



# Prison Rape Elimination Act Prevention, Investigation & Reporting

Policy Owner: VP of Treatment & Reentry Services

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## Purpose

The Prison Rape Elimination Act (PREA) Prevention, Investigation and Reporting policy is established to ensure all individuals within Pioneer Human Services (PHS) facilities are free from sexual abuse and sexual harassment (defined by PHS as “sexual victimization”) and to be in compliance with the PREA community confinement and juvenile standards set by the United States Department of Justice.

## Applicability

This policy applies to all PHS staff, to include employees (including full-time, part-time, temporary and on-call), volunteers and contractors, as well as residents within its community confinement and juvenile facilities, or in any facilities PHS operates directly or under contract.

## Policy

### I. Prevention planning

#### ***Zero tolerance for sexual victimization***

- a. PHS recognizes the right of anyone within its facilities to be free from sexual victimization. PHS has zero tolerance for all forms of sexual victimization. PHS will impose disciplinary sanctions for such conduct, up to and including dismissal for staff. Incidents of sexual victimization will be referred for criminal prosecution when appropriate.
- b. PHS does not recognize consensual sexual contact between PHS staff members and clients within its facilities as a defense against allegations of sexual victimization.
- c. PHS will employ or designate an upper-level, agency-wide PREA Coordinator, with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities.
- d. PHS will review all contracts and conduct contract monitoring to reduce and prevent sexual abuse.

#### ***Right to be free from retaliation for reporting***

PHS recognizes the right for everyone to be free from retaliation for reporting sexual victimization. PHS has zero tolerance for all forms of retaliation against any person because of his/her involvement in the reporting or investigation of a complaint. Retaliation shall be subject to corrective/disciplinary action.

PHS has established procedures for recognizing, preventing and reporting incidents of sexual victimization and retaliation.

***Information disclosure***

Information related to allegations/incidents of sexual victimization will only be disclosed to staff when necessary for related treatment, investigation and other security and management decisions. Staffs that breach confidentiality may be subject to corrective/disciplinary action.

***Staffing practices***

- a. Each PHS facility shall develop a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:
  1. The physical layout of each facility, including blind spots or areas where staff or residents may be isolated;
  2. Generally accepted juvenile and adult detention and correctional/secure residential practices;
  3. Any judicial findings of inadequacy;
  4. Any findings of inadequacy from Federal investigative agencies;
  5. Any findings of inadequacy from internal or external oversight bodies;
  6. The composition of the resident population;
  7. The number and placement of supervisory staff;
  8. Institution programs occurring on a particular shift;
  9. Any applicable State or local laws, regulations, or standards;
  10. The prevalence of substantiated and unsubstantiated incidents of sexual victimization; and
  11. Any other relevant factors.
- b. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.
- c. Whenever necessary, but no less frequently than once each PREA accreditation cycle, the facility shall assess, determine, and document whether adjustments are needed to:
  1. The staffing plan established pursuant to paragraph (a) of this section;
  2. Prevailing staffing patterns;
  3. The facility's deployment of video monitoring systems and other monitoring technologies; and

4. The resources the facility has available to commit to ensure adequate staffing levels.
- d. To the extent permitted by law, PHS will not knowingly hire, promote or enlist the services of anyone who:
  1. Has engaged in staff sexual misconduct in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution.
  2. Has engaged in staff sexual misconduct with an resident on supervision,
  3. Has been convicted of engaging or attempting to engage in sexual activity in the community facility by force, overt or implement threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse, or
  4. Has been civilly or administratively adjudicated to have engaged in the activity described above.
- e. PHS will consider any incidents of sexual harassment in determining whether to hire, promote, or enlist the services of anyone.
- f. PHS will obtain information through the appointing authority and one or more of the following:
  1. Washington State Patrol
  2. Employment/volunteer applications
  3. Reference checks
  4. Personnel file review
  5. Disclosure statements
- g. PHS shall consult any child abuse registry maintained by the state for every new hire in a juvenile facility.
- h. All staff will receive a criminal history check every five years.
- i. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
- j. Unless prohibited by law, PHS will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former staff member upon receiving a request from an institutional employer for whom such staff member has applied to work.

***Limits to cross-gender viewing and searches***

- a. PHS will not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. The facility will also not restrict clients access to regularly available programming or other outside opportunities in order to comply with this provision.
- b. PHS will not conduct cross-gender pat-down searches except in exigent circumstances.
- c. PHS will document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.
- d. PHS facilities have policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia,

except in exigent circumstances or when such viewing is incidental to routine cell checks. These policies and procedures require staff of the opposite gender to announce their presence when entering a resident housing unit. In facilities that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

- e. PHS will not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status.
- f. PHS will train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
- g. PHS will document that staff understand the training that they received.

***Residents with disabilities and residents who are limited English proficient***

- a. PHS will take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of PHS' efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, PHS will ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision.
- b. PHS will take reasonable steps to ensure meaningful access to all aspects of PHS' efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- c. PHS will not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties, or the investigation of the resident's allegations. In such circumstances, reasons for exceptions will be documented.

***Video monitoring and other relevant technology***

Within available fiscal resources, PHS will use video security monitoring systems and relevant technology to enhance the safe operation of facilities.

- a. A PREA vulnerability test will be conducted in each facility on a schedule developed by the PREA compliance manager or PREA coordinator.
- b. A new assessment will be completed at least every three years.
- c. Corrective action plans will be developed as a result of assessments will be submitted to the PREA coordinator.

PHS will consider possible effects of its ability to protect people from sexual victimization when:

- a. Designing or acquiring a new facility,
- b. Planning substantial expansions or modifications of existing facilities, and
- c. Installing or updating video monitoring systems, electronic surveillance systems, or other monitoring technology.

## II. Responsive planning

### ***Evidence protocol and forensic medical examinations***

- a. The investigating agency will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
- b. The protocol will be developmentally appropriate for youth where applicable, and, as appropriate, will be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.
- c. PHS will offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations will be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. PHS will document its efforts to provide SAFEs or SANEs.
- d. PHS will attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, PHS will make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. PHS will document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance to victims of sexual assault of all ages. PHS may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.
- e. As requested by the victim, the victim advocate, qualified PHS staff member, or qualified community-based organization staff member will

accompany and support the victim through the forensic medical examination process and investigatory interviews and will provide emotional support, crisis intervention, information, and referrals.

- f. PHS will request that the investigative agency follow the requirements of paragraphs (a) through (e) of this section.

***Policies to ensure referrals of allegations for investigations***

- a. An administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
- b. All allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations. This policy shall be published on the PHS website. All such referrals shall be documented.
- c. The appointing authority, the agency responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities, shall have in place a policy governing the conduct of such investigations.

### **III. Training Requirements**

***Staff Training***

All new community confinement and juvenile reentry staff will receive initial PREA training upon hire/assignment, followed by annual refresher training. When initial training is not conducted prior to assignment, the individual will sign the PREA Acknowledgement Prior to Training form and will complete the training at the earliest opportunity.

- a. Training will address, but will not be limited to, the following:
  1. Zero-tolerance policy for sexual abuse and sexual harassment;
  2. How to fulfill their responsibilities under PHS sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
  3. Residents' right to be free from sexual abuse and sexual harassment;
  4. The right of residents and staff to be free from retaliation for reporting sexual abuse and sexual harassment;
  5. The dynamics of sexual abuse and sexual harassment in community confinement and juvenile facilities;
  6. The common reactions of sexual abuse and sexual harassment victims;
  7. How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents;
  8. How to avoid inappropriate relationships with residents;

9. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
  10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
  11. Relevant laws regarding the applicable age of consent.
  12. Reporting sexual victimization, including: reporting methods, mandatory reporting for youthful residents and residents classified as vulnerable adults, and disciplinary consequences for staff's failing to report.
  13. Reporting incidents through an external, anonymous reporting system at 1-844-810-6901.
  14. Reporting incidents through an independent third party, Northwest Regional Reentry Center: info@nw-rrc.org or 503-546-8178.
- b. As applicable at the facility level, such training will contain elements addressing the unique needs and attributes of residents of juvenile facilities and to the gender of the residents at the staff member's facility. The staff member shall receive additional training if the staff member is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.
  - c. All current staffs who have not received such training shall be trained within one year of the effective date of the PREA standards, and PHS shall provide each staff with refresher training every two years to ensure that all staff members know PHS' current sexual abuse and sexual harassment policies and procedures. In years in which an staff does not receive refresher training, PHS shall provide refresher information on current sexual abuse and sexual harassment policies.
  - d. PHS will document, through staff signature or electronic verification, that staff members understand the training they have received.

***Resident education***

- a. During the intake process, residents will receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding PHS policies and procedures for responding to such incidents.
- b. PHS will provide refresher information whenever a resident is transferred to a different facility.
- c. Within ten days of intake, PHS will provide resident age-appropriate education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills. Education will include the resident's right to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding PHS policies and procedures for responding to such incidents.

- d. PHS will maintain documentation of resident participation in these education sessions.
- e. In addition to providing such education, PHS will ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

***Specialized training: Investigations***

- a. Any investigative agency that PHS relies on shall provide specialized training to its agents and investigators who conduct such investigations. Training shall 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 or prosecution referral.
- b. For administrative investigations conducted by PHS, documentation shall be maintained showing that investigating staff have completed required training in conducting sexual abuse investigations in a confinement setting.

***Specialized training: Medical and mental health care***

- c. PHS will ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
  - 1. How to detect and assess signs of sexual abuse and sexual harassment;
  - 2. How to preserve physical evidence of sexual abuse;
  - 3. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
  - 4. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
  - 5. If medical staff employed by PHS conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.
  - 6. PHS will maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.
  - 7. Medical and mental health care practitioners will also receive the training mandated for staff depending upon the practitioner's status at PHS.

**IV. Screening for risk of victimization and abusiveness**

***Screening for risk of victimization and abusiveness***

- a. All residents will be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents.
- b. Intake screening shall ordinarily take place within 72 hours of arrival at the facility.



- c. Such assessments shall be conducted using an objective screening instrument.
- d. The intake screening will consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:
  1. Current charges and offense history
  2. Whether the resident has a mental, physical, or developmental disability;
  3. The age of the resident;
  4. The level of emotional and cognitive development of the resident;
  5. The physical build of the resident;
  6. Whether the resident has previously been incarcerated;
  7. Whether the resident's criminal history is exclusively nonviolent;
  8. Whether the resident has prior convictions for sex offenses against an adult or child;
  9. Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
  10. Whether the resident has previously experienced sexual victimization; and
  11. The resident's own perception of vulnerability.
  12. Any specific information about an individual resident that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.
- e. The intake screening will consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to PHS, in assessing residents for risk of being sexually abusive.
- f. Within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
- g. A resident's risk level will be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.
- h. Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked.
- i. Sensitive information gained from the assessment will not be shared unnecessarily. Facilities shall develop procedures delineating which positions have access to sensitive information. The PREA compliance manager will ensure that no other positions shall have access to sensitive information.

***Use of screening information***

- a. PHS will use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

- b. PHS will make individualized determinations about how to ensure the safety of each resident.
- c. In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, PHS will consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.
- d. A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
- e. Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- f. PHS will not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.
- g. Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, PHS will not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation will receive daily visits from a medical or mental health care clinician. Residents will also have access to other programs and work opportunities to the extent possible.
- h. If a resident is isolated for his/her own safety, the facility shall clearly document the basis for the concern for the resident's safety, and the reason why no alternative means for separation can be arranged. Every 30 days, the facility shall afford each resident in isolation for their own protection a review to determine whether there is a continuing need for separation from the general population.
- i. Placement and programming assignments for each transgender or intersex resident will be reassessed at least twice each year to review any threats to safety experienced by the resident.

## V. Reporting

### ***Reporting for Residential Reentry Centers***

- a. Residents, visitors, resident family members/associates and other community members can report:
  1. Allegations of sexual victimization;
  2. Retaliation by residents or staff for reporting sexual victimization, and/or
  3. Staff actions or neglect that may have contributed to an incident of sexual victimization.

- b. Residents may report PREA allegations in the following ways. Reporters may remain anonymous.
  - 1. Through the confidential, external PREA hotline: 1-844-810-6901.
  - 2. Verbally, in writing, anonymously or by third party to any staff. Verbal reports will be promptly documented.
  - 3. To an independent third party, Northwest Regional Reentry Center: info@nw-rrc.org or 503-546-8178.
  - 4. Grievances
  - 5. In writing, through the following processes:
    - i. Written notes or letters to staff (can be anonymous)
    - ii. Legal mail to PREA coordinator at 7440 W. Marginal Way S. Seattle, WA 98108 (can be anonymous)
- c. The facility shall provide residents with access to tools necessary to make a written report.
- d. Allegations received on the PREA external hotline will be reported by the external provider to the PREA coordinator.
- e. Toll-free, external reporting phone number will be available on posters and phones with high visibility to residents. The phone number will also be available on PHS' external website, pioneerhumanservices.org.
- f. PHS staff can privately report sexual abuse and sexual harassment of residents through the PREA coordinator (in writing or by phone), PREA hotline (can report anonymously) or to the facility PREA compliance manager.

***Exhaustion of administrative remedies***

- a.
  - 1. PHS will not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.
  - 2. PHS may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.
  - 3. PHS will not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
  - 4. Nothing in this section shall restrict the PHS' ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.
- b. PHS will ensure that—
  - 1. A resident 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.
- c.
  - 1. PHS shall forward all grievances to the appointing authority and/or other investigating agency.
  - 2. PHS shall provide an initial response within 48 hours. The initial response and final agency decision shall document the agency's

determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. Whenever possible and upon receipt of final decision, it will be shared with the victim on the merits of any portion of a grievance alleging sexual abuse.

3. PHS shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by residents in preparing for any administrative appeal.
4. PHS may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. PHS will notify the resident in writing of any such extension and provide a date by which a decision will be made.
5. At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

d.

1. Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, will be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and will also be permitted to file such requests on behalf of residents.
2. If a third party files such a request on behalf of a resident, 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.
3. If the resident declines to have the request processed on his or her behalf, PHS will document the resident's decision.
4. A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

e.

1. Reports to the external hotline alleging imminent sexual abuse will prompt immediate notification to the PREA coordinator. Reports to staff alleging imminent sexual abuse will be immediately reported to the PREA compliance manager/designee.
2. After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, PHS will immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, will

provide an initial response within 48 hours, and will issue a final agency decision within 5 calendar days. The initial response and final PHS decision shall document the PHS' determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

- f. PHS may discipline a resident for filing a grievance related to alleged sexual abuse only where PHS demonstrates that the resident filed the grievance in bad faith.

***Resident access to outside confidential support services***

- a. PHS will provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents 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 residents and these organizations, in as confidential a manner as possible.
- b. The facility will inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- c. PHS will maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.
- d. The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

***Third party reporting***

- a. Multiple reporting methods for third parties are available on PHS' external website [www.pioneerhumanservices.org](http://www.pioneerhumanservices.org) to include reporting to a partner agency, Northwest Regional Reentry Center: [info@nw-rrc.org](mailto:info@nw-rrc.org) or 503-546-8178.

**VI. Official response following a resident report**

***Staff and agency reporting duties***

- a. Staff must immediately report any knowledge, suspicion, or information received, including anonymous third party reports, regarding all allegations or incidents of sexual victimization. This also includes related retaliation and knowledge of staff actions or neglect that may have contributed to an incident.
  - 1. When a resident displays signs of sexual victimization or discloses to a medical or mental health provider sexual victimization that occurred while in any correctional setting, the provider must inform

- the resident of the provider's duty to report before providing treatment.
- b. Staff who fail to report an allegation or incident, or who knowingly submit or coerce/threaten another to submit incomplete or untruthful information, shall be subject to corrective/disciplinary action.
  - c. Staff receiving any information regarding an allegation or incident of sexual victimization must deliver the information confidentially and immediately.
  - d. If the alleged victim is under the age of 18 or considered a vulnerable adult, PHS will report the allegation to local services agency under applicable mandatory laws.
  - e. Apart from reporting to designated supervisors or officials, staff shall not reveal 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.
  - f. Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials. Such practitioners shall be required to inform residents upon initiation of services of their duty to report.
  - g. For juvenile facilities; upon receiving any allegation of sexual abuse, the PREA compliance manager/designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians. If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.
  - h. The facility shall report all allegations of sexual abuse and sexual harassment, including third party and anonymous, to the appointing authority.

***Agency protection duties***

- a. Upon learning that a resident is subject to a substantial risk of imminent sexual abuse, PHS shall take immediate action to protect the resident by separating the victim from perpetrator and attending the needs of the victim while not impeding in the investigation.

***Reporting to other confinement facilities***

- a. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the PREA Coordinator will notify the Residential Reentry Manager or appointed referring agency point of contact.
- b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- c. PHS will document that it has provided such notification.

- d. The PREA Coordinator shall ensure that the allegation is investigated in accordance with these standards.

***Staff first responder duties***

- a. Upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:
  1. Separate the alleged victim and abuser;
  2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
  3. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  4. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- b. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

***Coordinated response***

- a. Each facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators and facility leadership. This plan will include, but not be limited to:
  1. To coordinate actions taken in response to an incident of sexual abuse, all claims shall be immediately reported to the PREA compliance manager or PREA coordinator, the investigative agency, medical and mental health treatment and advocates offered. Once the victim's immediate needs are met and evidence secured, the PREA coordinator will be notified, if not already, and the PREA compliance manager will ensure that retaliation is monitored.

***Preservation of ability to protect residents from contact with abusers***

PHS shall not enter into or renew any agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether or to what extent discipline is warranted.

***Agency protection against retaliation***

- a. Staff and residents who cooperate with an investigation will report all concerns regarding retaliation to the PREA compliance manager/designee

or the external hotline at 1-855-999-2021. The PREA compliance manager/designee will take appropriate measures to address the concerns.

- b. When a PREA investigation is initiated, PHS will monitor to assess indicators or reports of retaliation against reporters and alleged victims
  1. Indicators of retaliation may include, but are not limited to:
    - i. Disciplinary reports,
    - ii. Changes in grievance trends
    - iii. Housing/program changes and reassignments, or
    - iv. Negative performance reviews.
  2. The PREA coordinator will notify the following staff, as applicable, when monitoring is required, but will not provide specific details regarding the allegation and investigation:
    - i. The PREA compliance manager/designee at the facility where the report was made will ensure alleged victims and resident reporters are monitored and met with at least monthly.
    - ii. The assigned human resources business partner will monitor staff reporters.
  3. Staff, residents and others will immediately report any signs of retaliation to the PREA compliance manager/designee, who will take appropriate steps to address the issue.
  4. Retaliation monitoring will continue for 90 days following notification, or longer if the PREA coordinator determines it is necessary.
  5. In the case of residents, such monitoring shall also include periodic status checks.
  6. If any other individual who cooperates with an investigation expresses a fear of retaliation, the PHS shall take appropriate measures to protect that individual against retaliation.
  7. PHS' obligation to monitor shall terminate if the investigation determines that the allegation is unfounded.

## VII. Investigations

### *Investigations*

- a. The PREA coordinator/designee will review all allegations, determine which allegations fall within the definition of sexual victimization and forward those allegations to the appropriate appointing authority for investigation.
  1. All allegations that appear to be criminal in nature will be referred for law enforcement investigation by the appointing authority. Investigations reports received from law enforcement will be



- attached to the final PREA investigation report submitted to the PREA coordinator/designee.
    - 2. For allegations involving staff, the PREA coordinator/designee will notify the human resources representative of the investigation.
    - 3. For allegations determined not to fall within the definition of sexual victimization, the PREA coordinator/designee will notify the appointing authority, who will ensure the resident is notified and any necessary action is taken.
  - b. When PHS conducts its own investigations into allegations of sexual abuse and sexual harassment, PHS will do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
  - c. Where sexual abuse is alleged, PHS will use outside investigators via the appointing authority who have received special training in sexual abuse investigations.
  - d. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; will interview alleged victims, suspected perpetrators, and witnesses; and will review prior complaints and reports of sexual abuse involving the suspected perpetrator.
  - e. When the quality of evidence appears to support criminal prosecution, outside investigators will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
  - f. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as resident or staff. Outside investigators will not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
  - g. Administrative investigations:
    - 1. Will include an effort to determine whether staff actions or failures to act contributed to the abuse; and
    - 2. Will be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
  - h. Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
  - i. Substantiated allegations of conduct that appears to be criminal will be referred for prosecution.
  - j. PHS will retain all written PREA investigation reports for as long as the alleged abuser is incarcerated or employed by PHS, plus five years.
  - k. PHS will not terminate an investigation solely because the source of the allegation recants the allegation.
  - l. The facility will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation. All outside

investigative agencies shall investigate pursuant to the above requirements.

### ***Reporting to residents***

- a. For each allegation in the report, the appointing authority will determine whether the allegation is:
  1. Substantiated: The allegation was determined to have occurred by a preponderance of the evidence,
  2. Unsubstantiated: Evidence was insufficient to make a final determination that the allegation was true or false, or
  3. Unfounded: The allegation was determined not to have occurred.
- b. PHS will request the relevant information from the investigative agency/appointing authority in order to inform the resident.
- c. PHS shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
- d. Following a resident's allegation that a staff member has committed sexual abuse against the resident, PHS will subsequently inform the resident (unless PHS has determined that the allegation is unfounded) whenever:
  1. The staff member is no longer posted within the resident's unit;
  2. The staff member is no longer employed at the facility;
  3. PHS learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  4. PHS learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- e. Following a resident's allegation that he or she has been sexually abused by another resident, PHS will subsequently inform the alleged victim whenever:
  1. PHS learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  2. PHS learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- f. All such notifications or attempted notifications will be documented and maintained.
- g. PHS' obligation to report under this standard will terminate if the resident is released from the PHS' custody.

## **VIII. Discipline**

### ***Disciplinary sanctions for staff***

- a. Staff shall be subject to disciplinary action, up to and including termination, for violating PHS PREA policies.
- b. Contract staff and volunteers who are found to have committed staff sexual misconduct will be terminated from service and prohibited from contact with residents. For any other violations of PHS PREA policies, appropriate actions will be taken.

1. For contract staff terminations, the PREA compliance manager/designee will notify the contract staff/organization in writing with a copy to the PREA coordinator, who will alert all facilities of the termination.
- c. Disciplinary sanctions for violations of PHS policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- d. All terminations for violations of PHS' PREA policy, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
- e. PHS will track all staff terminations, as well as licensing notifications, at the corporate level.

***Disciplinary sanctions for residents***

- a. Residents will be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse, as determined by the investigative agency.
- b. Sanctions will be determined by the appointing author and will be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
- c. The appointing authority's disciplinary process will consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- d. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility will consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.
- e. The appointing authority or PHS may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- f. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- g. PHS or the appointing authority may, at their discretion, prohibit all sexual activity between residents and may discipline residents for such activity. PHS or the appointing authority may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

## IX. Medical and mental care

### ***Medical and mental health screenings; history of sexual abuse***

- a. If the PREA intake screening indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
- b. If the PREA intake screening indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
- c. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
- d. Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

### ***Access to emergency medical and mental health services***

- a. Resident victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. First responders will take preliminary steps to protect the victim and will immediately notify the appropriate medical and mental health practitioners.
- b. Resident victims of sexual abuse while incarcerated will be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
- c. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

### ***Ongoing medical and mental health care for sexual abuse victims and abusers***

- a. The facility will provide access to medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

- b. The evaluation and treatment of such victims will include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- c. The facility will provide such victims with access to medical and mental health services consistent with the community level of care.
- d. Resident victims of sexually abusive vaginal penetration while incarcerated will be given access to pregnancy tests.
- e. If pregnancy results from conduct specified in paragraph (d) of this section, such victims will receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- f. Resident victims of sexual abuse while incarcerated will be offered access to tests for sexually transmitted infections as medically appropriate.
- g. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- h. The facility will attempt to coordinate a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer access to treatment when deemed appropriate by mental health practitioners.

## **X. Data collection and review**

### ***Sexual abuse incident reviews***

- a. PHS and/or the appointing authority will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- b. Such review will ordinarily occur within 30 days of the conclusion of the investigation.
- c. The review team will include upper-level management officials, with input from line supervisors, investigators, the local PREA compliance manager, PREA coordinator and—when staff is potentially involved—an HR representative. When needed, medical or mental health practitioners may be included.
- d. The review team shall:
  1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  2. Consider 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 facility;
  3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

4. Assess the adequacy of staffing levels in that area during different shifts;
  5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  6. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement, and submit such report to the PREA coordinator.
- e. The facility will implement the recommendations for improvement, or will document its reasons for not doing so.

### ***Data collection***

- a. Data will be collected by the PREA coordinator for each allegation of sexual victimization.
- b. The local PREA compliance manager and PREA coordinator shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  1. Identifying problem areas;
  2. Taking corrective action on an ongoing basis; and
  3. Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- c. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the PHS' progress in addressing sexual abuse.
- d. Reports will be approved by the agency head and made available to the public through the PHS website, [pioneerhumanservices.org](http://pioneerhumanservices.org).
  1. Information may be redacted from the report when publication would present a clear and specific threat to facility security, but the report must indicate the nature of the material redacted.
- e. All data/reports will be provided on request to the U.S. Department of Justice.

### ***Record Retention***

- a. PHS will ensure that data collected are securely retained.
  - a. PREA records will be stored electronically on the PHS network in a PREA Records folder, which will only be accessible by the PREA Coordinator, VP of Treatment & Reentry Services, VP of Human Resources and Director of HR Operations. The PREA Coordinator will request a report from IT at minimum every 6 months to ensure control of access.
- b. PREA records may include, but will not be limited to:
  1. Incident reports,
  2. Investigation reports,
  3. Electronic evidence,
  4. Investigation findings/dispositions,

5. Law enforcement referrals,
  6. Criminal investigation reports,
  7. Required report forms, and
  8. Documentation of local PREA review committees, retaliation monitoring, and ongoing notifications.
- c. The PREA coordinator will maintain data for 10 years unless federal, state or local law requires otherwise. Electronic data are retained and backed up by IT.

## Definitions

See "Definitions" attachment.

## Responsibilities

- I. PHS' PREA coordinator will:
  - a. Develop and implement PREA-related policies.
  - b. Develop and coordinate procedures to triage allegations received and identify, monitor and track incidents of sexual victimization.
  - c. Coordinate and track referrals of allegations to law enforcement and prosecutors.
  - d. Develop and implement a comprehensive system to audit facility compliance with PREA policies and applicable laws.
  - e. Keep management informed on PREA-related issues.
  - f. Chair a multidisciplinary review committee to develop PREA-related prevention and response strategies.
  - g. Maintain a memorandum of understanding of external victim advocacy services.
  - h. Maintain PREA content for the PHS website, including publication of required information and documents.
- II. The PREA coordinator will assign a staff member to serve as PREA compliance manager who will coordinate local PREA compliance and:
  - a. Serve as point of contact for the PREA coordinator.
  - b. Oversee completion of scheduled PREA vulnerability assessments.
  - c. Coordinate audit preparation activities and corrective action plans.
  - d. Track completion of PREA risk assessments for substantiated allegations of sexual victimization.
  - e. Ensure checks are performed to verify the PREA hotline telephone number is posted on or near all facility telephones.
    1. For each facility, the PREA compliance manager will perform a monthly functionality test of a random sample of facility telephones to verify the toll-free number is operational.
  - f. Coordinate monthly checks to verify:

1. Posters and brochures provided by the PREA coordinator are posted in areas accessible to residents and the public, including health services areas.
- g. The PREA compliance manager/designee will verify posters and brochures are provided by the PREA coordinator are posted in areas accessible to everyone.

### **Related links**

- [PREA Definitions](#)

### **Contact**

With questions or concerns, contact the PREA Coordinator.