Title 28, Code of Federal Regulations, Part 115, Prison Rape Elimination Act of 2003  
Annotated Code of Maryland Criminal Law, Title §3, Subtitle §3 Sexual Crimes.

**Policy**

The Cecil County Sheriff's Office has adopted a zero-tolerance policy standard relating to all forms of physical and mental abuse, harassment, sexual abuse, sexual harassment, and retaliatory acts of staff members, detainees and inmates and strives to fully comply with the Prison Rape Elimination Act of 2003 (PREA).

**Definitions****Sexual Abuse:**

- 1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
- 2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

**Sexual Abuse by Another Inmate, Detainee, or Resident:**

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:

- 1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- 2) Contact between the mouth and the penis, vulva, or anus;
- 3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

- 4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding contact incidental to a physical altercation.

**Sexual Abuse by a Staff Member, Contractor, or Volunteer:**

- 1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- 2) Contact between the mouth and the penis, vulva, or anus;
- 3) 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;
- 4) 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;
- 5) 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;
- 6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;
- 7) 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.

**Voyeurism by a Staff Member, Contractor, or Volunteer:**

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 cell 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.

**Sexual Harassment:**

- 1) 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, detainee, or resident directed toward another; and
- 2) 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.

**Agency:** The unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

**Agency Head:** The principal official of an agency/the Sheriff of Cecil County.

**Body Cavity Search:** A procedure performed by Qualified Health Care Personnel by which internal cavities of the body including vaginal, anal, oral, nasal, and aural areas are physically examined either manually or by instrument to check for the presence of contraband.

**Community Confinement Facility:** A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pretrial release or post release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours.

**Contractor:** A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

**Detainee:** Any person detained in a lockup, regardless of adjudication status.

**Direct Staff Supervision:** Security staff that are in the same room with, and within reasonable hearing distance of, the resident or inmate.

**Employee:** A person who works directly for the agency or facility.

**Exigent Circumstances:** Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

**Facility:** A place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

**Facility Head:** The principal official of a facility/Rank of Major/Director.

**Full compliance:** Compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

**Gender nonconforming:** A person whose appearance or manner does not conform to traditional societal gender expectations.

**Inmate:** Any person incarcerated or detained in a prison or jail.

**Intersex:** A person whose sexual or 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.

**Jail:** A confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

**Juvenile:** Any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

**Law Enforcement Staff:** Employees responsible for the supervision and control of detainees in lockups.

**Lockup:** A facility that contains holding cells, cell blocks, or other secure enclosures that are: Under the control of a law enforcement, court, or custodial officer; and Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

**Frisk/ Pat-down search:** A thorough pat down of the outer garments by running of the hands over the clothed body of an inmate, detainee, or resident, and includes the checking of the hair, ears, mouth, taking off and inspection of shoes, socks, and belts to determine whether the individual possesses contraband.

**Security staff:** Employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

**Staff:** Means employees.

**Strip Search:** A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

**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.

**Substantiated Allegation:** An allegation that was investigated and determined to have occurred.

**Unfounded Allegation:** An allegation that was investigated and determined not to have occurred.

**Unsubstantiated Allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

**Youthful Inmate:** Any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

**Youthful Detainee:** Any person under the age of 18 who is under adult court supervision and detained in a lockup.

## **Procedures**

### **A. Prevention**

1. The agency has adopted a zero tolerance policy for all forms of sexual abuse, sexual harassment, and retaliation as outlined in the definitions of this chapter.
2. The agency will employ a PREA Coordinator and each facility managed by the agency will have an assigned PREA Compliance Manager who will be responsible for the development, oversight, and implementation of PREA requirements under the direction of the PREA Coordinator.
3. Any external agency responsible for the confinement of an inmate under the custody of the Cecil County Sheriff's Office will be required to meet PREA Standards and provide verification of their compliance.
4. Before hiring any new employee or enlisting the services of a contractor who will have contact with an inmate/detainee, a thorough investigation will be completed to ensure that individual has not engaged in sexual abuse or harassment of any type. A criminal history and self-reporting affirmation will be completed annually and used as criteria for promotional certification, continued employment, or volunteer service.
5. To reduce the potential for inmate/detainee abuse, the agency will provide adequate levels of staff and supervision as per the staffing plan and utilize video surveillance technology. Inmates/detainees that are housed together will be screened for any potential threat of victimization or threat of abusiveness towards others. Inmates/detainees will be housed appropriately to minimize the potential of any abuse.
6. If at any time it is determined that an inmate/detainee is subject to a substantial risk of imminent sexual abuse, immediate action without unreasonable delay will be taken to protect the individual.
7. When housing any juvenile or youthful detainee, sight, sound, and physical separation from the adult population will be maintained at all times. Youthful offenders will be directly supervised by security staff if in contact with adult offenders for any reason.

8. Staff will follow established protocol when searching inmates/detainees to minimize the potential of abuse or harassment. Cross-gender pat-down searches, strip searches and visual body cavity searches are prohibited.
9. When any changes to the physical plant are considered the agency will evaluate the impact on its ability to protect inmates/detainees. When installing or updating surveillance systems, the agency will consider how such technology may enhance the agency's ability to protect an inmate/detainee from abuse.

**B. Training and Education**

1. All employees, contactors, and volunteers having inmate/detainee contact will be educated on the essential components of PREA and how to fulfill their responsibility to comply with agency policies and procedures. Staff will be educated regarding the zero tolerance policy, signs of abuse, types of abuse, and remedies available.
2. Resource materials which explain the agency's zero tolerance policy regarding sexual abuse and harassment and how to report incidents or suspicions of sexual abuse or harassment will be provided to inform/educate detainees at intake upon arrest; reference posters will be placed throughout the agency Cell Block.
3. Staff will receive training on prevention, detection, reporting methods, and disciplinary procedures. Training modules will be conducted during bi-annual in-service and remedial training will occur as needed or directed.
4. Criminal investigators who are responsible for investigating all incidents/allegations of sexual abuse will have documented specialized training in conducting such investigations in a confinement setting. This training will include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action and/or criminal prosecution.
5. Training activities will be documented for employees, contactors, and volunteers and maintained by the Sheriff's Office Training Coordinator.

**C. Reporting**

1. Staff will be proactive and vigilant in an effort to reduce the potential for sexual assaults. A staff member is required to document and immediately report to their supervisor any knowledge, suspicion, or information they received regarding sexual abuse, harassment or retaliation or any staff member neglect that may have led to an incident. There is no restriction on the methods for reporting incidents/allegations of sexual abuse, assault or retaliation. All incidents will be investigated and appropriate criminal and/or administrative action will occur.
2. All employees, contactors, volunteers, and inmates/detainees will be educated on the resources available for reporting abuse and their responsibility to report all allegations for investigation. The Agency Website and Sexual Abuse Awareness Pamphlets will provide reporting options and include options for third parties.
3. An inmate/detainee may privately report any instance of sexual abuse, harassment or retaliation, staff neglect, or violation of responsibilities that may have contributed to an incident of sexual abuse by the following methods: Verbally or in writing to any staff member, volunteer, medical/mental health worker, to any Consular Official or Department of Homeland Security when appropriate, or via the toll-free confidential hotline with Rape Crisis.
4. Upon receiving an allegation that an inmate/detainee was sexually abused while confined/in custody at another facility, the Director of Law Enforcement will notify the head of the facility where the alleged abuse occurred. Such notification will be provided within seventy two (72) hours after receiving the allegation. The notification will be documented in writing and the facility where the alleged abuse occurred is responsible for initiating an investigation in accordance with PREA standards.
5. Apart from reporting to designated supervisors and designated state or local service agencies, employees are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

**D. Response/ Access to Services**

1. Any staff or volunteer having knowledge of a sexual abuse or sexual harassment allegation involving an inmate/detainee/staff/volunteer shall immediately respond to such allegation in accordance with the agency PREA Response Plan (Addendum 1).

2. The agency will provide an inmate/detainee that has been victimized with on-going medical and mental health services consistent with the community level of care to include access to victim advocates.
3. Victims will be provided a timely unimpeded medical response to include examination, treatment, emergency contraceptives, and sexually transmitted infections prophylaxis as appropriate. These services will be provided at no cost to the inmate/detainee regardless of status or level of cooperation with the investigation.

**E. Investigation**

1. Investigations will be conducted promptly, thoroughly and objectively by investigators trained in sexual abuse investigations pursuant to PREA mandates.
2. All incidents/allegations of sexual abuse involving staff and/or inmates/detainees will be reported to the Director of Law Enforcement. If the activity is criminal, the complaint will be documented and forwarded to the Criminal Investigation Division of the Sheriff's Office for investigation. If the activity is clearly not criminal, the agency will conduct an Administrative Investigation.
3. During an Administrative Investigation, the agency shall impose no standard higher than a preponderance of the evidence in determining whether an allegation of sexual or harassment is substantiated.
4. All criminal investigations shall be documented in written reports that include a thorough description of the physical, testimonial, and documentary evidence and attached copies of all documentary evidence where feasible.
5. Evidence collection and submission protocols will conform to agency policy and procedure in order to maximize the potential for obtaining usable physical evidence for criminal prosecutions and administrative proceedings.
6. Credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and will not be determined by the person's status as inmate/detainee or staff. Polygraph examinations will not be administered as a condition for proceeding with an investigation of such an allegation.
7. The departure of an alleged abuser or victim from employment or control of the agency will not provide a basis for termination of any investigation.



8. If any investigation is referred to an outside agency, that agency will be responsible for PREA compliance standards. A PREA trained investigator from the Sheriff's Office will be assigned to act as a liaison with the investigation agency. The agency shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.
9. All incidents/allegations involving victims, who are youthful offenders or considered vulnerable persons, will be reported to the designated State or local services agency as required by law.
10. Incidents involving detainee-on-detainee abuse will be referred to the appropriate prosecuting authority when probable cause supports the abuse occurred.
11. The agency shall not rely on inmate/detainee interpreters, readers, or other types of inmate/detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's safety, the performance of first-response duties, or the investigation of the allegations.

#### **F. Incident Reviews**

1. The Director of Law Enforcement will convene and conduct an incident review team which may include, upper level management, line supervisors, Criminal Investigation Division Supervisor, and case investigator at the conclusion of every substantiated and unsubstantiated sexual abuse investigation within 30 days, unless the allegation has been determined to be unfounded.
  1. The review team will consider:
    - a) Whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;
    - b) Whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the lockup;
    - c) Examine the area 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; and
  - f) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (b)(i)-(b)(v) of this section, and any recommendations for improvement and submit such report to the Agency PREA Manager who will forward it to the PREA Coordinator.
2. The Agency will implement recommendations for improvement, or will document its reasons for not doing so.

#### **G. Retaliation**

1. The agency prohibits retaliation of any type toward an inmate/detainee, staff, or any other individual who report or cooperate with the investigation of an incident of sexual abuse, harassment, or act of retaliation.
2. The Director of Law Enforcement will be responsible for monitoring retaliation and implementing protective and corrective measures, when appropriate, for the safety of staff, inmate/detainee or other involved parties.
3. Monitoring of the conduct and treatment of inmate/detainee and staff will take place for a minimum of ninety (90) days following the report of the incident. Monitoring may continue beyond ninety (90) days when there is a continuing need and shall terminate when it has been determined the allegation is unfounded.

#### **H. Discipline**

1. Personnel found in violation of agency policies prohibiting sexual abuse/harassment/discrimination/retaliation will be disciplined according to the provisions of the Code of Conduct. Termination will be the presumptive disciplinary sanction for a staff person who has engaged in sexual abuse.
2. All relevant agencies will be notified of an employee resignation or termination when it has been determined that an individual has violated agency sexual abuse/harassment policy.
3. A collective bargaining agreement cannot limit the agency's ability to remove an alleged staff sexual abuser from inmate/detainee contact nor determine the warranted discipline.

**I. Data Collection and Review**

1. The Director of Law Enforcement will complete the Department of Justice Survey of Sexual Violence form for each allegation of sexual abuse utilizing all available incident-based documents, including reports, investigation files and sexual abuse incident reviews. This information will be used to identify any problem areas and/or areas needing corrective action.
2. For the reporting period of January 1 to December 31, the Director of Law Enforcement will aggregate all data related to incidents of sexual abuse utilizing the Survey of Sexual Violence Summary Form and compile an annual report. The report will provide an assessment of the agency's progress in addressing sexual abuse and compare the current and prior year's data. This information will be provided to the Department of Justice by June 30<sup>th</sup> of each year, upon request.
3. An annual review will be conducted, no later than January 30<sup>th</sup> of each year, to identify any problem areas or areas of corrective action related to the effectiveness of its sexual abuse prevention, detection and response policies, practices and training.
4. The report will be published on the agency's website and available to the public in print form. Prior to publication or public review of any report, the agency will redact any specific material that could present a clear and specific threat to the safety and security of the agency, but indicate the nature of the material redacted.
5. An annual review will be conducted, no later than January 30<sup>th</sup> of each year, to identify any problem areas or areas of corrective action related to the effectiveness of sexual abuse prevention, detection, response polices, practices and training. The annual review will include a comparison of current and prior year's data and corrective actions and assess the agency's progress in addressing sexual abuse.
6. All data collected will be retained for a minimum of 10 years, unless Federal, State or local law requires otherwise.
7. All information will be securely maintained and access limited to authorized individuals.

**J. Audit**

The agency shall comply with PREA audit requirements to include a corrective action plan when found in non-compliance.