

Sixth District Department of Correctional Services POLICY		Issue Date 10/18/13	Effective Date 03/25/21	Policy Number 2404-21
Subject SEXUAL MISCONDUCT WITH OFFENDERS COMMUNITY CONFINEMENT STANDARDS (PREA Reporting)		Review Month June	Author 0120 (CDE)	
Rescinds 2404-17	Reference	Prison Rape Elimination Act-Community Confinement Standards, United States Department of Justice Final Rule 28 C.F.R. Part 115, Docket No. OAG-131, RIN 1105-AB34, May 17, 2012		
	PREA Standards	§115.251 115.252, 115.253, 115.254		

PURPOSE:

To establish policy in regard to reporting of incidents covered by the Prison Rape Elimination Act (PREA) Reporting.

POLICY:

It is the policy of the Sixth Judicial District Department of Correctional Services to provide a safe, humane and secure environment, free from the threat of sexual violence and sexual harassment for all offenders, by maintaining a program of education, prevention, detection, response, investigation, prosecution and tracking. The Sixth Judicial District Department of Correctional Services has zero tolerance for sexual violence of any kind.

This policy applies to all employees, prospective employees, interns, volunteers and contractors of the Sixth Judicial District, Department of Correctional Services and is maintained current by the District Director or the Designee.

PROCEDURE:

1. Offender Reporting §115.251:
 - A. The Department provides multiple internal ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
 - 1) Report to staff verbally;
 - 2) Report to staff in writing;
 - 3) Report via grievance form and give to staff.
 - B. The Department also informs offenders of at least one (1) way to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, allowing the offender to remain anonymous upon request.

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PROCEDURE: (continued)

- 1) Report to the State Ombudsman's Office;
 - 2) Report to State Victim Services Coordinator;
 - 3) Report to District PREA Coordinator.
2. Staff reporting:
- A. Staff accepts reports made verbally, in writing, anonymously and from third parties and promptly documents any verbal reports (2404A, 2404B).
 - B. Staff may privately report sexual abuse and sexual harassment of offenders to the PREA Coordinator or designee(s). Initial reports taken from an offender where the alleged incident occurred at a federal, state, county, juvenile correctional or jail setting; treatment facility or while under field services supervision at the federal, state, county or juvenile level are reported immediately to the PREA Coordinator or designee (s).
3. Exhaustion of Administrative Remedies §115.252:
- A. There is no time limit on when an offender may submit a grievance regarding an allegation of sexual abuse.
 - B. The Department may apply otherwise applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.
 - C. The Department does not require an offender to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
 - D. Nothing in this section restricts the Department's ability to defend against a lawsuit filed by an offender on the ground that the applicable statute of limitations has expired.
 - E. The Department ensures that:
 - 1) An offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
 - 2) Such grievance is not referred to a staff member who is the subject of the complaint.

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PROCEDURE: (continued)

- F. The Department issues a final agency decision on the merits of any portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance.
- G. Computation of the ninety (90) day time period does not include time consumed by offenders in preparing any administrative appeal.
- H. The Department may claim an extension of time to respond, of up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision. The Department notifies the offender in writing of any such extension and provides a date by which a decision is made.
- I. At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response as a denial at that level.
- J. Third parties, including fellow offenders, staff members, family members, attorneys and outside advocates, are permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and are also permitted to file such requests on behalf of offenders.
- K. If a third party files such a request on behalf of an offender, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.
- L. If the offender declines to have the request processed on his or her behalf, the agency documents the offender's decision.
- M. The Department establishes procedures for the filing of an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse.
 - 1) After receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, staff immediately forwards the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to management, who provides an initial response within forty-eight (48) hours and issues a final agency decision within five (5) calendar days. The initial response and final Department decision documents the Department's determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

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PROCEDURE: (continued)

- N. Offenders may be disciplined for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the offender filed the grievance in bad faith.
4. Offender Access to Outside Confidential Support Services §115.253:
- A. The facility provides offenders with access to outside Victim Advocates for emotional support services related to sexual abuse by giving offenders mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between offenders and these organizations, in as confidential a manner as possible (2404C).
 - B. The facility informs offenders, prior to giving them access, of the extent to which such communications are monitored and the extent to which reports of abuse are forwarded to authorities in accordance with mandatory reporting laws.
 - C. The Department maintains or attempts to enter into a Memorandum of Understanding or other agreements with community service providers that are able to provide offenders with confidential emotional support services related to sexual abuse. The Department maintains copies of agreements or documentation showing attempts to enter into such agreements.
5. Methods of Third-party Reporting §115.254:
- A. Third parties to offenders may report sexual abuse and/or sexual harassment by contacting any staff member, filing a verbal or written report, assisting an offender with a report or via the Department's website (www.sixthdcs.com).

BY ORDER OF:

Bruce Vander Sanden, District Director