

INCARCERATED INDIVIDUAL PREA INFORMATION

STATE OF IOWA DEPARTMENT OF CORRECTIONS

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Chapter 11: Prison Rape Elimination Act (PREA)

Related DOC Policies: NA

Administrative Code Reference: NA

PREA Standards: 115.6, 11(a-b), 21(d)(h), 33(a-f), 51(a-c), 53(b), 61(d), 64

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1. PURPOSE

To inform incarcerated individuals of Iowa Department of Corrections' (IDOC) zero tolerance standard for unwanted sexual behavior and to provide incarcerated individuals with information relative to their rights and responsibilities under the Prison Rape Elimination Act. **(PREA 115.11(a))**

2. POLICY

It is the policy of the IDOC to provide a safe, humane, and secure environment, free from the threat of unwanted sexual behavior for all incarcerated individuals in all IDOC facilities. The IDOC prohibits sexual abuse and sexual harassment of incarcerated individuals through incarcerated individual orientation, screening, assessment, classification, monitoring, counseling, and investigation of alleged sexual violence. The IDOC has a "zero tolerance" position for sexual abuse and sexual harassment of all incarcerated individuals under correctional supervision whether in institutional, residential, parole, probation and work release

status. This policy shall be available to all incarcerated individuals and unless updates are needed this policy shall be reviewed every three years. **(PREA 115.11(a))**

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- A. Incarcerated Individual Education
- B. General Provisions
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4. DEFINITIONS – As used in this document:

- A. Aggressor - A person committing sexual abuse against an incarcerated individual.
- B. Alleged - Any event that is said to have happened but which has not yet been verified.
- C. Peer Educator – An incarcerated individual who is appropriate for conducting incarcerated individual training and who also does not have a sex offense or recent disciplines for serious misconduct and who is a good communicator.
- D. PREA – Prison Rape Elimination Act, as amended, **34 United States Code §§ 30301-30309.**
- E. Qualified IDOC staff member – An individual who has been screened for appropriateness to serve in this role and has been certified in sexual abuse and forensic examination issues. **(PREA 115.21(h))**
- F. Sexual Abuse – Sexual abuse of an incarcerated individual by another incarcerated individual, detainee, or resident includes any

of the following acts, if the victim does not consent is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and vulva or the penis and the anus, including penetration, however, slight;
 2. Contact between the mouth and the penis, vulva, or anus;
 3. Penetration of the anal or genital opening of another person, however, slight, by a hand, finger, object, or other instrument; and
 4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation. **(PREA 115.6)**
- G. Staff – Refers to an employee, contractor, vendor, volunteer, or agent of the IDOC.
- H. Sexual Harassment - Includes:
1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures or actions of a derogatory or offensive sexual nature by one incarcerated individual directed toward another; and
 2. Repeated verbal comments or gestures of a sexual nature to an incarcerated individual by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures. **(PREA 115.6)**
- I. Staff Sexual Misconduct – Any behavior or act of a sexual nature directed toward an incarcerated individual, whether it appears to be consensual or nonconsensual, including:

1. Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire;
 2. Completed, attempted, threatened, or requested sexual acts;
 3. Occurrences of indecent exposure including display of uncovered genitalia, buttocks, or breasts, invasion of privacy;
 4. Voyeurism for sexual gratification including invasion of privacy unrelated to official duties, such as staring or glaring at an incarcerated individual using the toilet for longer periods of time than necessary for security checks, requiring an incarcerated individual to expose buttocks, genitals or breasts for reasons not related to approved security measures or normal medical procedures, or taking images of the same.
- (PREA 115.6)**

Staff sexual misconduct does not include any act that is related to official duties or normal job requirements, such as by Health Services or when a staff person conducts a pat or strip search.

- J. Victim – A person against whom unwanted sexual behavior is committed or attempted.
- K. Victim Advocate – A person who is certified as an advocate or counselor by a crime victim center and is under the control of a direct services supervisor of a crime victim center whose primary purpose is the rendering of advice, counseling, and assistance.
- L. See IDOC Policy **AD-GA-16** for additional Definitions.

5. PROCEDURES

5.1. Incarcerated Individual Education

1. All incarcerated individuals shall receive PREA orientation training within three days of admission to IDOC, including

information on IDOC's zero-tolerance policy regarding unwanted sexual behavior and how to report incidents or suspicions of unwanted sexual behavior. All incarcerated individuals shall be given a copy of the handout, ***PREA-01 F-1, Staying Safe: A Guide for Incarcerated Individual Conduct***. The training shall be presented by staff, a Peer Educator, or a volunteer from the community. **(PREA 115.33(a))** Replacement copies of ***PREA-01 F-1, Staying Safe: A Guide for Incarcerated Individual Conduct***, shall be provided as needed.

2. Within 30 days of intake, IDOC shall provide comprehensive education to incarcerated individuals either in person or through video regarding their rights to be free from unwanted sexual behavior and to be free from retaliation for reporting such incidents, and regarding IDOC policies and procedures for responding to such incidents. **(PREA 115.33(b))**
3. Upon transfer to a different institution, incarcerated individuals shall receive training within the first seven days concerning how the policies and procedures of the incarcerated individual's new institution differ from those of the previous institution. Replacement copies of the handout, *Staying Safe: A Guide for Incarcerated Individual Conduct*, shall be provided as needed. **(PREA 115.33(c))**
4. IDOC shall provide incarcerated individual education in formats accessible to all incarcerated individuals, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to incarcerated individuals who have limited reading skills. **(PREA 115.33(d))**
5. IDOC shall maintain documentation of incarcerated individual participation in these education sessions either by generic note or the signed copy of Form 1 scanned into ICON incarcerated individual attachments. **(PREA 115.33(e))**

6. In addition to providing such education, IDOC shall ensure that key information is continuously and readily available or visible to incarcerated individuals through posters, bulletin boards, or other written formats. **(PREA 115.33(f))**

5.2. General Provisions

1. Reported allegations of incarcerated individual-on-incarcerated individual unwanted sexual behavior shall be investigated as soon as practicable. All records associated with such claims, including incident reports, investigation reports, incarcerated individual information, case disposition, medical and counseling evaluation findings, recommendations for post-release treatment and counseling shall be confidential records.
2. The Deputy Director of Institution Operations shall be responsible for the development, implementation, and oversight of IDOC's efforts to comply with the PREA standards and to manage all PREA investigations. **(PREA 115.11(b))**

5.3. Reporting of Unwanted Sexual Behavior

1. Initial Report

An incarcerated individual may report incarcerated individual-on-incarcerated individual sexual or sexual abuse, or staff, contractor or volunteer sexual harassment or sexual misconduct, or retaliation by other incarcerated individuals or staff for reporting such incidents or staff neglect or violation of responsibilities that may have contributed to the incident in any way, including but not limited to:

- a. Staff member — Any employee, contractor, or volunteer.
- b. Send a kite, kiosk message, or letter to the institution Warden.

c. Send a letter to:

- 1) Victim and Restorative Justice Director:
Iowa Department of Corrections
510 East 12th Street
Des Moines, IA 50319
(PREA 115.51(a))
- 2) The Iowa Ombudsman Office
Office of Citizens' Aide/Ombudsman
Ola Babock Miller Building
1112 East Grand
Des Moines, IA 50319
(PREA 115.51(b))

2. Incarcerated individuals who observe or have knowledge of unwanted sexual behavior, including sexual harassment and sexual abuse, shall immediately report in any way including but not limited to the points of contact listed above.

5.4. Inappropriate Sexual Harassment and Sexual Abuse

Inappropriate Sexual Harassment and Sexual Abuse - An incarcerated individual commits an offense under the IDOC disciplinary policy (**IO-RD-03**, *Major Discipline Report Procedures*) when the incarcerated individual commits any act against another person as defined below.

1. Incarcerated Individual-on-Incarcerated Individual Sexual Harassment – Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one incarcerated individual towards another incarcerated individual.
2. Incarcerated Individual-on-Incarcerated Individual Sexual Abuse – Any of the following acts done by one incarcerated individual to another incarcerated individual, if the victim does

not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- a. Contact between the penis and vulva or between the penis and anus including penetration, however slight.
 - b. Contact between the mouth and the penis, vulva, or anus.
 - c. Penetration of the anal or genital opening of another person, however slight, by the hand, finger, object or other instrument.
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, excluding contact incidental to a physical altercation.
3. Inappropriate Sexual Contact - Any of the following acts done by an incarcerated individual to any other person:
- a. Ejaculating onto another person.
 - b. Forcing an incarcerated individual to watch a sex act or a person masturbate.
 - c. Making a single unwelcome sexual advance or request for sexual favors, if the advance or request includes an explicit or implied threat.
 - d. Using threats or coercion to have another person expose that person's genitals, anus, buttocks, or breasts to another person.
4. Sexual Exploitation – The non-consensual contact of an exploited incarcerated individual with a third party arranged by or coerced by an incarcerated individual. The exploitation may be in exchange for some benefit received by the first

incarcerated individual from the third party ("pimping"). The benefit received need not consist of something with a monetary value.

Class "A" if weapon used, victim exposed to potentially infectious bodily fluids, secretions, tissue, or excrement, or the victim suffers a mental or physical injury; Class "B" for all other violations. (PREA 115.6, 78(g))

5.5. Staff Response

- 1.** Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document all verbal reports. **(PREA 115.51(c))**
- 2.** If applicable to the circumstances, the alleged incarcerated individual victim shall be advised by the employee receiving the report or Shift Supervisor that showering or body cleaning, or if alleged abuse was oral, drinking or brushing could damage or destroy evidence. **(PREA 115.64)**
- 3.** An incarcerated individual victim may request a victim advocate or qualified IDOC staff member to accompany and support the incarcerated individual victim through the investigatory interviews and to provide emotional support, crisis intervention, information, and referrals to additional resources. The victim advocate or qualified IDOC staff member shall meet with the victim in a private area and may continue for up to six sessions. **(PREA 115.21(d))**
- 4.** Reports of unwanted sexual behavior shall be forwarded to authorities in accordance with Iowa mandatory reporting laws. **(PREA 115.53(b), 61(d))**