



DEPARTMENT OF CORRECTIONS
Institutions



Title:	Prison Rape Elimination Act	DOC Policy: 40.1.13
Effective:	11/1/08	Supercedes: 3/1/08
Applicability:	All DOC employees and contractors	
Directives Cross-Reference:	Policy: Unusual Incident Reporting Process – 40.1.6	
Attachments:	OIC PREA Checklist	

I. PURPOSE

This document provides uniform guidelines and procedures to reduce the risk of prison sexual assault and sexual activity. The Department is committed to a zero-tolerance standard for prison rape.

- A. The Department will immediately respond to, investigate, and support the prosecution of sexual misconduct in Oregon's prisons, both internally and externally in partnership with law enforcement and county prosecutors.
- B. Through continual education of staff and inmates, the Department will increase awareness of safe reporting mechanisms and available services to victims, thereby creating institutional cultures that discourage sexual aggression and misconduct.
- C. Through classification, assignment, review of new technologies, and improvements to institution architecture where feasible, the Department will identify opportunities to separate and carefully monitor both sexually abusive and vulnerable inmates and sexual abusers and victims to reduce the incidence of sexual misconduct.
- D. The Department will establish data collection systems to accurately track sexual misconduct, facilitate identification of the core causal factors, and annually incorporate 'lessons learned' into improved operations and services toward a sustainable zero-tolerance standard.

II. DEFINITIONS

- A. **Abuser:** The inmate committing sexual assault against another inmate, or coercing sex from another inmate in exchange for protection or other favors within the prison setting.
- B. **Inspector General Hotline:** Special posted telephone number(s) designated for inmates and staff to call in and report any alleged misconduct on the part of any DOC inmates(s) or staff. The caller provides information on a message answering machine that is reviewed every business day by the DOC Inspector General's Office.
- C. **Non-Assaultive Sexual Activity:** engaging in sexual activity which produces or is intended to produce sexual stimulation or gratification, in the presence of another

person and the sexual activity is conducted without violence, threat of violence, coercion, or use of a weapon.

- D. **Sexual Activity:** Sexual contact including, but not limited to, sexual intercourse, deviant sexual behavior, kissing, fondling, and/or manipulation of the genitalia, buttocks, and breasts of another person in a manner which produces or is intended to produce sexual stimulation or gratification with the consent of both persons.
- E. **Sexually Abusive Inmate:** An inmate whose past behavior indicates he/she is prone to victimize other inmates, especially in regard to sexual behavior.
- F. **Sexual Assault:** Sexual activity where force or threat of force is used, or when the person is unable to consent because of age or incapacitation (mental defect, mental incapacitation, or physical helplessness). Sexual activity includes: vaginal penetration by a penis; contact between the genitals of a person and the mouth or anus of another person; penetration of the vagina, anus, or penis of another person with any object other than the penis or mouth; touching of the sexual or intimate parts of someone or causing someone to touch the sexual or intimate parts of another for the purpose of sexual gratification.
- G. **Sexual Assault Liaison:** A management staff person designated by the institution superintendent to coordinate response, reporting, monitoring and follow-up to incidents of inmate sexual assault within that institution. The Sexual Assault Liaison shall be assigned as the Sexual Assault Response Team Leader.
- H. **Sexual Assault Response Team (SART):** A team of institution staff consisting of a Behavioral Health Services (BHS) staff member designated by BHS Administration, a Health Services staff member, and the sexual assault liaison who are designated by the superintendent to respond to all incidents of inmate sexual assault or sexual coercion. For the purposes of SART activation, minimum institutions that do not have BHS staff on site will be assigned a SART member by the Behavioral Health Services Administrator.
- I. **Sexual Coercion:** Compelling or inducing another person to engage in sexual activity by deceit, threats, force or intimidation or for personal favors.
- J. **Sexual Solicitation:** The solicitation of another person to engage in sexual activity.
- K. **Special Needs Inmate Evaluation Committee (SNIEC):** This is an institution committee that reviews, evaluates, and manages the needs of special population inmates housed in the custody of the Department of Corrections facilities.
- L. **Special Needs Population Manager:** A central office administrative position that oversees documentation completion, follow up, and tracking of information on reported incidents of sexual assault.
- M. **Staff:** For purposes of this policy staff includes DOC employees, OCE employees, contract service providers, and volunteers.
- N. **Sexual Abuse Victim:** Any inmate, who through documentation, evidence, or as result of reasonable suspicion on the part of staff, has suffered sexual coercion, sexual

solicitation or sexual assault by another inmate or a staff person during the immediate incarceration.

- O. Vulnerable Inmate: An inmate who is at high risk to become a victim of sexual assault by another inmate(s) due to characteristics related to age, physical stature, criminal history and physical or mental disabilities, or past history of being victimized.

III. INMATE EDUCATION

- A. Upon admission to DOC custody at the Intake Center inmates will receive written information about:
 - 1. How to avoid risk situations related to sexual assault;
 - 2. How to safely report rape or sexual activity;
 - 3. How to obtain counseling services and/or medical assistance if victimized; and
 - 4. What the risks and potential consequences are for engaging in any type of sexual activity while incarcerated.
- B. As part of the orientation process at the Intake Center staff will show a DVD presentation to all inmates covering the same issues listed in section A above.
- C. A brief version of the same presentation described in section B above shall be made available to inmates during the admission and orientation process of each institution whenever an inmate is transferred to a different institution.
- D. Each institution will include the information from section A, above, in the Inmate Handbook provided to all inmates received at the facility.
- E. At least twice a year each institution will publish an article in its inmate newsletter concerning various aspects of the Department's effort to eradicate sexual assault, focusing particular attention on encouraging inmates to report sexual assaults.
- F. Each institution will display posters in appropriate locations which are designed to inform all inmates that:
 - 1. DOC has a zero-tolerance policy toward sexual assault; and
 - 2. All inmates are encouraged to report any and all instances of sexual assault.

IV. CLASSIFICATION AND HOUSING

The Department shall provide housing assignments that reduce the likelihood of sexual assault while an inmate is in DOC custody.

- A. Inmates will be assessed at the Intake Center to determine whether they meet specific criteria indicating either vulnerability to sexual assault or a history of sexually abusive behavior.
 - 1. Vulnerable Inmates:

Inmates will be evaluated at Intake to specifically determine their vulnerability to sexual assault as indicated by the following risk factors:

- a. Age (inmates within the following categories):
 - (1) Juvenile, i.e., younger than 18 years of age or appears younger, or
 - (2) Adult inmate younger than 25 years of age, or
 - (3) Adult inmate older than 65 years of age.
- b. Physical stature, (male inmate less than 130 pounds and/or less than 5'8" tall);
- c. Mental or physical disability;
- d. Known Mental illness;
- e. Sex offender status, (per criminal history);
- f. First time offender status, (first time in DOC custody); or
- g. Past history of victimization (per collateral info in chronos, police reports, etc.)
- h. Inmate's own perception of vulnerability.

2. An inmate should be designated with and identified for vulnerability if:

- a. Three or more of the above criteria apply, or
- b. One or more of these factors apply with sufficient documentation by the reviewer to warrant concern.

3. Sexually Abusive Inmates:

Inmates will be evaluated at Intake to specifically determine if there are indications that an inmate is prone to victimize other inmates, especially in regard to sexual behavior, including the following:

- a. History of sexually abusive behavior (per criminal history, misconduct reports and/or UIR re: sexual activity or assault, as well as collateral info in chronos, police reports, etc.);

V. DOC RESPONSIBILITIES

- A. DOC staff must be able to recognize the signs of sexual assault and understand their responsibility in the detection, prevention, and reporting of an alleged sexual assault.
- B. Professional, trained staff must help prevent sexual assaults by acting in the following manner during the performance of their duties.

1. Know and enforce rules regarding sexual conduct of inmates;
 2. Maintain professionalism at all times. Do not laugh or joke about homosexual activity or sexual assault; and
 3. Treat any allegation of sexual assault seriously and follow appropriate reporting procedures.
- C. Staff must recognize that sexual assaults can occur in virtually any area in a correctional facility, especially those that are not directly supervised at all times. Sound correctional practice includes sight and sound supervision of inmates, conducting frequent, random area and cell checks, providing direct staff supervision whenever possible, and maintaining an open line of communication with inmates.
- D. Staff must recognize that first time, youthful, elderly, mentally ill, developmentally disabled, homosexual, or inmates who have committed sex offenses are at an increased risk for vulnerability.
- E. Staff must be aware of possible warning signs that might indicate that an inmate has been sexually assaulted or is in fear of being sexually assaulted. Warning signs include, but are not limited to: isolation, depression, lashing out at others, refusing to shower, suicidal thoughts or actions, seeking protective custody, and refusing to leave segregation.
- F. Staff must be aware of potential sexually abusive behavior. The sexual abuser may be known by the general population. Characteristics or warning signs may include a prior history of committing sex offenses, use of strong arm tactics (extortion), associating or pairing up with inmates who meet the profile of a potential victim, exhibiting voyeuristic/exhibitionistic behavior, and demonstrated inability to control anger.

VI. DEPARTMENT TRAINING

- A. New DOC staff will receive instruction related to the prevention, detection, reporting, and investigation of inmate sexual victimization.
- B. DOC staff will receive training on inmate sexual victimization during annual training.
- C. Specialized training shall be offered periodically to Mental Health professionals, SART members, Health Services professionals, chaplains, DOC investigators, other staff identified by the superintendent.
- D. The Professional Development Unit (PDU) will be responsible for the development and implementation of curriculum for new employee orientation and annual training.
- E. All training will be approved by the PDU.

VII. CONFIDENTIALITY, REPORTING, PROTECTION

- A. Reporting
 1. Access to services for the victim of non-assaultive sexual activity, sexual assault, sexual solicitation, or sexual coercion will not be dependent on the victim's

willingness to report or provide testimony; however, in large measure, the reporting is critical to the timely delivery of necessary services to the victim and holding perpetrators accountable.

2. Inmates are encouraged to report to staff when either of the following conditions exists:
 - a. The inmate has been or is currently a victim of sexual assault, sexual solicitation, or sexual coercion while incarcerated; or
 - b. The inmate has knowledge of sexual assault, sexual solicitation, or sexual coercion having occurred or occurring in a correctional institution.
3. When an inmate reports incidents of sexual assault, sexual solicitation, or sexual coercion to DOC staff members, staff will, except as noted elsewhere in this policy, contact the officer-in-charge (OIC) or supervisor. The OIC will initiate action as outlined in this policy to mitigate:
 - a. Immediate harm to the victim or reporter; or
 - b. Damage to potential crime scenes or evidence.
4. The Department of Corrections, through the Inspector General's Office, shall offer a "DOC Hotline" to accept recorded reports of criminal activity in DOC institutions or other areas under DOC control including sexual assault, sexual solicitation, and sexual coercion. Such reports will be investigated within the limitations of information provided. When the victims of sexual assault, sexual solicitation, or sexual coercion can be identified by investigators, they will be offered access to necessary services available through DOC, regardless of their willingness to report or provide testimony.

B. Confidentiality:

1. Inmates who report to DOC staff that they have been victimized or have knowledge of another inmate who has been sexually assaulted, sexually solicited, or sexually coerced, do so with the understanding that DOC staff will investigate and where appropriate, refer to the Oregon State Police and Special Investigations Unit.
2. Information provided by inmates to DOC staff will be subject to verification by investigators. Information provided in confidential communications to the DOC staff listed below will be shared consistent with and according to the standards required by state statute, professional licensure, and ethical standards.
 - a. DOC Health Services staff
 - b. Behavioral Health Services staff
 - c. Chaplains

3. When interviewing inmates concerning sexual assault, sexual solicitation, and sexual coercion, all DOC staff will inform inmates of any limits to confidentiality prior to conducting the interview.
 4. Under no circumstances should access to treatment resources be denied an inmate victim solely because the inmate will not fully disclose details to investigative staff or health services' staff.
- C. The Oregon Department of Corrections will, to the degree possible within limited resources and applicable laws, protect inmate victims and reporters of sexual assault, sexual solicitation, and sexual coercion from retribution.
- D. Inmates who allege sexual misconduct by staff or other inmates, and whose allegations are proven by investigators to be false will be held accountable through all means available to the DOC.

VIII. REPORTING AND INVESTIGATION OF SEXUAL ASSAULTS

- A. Inmates are encouraged to immediately report sexual assault to any staff member. Upon notification by an inmate that he/she has been sexually assaulted or coerced into unwanted sexual contact, the staff member shall immediately:
1. Ensure the inmate victim is safe and kept separated from the inmate aggressor;
 2. Notify the officer-in-charge;
- B. The officer-in-charge shall ensure:
1. Refer to the OIC Checklist (attached).
 2. Notify Health Services of the sexual assault. Health Services staff will provide appropriate treatment without compromising evidence.
 3. Notify the Sexual Assault Response Team (SART) and advise them of the status of the victim.
 4. Ensure the inmate victim does not shower, eat, or drink until after evidence collection.
 5. Secure the incident area and treat it as a crime scene until released.
- C. The Sexual Assault Liaison or designee:
1. Isolate victim (this may be accomplished by moving to Health Services) and ask the following questions:
 - When did the assault occur?
 - Where did assault occur? (Ensure area secured as a crime scene)
 - Was the assault anal, vaginal, oral or other?
 - When was the last time you showered?
 - Have you changed clothes since the assault?
 - If yes, where is the clothing?

- Have you brushed your teeth since the assault?
- If yes, what is the location of the toothbrush?
- Who assaulted you?

This information should be reported to both the Oregon State Police Dispatch and the DOC Special Investigations Unit. This will generate a case numbers to be noted on the Unusual Incident Report (UIR).

- D. If the sexual assault occurred within the past 96 hours, the officer-in-charge shall:
1. Follow "chain of custody" by securing the clothing of both the victim and alleged abuser. Remove all clothing from the inmate victim and place each item in a separate evidence bag. Mark the evidence bags. Remove all clothing from the alleged inmate abuser and place each item in a separate evidence bag. Mark the evidence bags. Provide appropriate change of clothing to both inmates.
 2. Place the alleged inmate abuser(s) in a dry segregation cell(s).
 3. Do not interview the alleged abuser(s) unless authorized by the Oregon State Police or representatives of DOC Investigations Unit.
 4. Do not allow the alleged abuser to shower.
 5. Notify and brief the Security Manager or Assistant Superintendent of Security and the Superintendent. Notification shall also be made to the Institutions Administrator or Assistant Director for Operations, consistent with DOC policy 40.1.6, Unusual Incident Report Process.
 6. Notify the Oregon State Police.
 7. Notify the Special Investigations Unit.
 8. Work with the institution's Health Services staff and the Oregon State Police to arrange for transport to the local hospital for treatment, examination, documentation, collection of forensic evidence, testing for sexually transmitted diseases, and referral for counseling.
 9. Prepare trip authorization and assign staff to escort.
 10. In cases followed up by the Oregon State Police:
 - a. Maintain crime scene until the scene is released by the Oregon State Police.
 - b. Maintain chain of custody for evidence until evidence is released to the Oregon State Police.
 - c. Prepare an unusual incident report. Attach all related documentation, including memos and misconduct reports.
 11. Referral to Behavioral Health Services (BHS).

- E. If more than 96 hours have passed since the sexual assault occurred, the officer-in-charge shall:
 - 1. In consultation with the sexual assault liaison and DOC investigators, review and apply steps (C) (1) through (7) and step (C) (10) above as appropriate.
 - 2. Work with the institution's Health Services staff for:
 - a. Evaluation and determination of on-site medical evaluation versus transport to the local hospital for treatment, examination, and documentation;
 - b. Testing for sexually transmitted disease; and
 - c. Referral to BHS for counseling.

IX. VICTIM SERVICES

It is the intention of the DOC that there will be no long-term forfeiture of services and programs for victims of sexual assault, sexual coercion or sexual solicitation. Recognizing that the safety of the victim is paramount, the least restrictive housing program assignments will be implemented to achieve that goal.

- A. Medical: Medical access to services for victims of sexual assault will be handled in accordance with Health Services policy and procedure #P-G-09, which include:
 - 1. Necessary post event treatment including coordination with community hospitals;
 - 2. Testing and prophylactic treatment for sexually transmitted disease (STD);
 - 3. Referral to BHS;
 - 4. Communication with the sexual assault liaison any information not confidential;
 - 5. Assignment of an institution Health Services staff member to the Sexual Assault Response Team (SART).
- B. Mental Health – Behavioral Health Services will:
 - 1. Interview the victim to determine history and assess whether or not there are new issues to address or if there is suicidal ideation;
 - 2. Determine whether there is a need for long-term treatment;
 - 3. Development and management of a treatment policy;
 - 4. Communicate with the sexual assault liaison regarding any information deemed not confidential; and
 - 5. Assign a mental health provider to the Sexual Assault Response Team (SART).
- C. Safety and Protective Services: The sexual assault liaison shall:

1. Determine whether it is reasonable or necessary to activate the Sexual Assault Response Team;
2. Coordinate with the OIC and the SART to assure the victim is physically safe and provided treatment by Health Services or BHS as necessary;
3. Maintain a minimum of monthly contact with the victim to assure he/she is not subjected to prolonged forfeiture of services or privileges as a result of his/her victim status;
4. Monitor treatment needs and participation of victims and abusers in prescribed programs;
5. Participate in the institution's SNIEC Committee to ensure that all identified sexual abusers and all identified sexual victims are reviewed regularly by the SNIEC at the institution where they are housed to review housing, work, and program assignments;
6. Communicate with transport staff and the sexual assault liaison at the receiving institution when a victim or aggressor is transferred;

X. DEPARTMENTAL (CENTRAL OFFICE) FUNCTIONS

The Special Needs Population Manager shall:

- A. Ensure that annual audits include inspection for areas and situations where sexual assault may be likely to occur and recommend mitigation for those areas and situations;
- B. Collect and compile data and coordinate surveys to ensure continuity of services, operational improvements, and establishment of baselines;
- C. Produce an annual summary for the Director and Deputy Director on the frequency and severity of sexual assault/sexual misconduct within DOC institutions including trends during the year, comparisons to previous years, and deficiencies identified in the annual audit.
- D. Develop training standards in response to policy directives concerning sexual misconduct and sexual assault.

XI DATA COLLECTION AND COMPILATION

- A. The Department shall collect information related to the purposes outlined at the beginning of this policy; specifically to gather data that will help DOC reduce the risk that sexual assault and/or sexual activity would occur within DOC facilities.
- B. The Special Needs Population Manager shall be responsible to identify the specific data that must be collected and to work with the sexual assault liaison from each institution to assure data is submitted within the required timeframe. This data will be compiled into monthly and annual reports for submission to the Director. The purpose of these reports is to:

1. Establish a baseline of data documenting the prevalence of incidents involving sexual assault and sexual activity, as gleaned from all available sources; including misconduct reports, unusual incident reports, and reports to the Inspector General's Hotline;
2. Provide information to DOC administrators concerning where efforts are needed for the improvement of institutional operations related to the reduction of sexual assault and sexual activity;
3. Document that there is accountability for those who perpetrate sexual assault or sexual activity by tracking:
 - a. The adjudication of misconduct reports related to sexual assault and sexual activity, including the disposition of each case;
 - b. The status of investigations conducted by the Special Investigations Unit and/or the Oregon State Police concerning suspected incidents of sexual assault and/or sexual activity; and
 - c. Referrals of sexual assault or sexual activity cases for prosecution, including the status and outcome of such efforts within the judicial system.
4. Document that victims of sexual assault receive appropriate follow-up care as outlined in this policy, Victim Services, including data related to each of the steps listed in that section;
5. Compile information, collected directly from the inmate population by means of various survey methods, which relates to the prevalence of sexual assault and/or sexual activity within the institutions, including the circumstances that contribute to this kind of behavior, in order to provide insight into potential strategies for its reduction or elimination.

IV. IMPLEMENTATION

This policy will be adopted immediately without further modification.