



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**DEPARTMENT WIDE**  
OFFENDER MANUAL

REVISION DATE  
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NUMBER  
**DOC 490.800**

**POLICY**

TITLE  
**PREVENTION AND REPORTING OF SEXUAL MISCONDUCT**

**REVIEW/REVISION HISTORY:**

Effective: 5/9/06  
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Revised: 1/15/10  
Revised: 2/12/10

**SUMMARY OF REVISION/REVIEW:**


II.B.3.a. - Added clarifying language

**APPROVED:**

Signature on file

\_\_\_\_\_  
**ELDON VAIL**, Secretary  
Department of Corrections

2/9/10  
Date Signed

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**REFERENCES:**


DOC 100.100 is hereby incorporated into this policy; [RCW 9A.44.010](#), [040](#), [050](#), [060](#), [100](#), [115](#), [160](#), [170](#); [RCW 72.09.225](#); [ACA 4-4281-1](#); [ACA 4-4281-6](#); [ACA 4-4281-7](#); DOC 400.100 Incident and Significant Event Reporting; DOC 410.050 Emergency Management Plan; [DOC 420.310 Searches of Offenders](#); [DOC 420.325 Searches and Contraband for Work Release](#); [DOC 420.375 Contraband and Evidence Handling](#); [DOC 420.390 Arrest and Search](#); [DOC 450.100 Mail for Offenders](#); [DOC 450.500 Language Services for Limited English Proficient \(LEP\) Offenders](#); [DOC 490.820 Prison Rape Elimination Act \(PREA\) Risk Assessments and Assignments](#); [DOC 490.850 Response to and Investigation of Sexual Misconduct](#); [DOC 550.100 Offender Grievance Program](#); [DOC 690.400 Offenders with Disabilities](#); [Prison Rape Elimination Act of 2003](#); Jordan v. Gardner, 986 F.2d 1521, 9<sup>th</sup> Cir. 1993

**POLICY:**

- I. The Department has established procedures for recognizing, preventing, reporting, investigating, and adjudicating incidents of sexual abuse, sexual assault, sexual harassment, and sexual misconduct against offenders who are under the Department's jurisdiction.

**DIRECTIVE:**


- I. General
  - A. The following terms are associated with this policy:
    1. Sexual misconduct includes offender-on-offender sexual assault, sexual abuse, sexual harassment, and consensual sex acts. It also includes staff-on-offender sexual harassment, staff sexual misconduct, and staff misconduct of a sexual nature.
      - a. These terms are further defined in Prison Rape Elimination Act (PREA) Definitions (Attachment 2).
    2. Staff includes Department employees, volunteers, contract personnel, and any other person providing services in Department facilities or offices.
  - B. [4-4281-6] The Department has zero tolerance for sexual misconduct. Incidents of sexual misconduct will be referred to law enforcement for prosecution when appropriate and the Department will impose disciplinary sanctions for such conduct, up to and including dismissal for staff and a serious infraction for offenders.

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- C. [4-4281-6] Neither state law nor the Department recognizes a defense of consensual sexual contact between staff and offenders.
- D. The Department prohibits retaliation against any individual because of his/her involvement in the reporting or investigation of a complaint. The Department will treat retaliation as a separate offense subject to investigation, administrative sanctions, and possible referral for criminal prosecution.

## II. Responsibilities

- A. The Prison Rape Elimination Act (PREA) Program Administrator will:
  1. Develop and implement written policies that follow best correctional practices and meet the intent of the PREA legislation.
  2. Develop and implement a comprehensive PREA audit system to assess safety and compliance with applicable laws and policy directives.
    - a. Audits will be conducted on an annual basis in all Prisons, Work Releases, Field Offices, Regional Administrative Services offices, and Headquarters.
    - b. A follow-up action plan will be developed and tracked to address identified deficiencies.
  3. Develop and coordinate procedures to identify, monitor, and track incidents of sexual misconduct.
  4. Compile and review sexual misconduct statistics at least annually to identify patterns or trends, and using the information to guide decision making, policy development, and operational practices regarding sexual misconduct issues.
  5. Approve all annual PREA review training for staff and offenders.
    - a. Recommendations for changes to the training will be reported in writing to the Secretary.
    - b. Changes to the training will be coordinated with the Organizational Development Unit and the Offender Orientation Workgroup.
  6. Serve as PREA liaison for staff assigned to Headquarters and Regional Administrative Services offices.

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- B. Each Superintendent and Field Administrator will assign a non-investigator staff outside of any Intelligence and Investigation Unit to serve as PREA liaison to:
1. Initiate directives from the PREA Program Administrator.
  2. Audit local compliance with PREA training requirements.
  3. Perform checks to verify the PREA hotline telephone number is posted on or near all offender telephones.
    - a. A monthly functionality test of a random sampling of offender telephones will be completed by verifying the toll-free number is operational, Inmate Personal Identification Number (IPIN) is not required, and the calls are not being recorded locally.
  4. Perform monthly checks to verify posters and brochures provided by the PREA Administrator regarding zero tolerance, definitions, policy, and reporting avenues are maintained in health care, counselor offices, housing units, public access areas, and other appropriate areas to ensure ready access to information by offenders and the public.

### III. Offender Accommodations

- A. Professional interpreter or translation services are available to assist offenders with limited English or literacy skills in understanding this policy, reporting, and/or participating in the investigation of incidents of sexual misconduct.
1. If an offender with limited English skills becomes a complainant or a witness to sexual abuse within the Department, professional interpreting and translation services will be available per DOC 450.500 Language Services for Limited English Proficient (LEP) Offenders.
  2. Accommodations, including sign language interpreting services and assistance to offenders with intellectual disabilities, will be provided per DOC 690.400 Offenders with Disabilities.
  3. Offenders will not be used as interpreters or translators in any activities related to a PREA allegation/investigation.

### IV. Prevention Planning

- A. The Department seeks to hire, retain, and promote staff who have not demonstrated abusive behavior or indifference to the importance of preventing and responding to sexual misconduct by offenders or staff. To the extent


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permitted by law, the Department will not re-employ staff who have been terminated for engaging in staff sexual misconduct.

- B. Within available fiscal resources, the Department will use video security monitoring systems and relevant technology to enhance the safe operation of facilities for staff and offenders. Superintendents will annually assess the facility security monitoring systems in relationship to locations of previous incidents of sexual and/or physical assaults to determine the need for increased security and/or monitoring in the locations and include requests for upgraded and/or additional equipment in their annual budget requests if necessary and appropriate.

V. Training Requirements

- A. All staff will receive documented PREA training during New Employee Orientation, Correctional Worker Core, and/or Volunteer Orientation and annually thereafter.
- B. Training will include, but is not limited to:
  1. Review of this policy and related operational memorandums, the Prison Rape Elimination Act of 2003, and any other applicable state or federal laws, including potential criminal penalties and potential disciplinary consequences of engaging in prohibited activities,
  2. Prevention of sexual misconduct,
  3. Zero tolerance stance,
  4. Recognition of possible signs of:
    - a. Sexual misconduct,
    - b. Predatory offenders,
    - c. Potential victims, and
    - d. Staff involvement.
  5. Staff obligation to report information regarding possible sexual misconduct, the methods of making such reports, and the disciplinary consequences for failing to report.
  6. Examples of conduct, circumstances, and red flags that may be precursors to staff sexual misconduct.
  7. The need for confidentiality in cases of sexual misconduct.

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- C. Specialized training will be provided for Classification, Investigation, and Health Care staff.
1. Training for Classification staff will be developed jointly by the PREA Administrator and Organizational Development Director and delivered locally. Training will include:
    - a. Completion of screening/risk assessment instruments, and
    - b. Counseling and monitoring procedures.
  2. Training for investigators will include:
    - a. Crime scene management/investigation,
    - b. Confidentiality of all investigation information,
    - c. Crisis intervention,
    - d. Investigating sexual misconduct,
    - e. Techniques for interviewing sexual abuse victims, and
    - f. Criteria and evidence required to substantiate a case for administrative action or prosecution referral.
  3. Training for medical and mental health staff will be conducted as needed and will include:
    - a. Detecting and assessing signs of sexual abuse and/or sexual predation,
    - b. Responding to sexual assault victims,
    - c. Preservation of physical evidence,
    - d. How and to whom to report sexual assaults, and
    - e. Counseling and monitoring procedures.
  4. Shift Commanders, Duty Officers, Superintendents/Community Corrections Supervisors/designees will complete training in implementing the PREA Response and Containment Checklist (Attachment 1) as needed.
- D. Trainers will be fully knowledgeable of relevant laws and requirements of PREA and will use the outline and materials approved by the PREA Administrator.
- E. Training will be documented in Staff Training and Tracking Information System (STATIS).
- VI. Offender Orientation [4-4281-1]



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- A. Offenders will receive information relating to sexual misconduct during orientation at Reception Diagnostic Centers and when transferring between facilities. The information will be communicated orally and in writing, in a manner that is clearly understood by offenders and will include the current PREA informational brochure.
1. Information provided will include:
    - a. Review of this policy, DOC 490.850 Response to and Investigation of Sexual Misconduct, related operational memorandums, the Prison Rape Elimination Act of 2003, and other applicable state or federal laws, including potential criminal penalties,
    - b. The Department's zero tolerance stance,
    - c. Definitions and examples of prohibited and/or illegal behaviors that might constitute sexual misconduct,
    - d. Self-protection strategies,
    - e. Prevention and intervention,
    - f. Sexual harassment,
    - g. Examples of conduct, circumstances, and red flags that may be precursors to sexual misconduct,
    - h. Various ways sexual misconduct may be reported,
    - i. That all allegations of sexual misconduct are taken seriously and investigated thoroughly,
    - j. Confidentiality in cases of sexual misconduct,
    - k. Treatment and counseling,
    - l. Staff requirement to report allegations,
    - m. Protection against retaliation, and
    - n. Disciplinary actions for making false allegations.
  2. Facilities may incorporate additional facility-specific information.

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3. The offender orientation on PREA will be presented by someone fully knowledgeable of relevant laws and requirements of PREA and will use the outline and materials approved by the PREA Administrator.
- B. PREA information will be provided to offenders upon their intake at Work Release or community supervision.
- C. Offender PREA orientation attendance will be documented in the offender's electronic file.

## VII. Reporting

- A. [4-4281-7] Offenders, staff, visitors, offender family members/associates, and other community members can report allegations of sexual misconduct in, but not limited to, the following ways:
  1. Confidential Hot Line: 800-586-9431
    - a. A toll-free telephone service available to anyone to report sexual misconduct.
      - 1) The toll-free number will be posted next to or on all offender telephones in Prisons and Work Releases.
    - b. All calls are confidential and will not be recorded or monitored at the facility. An IPIN will not be required to place a call to the hotline.
    - c. Calls to the hotline will be recorded at Headquarters and messages will be checked by staff of the Special Investigations Unit daily, Monday through Friday, except holidays.
  2. Verbal complaints
    - a. Anyone may inform any employee of an allegation of sexual misconduct.
  3. Offenders may make written complaints through the following processes:
    - a. Offender kites,
    - b. Offender grievances and emergency offender grievances per DOC 550.100 Offender Grievance Program and the Offender Grievance Program Manual,

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1) Grievances alleging sexual misconduct will be forwarded immediately to the Appointing Authority, then to the PREA Administrator for review and investigation assignment.

c. Written notes or letters to staff or administrators, and

d. Letters directed to the Special Investigations Unit (SIU) at Headquarters.

1) Letters will be handled as legal mail per DOC 450.100 Mail for Offenders.

#### VIII. Confidentiality

A. Staff and offenders must maintain confidentiality on information regarding allegations of sexual misconduct. Information may not be released:

1. To anyone other than Department staff designated to conduct the investigation, disciplinary process, and/or provide advocacy services, unless instructed otherwise by the Appointing Authority, or


2. If doing so is necessary for the purpose of conducting a thorough and fair investigation, aiding in criminal investigation, protecting any person's physical safety or mental health, if required to do so by law or court order, or as directed in this policy.

B. Staff alleged to have engaged in staff sexual misconduct or who participate in an investigation as a witness may discuss the allegation(s) with union representation, legal counsel, or anyone else they designate to represent them during the investigation and disciplinary process, and/or their spouse/state registered domestic partner.

C. Information related to sexual victimization or abuse is strictly limited to medical and mental health practitioners and staff as needed to develop treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.

#### IX. Requirements to Report

A. Staff and offenders must immediately report any knowledge, suspicion, or information received regarding an incident of sexual misconduct, including knowledge of staff neglect or violation of responsibilities that may have contributed to an incident.

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- B. Staff receiving written complaints regarding an allegation or incident of sexual misconduct must deliver them confidentially to the Appointing Authority/designee as soon as possible, but no later than the end of shift.
- C. Staff receiving verbal information about sexual misconduct will report the information using DOC 21-917 Incident Report to the Appointing Authority/designee as soon as possible, but no later than the end of shift.
- D. Allegations made against the Appointing Authority will be reported to the applicable Deputy Director or Regional Administrator.
- E. Failure to report an allegation, or knowingly or willfully submitting, coercing, or threatening another to submit inaccurate, incomplete, or untruthful information, will be treated as a separate offense subject to administrative sanctions.

**DEFINITIONS:**

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

**ATTACHMENTS:**

- [PREA Response and Containment Checklist \(Attachment 1\)](#)
- [Prison Rape Elimination Act \(PREA\) Definitions \(Attachment 2\)](#)

**DOC FORMS:**

- [DOC 21-917 Incident Report](#)