

Prison Rape Elimination Act (PREA)

Initial & Annual Training for
Contracted Language Interpreters



What is PREA?

PREA is federal legislation that addresses sexual assault of adult and juvenile incarcerated individuals, and applies to:

- Federal and state prisons, juvenile detention facilities, lock-ups, jails, and ICE detention facilities
- Public and private correctional institutions
- Certain community-based residential facilities (e.g. in-patient substance abuse treatment facilities for individuals on community supervision)

PRISON RAPE ELIMINATION ACT OF 2003

PREA was enacted to:

- Protect individuals from prison rape
- Prevent, reduce and eliminate the incidence of sexual assault and sexual misconduct

Policies related to PREA and the Department of Corrections can be found at DOC.WA.GOV
(Scroll to the bottom center of the page and click on “Policies”)

* Definitions of terms used in this training can be found at the end of the slide.

WHO does PREA include?

PREA covers sexual behavior between:

- Incarcerated individuals, when non-consensual
(Note: Consensual sexual behavior between incarcerated individuals is not covered under PREA; however DOC Policies do prohibit this type of behavior)
- *Staff* and incarcerated individuals:
Any sexual behavior involving *staff* falls under PREA regardless of the incarcerated individual's consent to engage in the behavior.

Who are considered staff?

It is important to understand that when you see the term “*staff*” used throughout this training and in policy, it refers to the following individuals: paid employees of the Department of Corrections, all volunteers, and all contract staff alike.

LESSON OBJECTIVES

By the end of this presentation, you will be able to:

- Identify your responsibilities in preventing, detecting, reporting, and responding to sexual misconduct situations in accordance with PREA standards, laws, and DOC policies.
- Describe how to report sexual misconduct within DOC facilities.
- Define ‘zero tolerance’ for sexual misconduct in the agency.

Offender Related Terms

Offender on
Offender
Aggravated
Sexual Assault

Offender on
Offender
Sexual Assault

Offender on
Offender
Sexual Abuse

Offender on
Offender Sexual
Harassment

What is **SEXUAL MISCONDUCT?**

Definitions can be found
at the end of the slide.

Staff Related Terms

✓ Staff

Staff Sexual
Misconduct

Staff Aggravated
Sexual Assault

Staff Sexual
Harassment

WHAT DOES ‘ZERO TOLERANCE’ MEAN?

Zero Tolerance means:

- All allegations of sexual misconduct WILL:
 - be taken seriously and investigated
 - be referred to local law enforcement when appropriate
- The Department WILL impose disciplinary sanctions for sexual misconduct up to and including termination.
- The Department PROHIBITS retaliation against any person because of his/her involvement in the reporting or investigation of a PREA complaint

See also DOC Policy 490.800 PREA Prevention & Reporting

PREVENTING AND DETECTING SEXUAL MISCONDUCT

An important key to prevention is to keep your communication **PROFESSIONAL** and *within the scope of your duty* at all times.

- There is no such thing as a *consensual* sexual relationship between and incarcerated individual and *staff*.
- Due to the imbalance of power, in the eyes of the law incarcerated individuals are NOT able to give consent to any type of sexual contact with *staff*, and will be considered the victim.
- *Staff* will always be held accountable for any inappropriate relationship with an incarcerated individual.

PROFESSIONAL COMMUNICATION

It is important to understand that there are underlying factors to consider when communicating with incarcerated individuals. These factors are especially important when communicating about issues of a sensitive nature.

Gender: Keep in mind that men and women may respond very differently to sexual assault and trauma. Some may wish to talk about it and some may not.

Geographical: Where an individual is from geographically may influence the way they interpret things. It is important to understand that interpretations may differ from one person to another due to their geographical differences.

PROFESSIONAL COMMUNICATION

Generational: Older incarcerated individuals tend to be more private and may hesitate to disclose abuse; and younger incarcerated individuals may define sexual issues differently (for example, the belief that oral sex is not as serious or significant as sexual intercourse).

Cultural: Be aware of cultural differences and understand that this may impact the way an incarcerated individual communicates. An example of this is how some cultures avoid direct eye contact, or have differing opinions on personal space and physical touch.

It is the Department's expectation that **ALL staff** will communicate professionally with **ALL** incarcerated individuals regardless of similarities or differences.

INTERACTIONS WITH THE LGBTI COMMUNITY

The Department of Corrections houses incarcerated individuals who identify as LGBTI (lesbian, gay, bisexual, transgender, or intersex).

- Create and maintain an environment that supports open dialogue.
- Be mindful of your own beliefs, cultural norms, and gaps in knowledge surrounding LGBTI issues and individuals, and be sure you treat everyone the same.

AVOID STEREOTYPING

Be cautious not to make assumptions based upon stereotypes:

- Understand that anyone can be a victim.
- Do not assume, based on an incarcerated individual's appearance, that he/she cannot be a victim.
- Do not assume that LGBTI incarcerated individuals cannot be sexually assaulted by someone of the same gender.
- Do not assume that mentally ill individuals are not credible witnesses or incapable of telling the truth.
- Do not assume that a history of prostitution means that individuals want to have sex with staff or other incarcerated individuals.

BEHAVIORS TO AVOID

Working around incarcerated individuals can be challenging. You may be surprised at some of the negative or positive feelings that you may have. Below are some of the “red flags” that can warn you that your boundaries could be eroding:

- Do you find yourself looking for extra opportunities to be around the incarcerated individual?
- Are you keeping a secret with an incarcerated individual?
- Would you be reluctant to have another staff member or a family member overhear a conversation that you are having with an incarcerated individual?
- Do you talk about your personal issues with the incarcerated individuals?
- Do you believe you can ask an incarcerated individual to do personal favors for you?

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BEHAVIORS TO AVOID (cont.)

- Do you seek personal advice from an incarcerated individual?
- Are you saying anything to an incarcerated individual that you would not want tape recorded?
- Do you have thoughts or fantasies about touching or kissing a particular incarcerated individual?
- Does this extend to planning how you can be alone with him/her?

Remember – NO SECRETS!

1. Eroding boundaries are often characterized by the need to keep a secret.
2. Never share confidential information about one incarcerated individual with another.
3. In your service to DOC, you are obligated to report situations that pose a risk to public safety or violate conditions of supervision.

PREVENTING AND DETECTING SEXUAL MISCONDUCT

- Take EVERY report of sexual abuse or assault as credible.
- Treat victims and the accused as individuals.
- Promote a culture where incarcerated individuals feel safe communicating with you.

**It is up to YOU to create and maintain an environment
that supports open dialogue!**

IMPACTS OF SEXUAL MISCONDUCT IN CORRECTIONAL SETTINGS

The impacts of sexual misconduct in a correctional environment are harmful to all: the incarcerated individuals, the organization, and the public.

Sexual Misconduct:

- Violates the constitutional rights of the incarcerated individuals
- Destroys trust among staff and the incarcerated individuals
- Is illegal
- Jeopardizes the safety, security, and operations of the correctional facilities
- Creates a hostile environment
- Undermines the public support and trust of the agency, facility, and staff
- Exposes the entire agency and staff to civil and criminal liability
- Corrupts professionals by inviting dishonesty and compromise
- Victimizes those already vulnerable due to their susceptibility to inappropriate behavior, their history of abuse, and their subordinate position

REPORTING SEXUAL MISCONDUCT

~ What you need to know as a First Responder ~

If you become aware of sexual misconduct, you *immediately* become the “First Responder”. As First Responder, it is your responsibility to:

- Identify and stabilize the situation
- Ensure the victim and accused are separated
- Tell a blue badged staff member that you need to speak with the Shift Commander or Appointing Authority immediately
- Follow Shift Commander or Appointing Authority’s instruction
- Relay important observations

Due to confidentiality, you are NOT authorized to share details with any person other than the Shift Commander or Appointing Authority (not other *staff*, other incarcerated individuals, etc.).

CONFIDENTIALITY AS IT RELATES TO PREA

- *Staff* shall not reveal any sexual misconduct information apart from reporting to the Shift Commander/Appointing Authority.
- *Staff* who breach confidentiality may be subject to corrective action up to and including termination.
- Whether you are directly or indirectly involved, investigations can be very stressful. If necessary, you may take questions or concerns to your Appointing Authority (Superintendent in a prison setting).

CONFIDENTIALITY

Contractors must not disclose confidential information obtained while conducting contract related business. Contractors are subject to the same rules of confidentiality as the paid Department employees and as outlined in the Confidentiality Agreement. It is recommended that Contractors who have questions regarding what is disclosable to incarcerated individuals and/or the public, consult with their Contract Manager prior to disclosing any information. If Contractor becomes aware of any information that is “life-safety” related, they are mandated to share the information immediately with a blue badged employee.

RELATED DOC POLICIES

490.800 PREA Prevention & Reporting

490.820 PREA Risk Assessments & Assignments

490.850 PREA Response

490.860 PREA Investigations

Public Law 108-79-Prison Rape Elimination Act of 2003

Policies related to
PREA and the
Department of
Corrections can
be found at
DOC.WA.GOV

(Scroll to the bottom
center of the page and
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(scroll to the bottom

SEXUAL MISCONDUCT DEFINED

Sexual Misconduct includes aggravated sexual assault, offender-on-offender sexual assault, sexual abuse, and sexual harassment. It also includes staff-on-offender sexual harassment and staff sexual misconduct.

Staff include Department employees, contract staff, volunteers, and any other person providing services in Department facilities or offices.

Consensual, non-coerced sexual activity between offenders is prohibited by Department rule, but is not defined as a violation of PREA policies.

Aggravated Sexual Assault

Aggravated Sexual Assault includes sexual acts perpetrated by either staff or an offender that occurred within the previous 120 hours and involve penetration or exchange of body fluids.

Offender-on-Offender Sexual Assault

Offender-on-Offender Sexual Assault is an incident in which one or more of the following acts occurs between 2 or more offenders without an offender's consent or when an offender is unable to consent or refuse:

1. Contact between genitalia (i.e., penis, vagina) or between genitalia and the anus involving penetration, however slight. This does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than sexually exploit.
2. Contact between the mouth and the penis, vagina, or anus.
3. Penetration of the anal or genital opening of another person by a hand, finger, or other object.
4. Coerced sexual activity in response to pressuring, offer of protection, payment of debt, etc.

Offender-on-Offender Sexual abuse

Offender-on-Offender Sexual Abuse includes sexual contact between 2 or more offenders without an offender's consent or when an offender is unable to consent or refuse, including intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttock of the victim. This does not include kicking, grabbing, or punching when the intent is to harm or debilitate rather than sexually exploit.

Staff Sexual Misconduct

Engaging in sexual intercourse with an offender.

Sexual intercourse includes vaginal, anal, and oral intercourse, as well as the penetration of an offender's vagina or anus with an object, when such penetration is not performed for the purpose of providing medical care or is without a legitimate penological purpose.

Allowing an offender to engage in sexual intercourse as defined above with another staff.

Intentionally touching, either directly or through clothing, the genitalia, anus, groin, thigh, or buttock of an offender or the breast of a female offender without a legitimate penological purpose.

Compelling or allowing an offender to touch the genitalia, anus, groin, thigh, breast, or buttock of any staff or another offender, either directly or through clothing, without a legitimate penological purpose.

Kissing an offender, or allowing oneself to be kissed by an offender.

Knowingly exposing one's genitalia, anus, groin, thigh, breast, or buttock to an offender.

Voyeurism - Observing an offender's partially or fully naked body or an offender engaging in a sexual act with him/herself or another offender without legitimate penological purpose. This does not include inadvertent or unavoidable observation or when such observation is the result of offender initiated actions (e.g., flashing).

Engaging in any of the following acts for the purpose of gratifying the sexual desire(s) of any person or getting an offender to engage in staff sexual misconduct, or when the act has sexual undertones (i.e., can reasonably be inferred to be sexual in nature, judged according to a reasonable person's reaction to a similar act under similar circumstances):

Writing letters, showing pictures, or offering gifts or special privileges to an offender.

Engaging in a personal relationship with an individual known to be under Department jurisdiction, without legitimate penological purpose unless expressly authorized by the Secretary/designee.

Pat or strip searches conducted in violation of DOC 420.310 Searches of Offenders, DOC 420.325 Searches and Contraband for Work Release, DOC 420.390 Arrest and Search, and/or operational memorandums.

Threatening, bribing, or coercing an offender to engage in staff sexual misconduct.

Attempting to engage in staff sexual misconduct.

Purposefully helping another person engage in staff sexual misconduct.

Discouraging or preventing offenders and/or staff from making good faith reports of staff sexual misconduct.

Sexual Harassment includes:

Deliberate and repeated, unsolicited statements or comments of a sexual nature directed to any individual, including demeaning references to gender or derogatory comments about body or clothing, to include:

Comments made by staff about an offender's body intended to abuse, humiliate, harass, degrade, or arouse any person.

Demeaning or sexually oriented statements/gestures made by staff in the presence of an offender.

Staff threatening, intimidating, coercing, or using abusive language toward an offender.

Repeated profane or obscene language/gestures of a sexual nature.

Threats of sexual misconduct made by one offender to another offender.

FINAL STEPS

You are one step away from completing your PREA Training!!

TO COMPLETE THE COURSE:

- Print the next slide: **PREA Disclosure and Training Acknowledgement for Volunteers.**
(The content of the form is taken straight from DOC Form 03-523 however the appearance has been altered to fit this PowerPoint)
- Read the form carefully and initial each statement.
- Sign the form and send a copy to DOC Language Services (and don't forget to keep a copy for yourself).

You can send the form in by:

- * Scan and email to DOCLANGUAGESERVICES@DOC1.WA.GOV
- * Take a photo of the signed document and email to DOCLANGUAGESERVICES@DOC1.WA.GOV
- * Mail through the US Mail System to:

Department of Corrections
ATTN: Language Services
7345 Linderson Way SW
Olympia, WA 98501

PREA DISCLOSURE AND TRAINING ACKNOWLEDGEMENT FOR VOLUNTEERS (DOC 03-523)

Initial on
lines

Print Full Name: _____

Volunteer Start Date: _____

Facilitie(s) where you volunteer: _____

- I confirm that I have not engaged in sexual misconduct with an individual under Department supervision. I acknowledge and understand that I have a continuing duty to disclose and immediately report to the Appointing Authority my involvement in any form of sexual misconduct.
- I have not engaged in sexual abuse in a prison/jail//lockup/community confinement/ juvenile facility or other institution defined as follows: Any facility or institution which is owned, operated, managed by, or providing services on behalf of the State, Federal Government, or political subdivision of a State (i.e., county, city or town). This does not include employment in privately owned and operated facilities such as nursing homes where the sole connection to the State is a state license to operate the establishment unless state and/or federal government agencies contract with the facility or its parent company to house incarcerated individuals. (e.g., facility for the mentally ill, disabled, chronically ill, or handicapped, residential care or treatment facility for juveniles, facility that provides skilled nursing, intermediate or long-term care, or custodial residential care).
- I have never been civilly or administratively adjudicated (there was a formal finding and a judgement or a decision was rendered in a civil or administrative proceeding) or otherwise found to have engaged or attempted to engage in sexual abuse/assault in any setting.
- I have never been accused of or investigated for sexual harassment or sexual involvement of any type in any place I have worked or volunteered.
- I have never been the subject of substantiated allegations of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment.
- I have not engaged in any incident of sexual harassment or sexual misconduct not addressed above.
- All answers and statements are true and complete to the best of my knowledge. I understand that untruthful answers or deliberate omissions may cause termination of volunteer services.
- I have successfully completed the Prison Rape Elimination Act (PREA) volunteer training. I verify that I have reviewed and understand all sections of the training course and all answers and statements are true and complete to the best of my knowledge.

 **Signature:** _____

Date Training Completed: _____