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|  | <b>State of Alaska<br/>Department of Corrections<br/>Policies and Procedures</b> |                 | <b>Index #:</b> 808.19      | <b>Page 1 of 6</b>         |  |
|   |  |                 | <b>Effective:</b> 6/12/2014 |                            |  |
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|   | <b>Chapter:</b>  | Prisoner Rights |                             |                            |  |
| <b>Subject:</b>   | Sexual Abuse / Sexual Assault and Reporting                                      |                 |                             |                            |  |

I. Authority

In accordance with AS 44.28.030 and 22 AAC 05.155, the Department of Corrections will establish and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. References

Alaska Statute

AS 33.30.011

AS 47.37.170

Federal Regulation

28 CFR Ch.1 §115.5-115.93

III. Purpose

This Policy and Procedure establishes a zero tolerance policy towards sexual misconduct and provides guidelines and procedures consistent with the Prison Rape Elimination Act (PREA) to reduce the risk of sexual misconduct within the correctional setting.

IV. Application

All State of Alaska Department of Corrections staff, contractors, volunteers and prisoners.

V. Definitions

- A. False Report: Any false allegation made during an investigation of sexual abuse or sexual harassment.
  - B. Sexual Acts: Contact between the penis and the vulva or the penis and the anus, including penetration, however slight. Also, contact between the mouth and the penis, vulva, or anus. Furthermore, penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument. Also includes any other intentional touching, either directly or through the clothing of the genitalia, anus, groin, breasts, inner thigh or the buttocks of another person, excluding contact incidental to physical altercation.
  - C. Sexual Abuse: The forcing of unwanted sexual acts by one person on another, if the victim does not consent or is coerced into such acts by overt or implied threats of violence, or is unable to consent or refuse.
  - D. Sexual Harassment: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature.
  - E. Sexual Misconduct: To make a victim through sexual abuse or sexual harassment.
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F. Staff Sexual Misconduct: All incidents of willing and unwilling sexual contact or activity with facility staff to include volunteers and contractors that involve oral, anal, vaginal penetration and other sexual acts with facility staff, volunteers or contractors.

VI. Policy

It is the policy of the Alaska Department of Corrections to have zero tolerance for all forms of sexual misconduct. The Department shall provide a secure environment free from the threat of sexual abuse, harassment and misconduct for all prisoners, by maintaining a program of prevention, detection, response, investigation and data collection.

VII. Procedures

A. Employee/Contractor/Volunteer Training:

1. All Department personnel who may have contact with prisoners shall receive training regarding the prevention, detection, reporting and response to sexual abuse and sexual harassment as required by PREA.
2. All Department contractors and volunteers who may have contact with prisoners shall receive training based on the services they provide and the level of contact they have with prisoners regarding the prevention, detection, reporting and response to sexual abuse and sexual misconduct as required by PREA.
3. All Department personnel and contractors who require PREA training shall receive refresher training biennially regarding sexual misconduct issues as required by PREA. During the year between the biennial trainings, each institution shall provide refresher information on current sexual misconduct policies.
4. All training shall be geared towards the gender of prisoners supervised. The departmental chief training officer in conjunction with the division directors shall approve all lesson plans or materials utilized for pre-service or in-service training on prisoner sexual abuse and sexual harassment.
5. Training will be the responsibility of the institutional PREA Coordinator and/or training officer.
6. Documentation of PREA training shall include the employee's, volunteer's or contractor's signature of understanding and compliance, and will be retained by the institutional training officer.

B. Prisoner Notice:

1. During prisoner orientation, prisoners shall receive information regarding their right to be free from sexual misconduct and to be free from retaliation for reporting such incidents. Prisoners shall be notified of the Department of Correction's sexual abuse/assault and reporting procedures. Institutions shall maintain written documentation of prisoner participation in this orientation.
2. Prisoners shall have access to a Prisoner Handbook that will inform the prisoner of the agency's zero-tolerance policy toward all forms of sexual misconduct and how to report such incidents.
3. Notices shall be posted in all prisoner living units that inform prisoners of the zero-tolerance policy toward sexual abuse and harassment and how to report such incidents.

4. The Alaska Department of Corrections shall provide prisoner education in formats accessible to all prisoners, including those who are limited English proficient, deaf, visually impaired or otherwise disabled as well as to offenders who have limited reading skills.

C. Screening:

1. All prisoners shall be screened during the intake process to assess their risk of being sexually victimized by other prisoners or sexually abusive toward other prisoners. An initial risk assessment shall be completed by medical staff, or by a corrections officer if no medical staff is available, within 24 hours of arrival at a facility and shall utilize the PREA Risk Assessment Form (808.19a). Institutional Probation Officers shall consider the risk assessment results when making housing and program assignments.
2. Institutional probation staff shall complete Section II of PREA Risk Assessment Form 808.19a within 72 hours of a prisoner's arrival. The results of the PREA risk assessment shall be entered into the Alaska Correctional Offender Management System in the Cautions and Alert tab and hard copies shall be placed in Section 3 of the Offender Case Record in an envelope marked confidential.
3. Institutional probation officers shall consider the PREA Risk Assessment Form results when making placement assignments.
4. If the PREA Risk Assessment Form indicates the prisoner has experienced prior sexual misconduct while incarcerated, the prisoner shall be offered a follow-up meeting with mental health staff for further evaluation within 14 days of screening.

D. Reporting and Investigation of Sexual Abuse and Staff Sexual Misconduct:

1. All Department personnel, contractors and volunteers who receive information concerning prisoner sexual misconduct or have reasonable belief to suspect a prisoner is a victim of sexual misconduct, shall immediately report the information or incident directly to the most appropriate supervisory staff. When supervisory staff has been made aware of the sexual allegations he/she must notify the shift supervisor as soon as possible. All incidents shall be reported on Incident Report Form 809.03A pursuant to Policy and Procedure 809.03 [Reporting Procedures for Rule Violations]. If the allegations substantiate that sexual abuse has occurred, the shift supervisor shall complete Special Incident Report, form 104.01A pursuant to Policy and Procedure 104.01 [Special Incident Reporting]. Supervisory staff shall complete a Special Incident Report form no later than end of shift.
2. Privileged communications between ordained clergy, medical or mental health staff and clients does not extend to matters that threaten the safety and security of the institution, staff or prisoners; if it contains threats to public safety or if it is specifically addressed by state statutes.
3. All cases involving sexual abuse or staff sexual misconduct shall be referred to the Alaska State Troopers for investigation.
4. Prisoners may report allegations of conduct prohibited by this policy, including threats of sexual misconduct, to any Department employee, contractor or volunteer. Such allegations may be reported verbally, in writing or may be made by a third party.
5. Department personnel, contractors or volunteers who observe incidents or behaviors that cause a reasonable concern that a prisoner may be at significant

risk of sexual victimization shall document this incident or observation on an Incident Report form 809.03A pursuant to Policy and Procedure 809.03. The Superintendent shall assess the seriousness of the matter and take such action as deemed appropriate, including but not limited to the change of prisoner housing assignments.

6. All information related to a victim of a sexual abuse or sexual harassment shall be considered confidential and shall be released only to those who need the information to perform their official duties.

E. Investigation of Sexual Abuse or Harassment:

1. The first security staff member to respond to a sexual abuse or alleged sexual abuse shall separate the alleged victim and perpetrator and preserve and protect the crime scene until appropriate steps can be taken to collect any evidence. Staff shall notify the Shift Supervisor or appropriate supervisory staff as quickly as possible while not leaving the prisoners unsupervised.
2. If the sexual abuse occurred within 72 hours, staff shall order the victim and alleged abuser to not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothing, urinating, defecating, drinking or eating and take reasonable measures to ensure this does not occur. If urinating or defecating cannot be delayed, the prisoner is instructed not to use toilet paper afterward.
3. The victim shall be escorted as soon as possible to the medical unit for evaluation and treatment and referral for necessary transport to the hospital. If no qualified medical or mental health staff are on duty at the time a report of recent abuse is made, security staff shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and or mental health staff on-call. The specific medical services provided by the medical department, and/or the local hospital emergency department, when utilized, are detailed in the medical sexual assault protocol which shall comply with PREA requirements.
4. If the alleged attempted or completed sexual abuse occurred within 72 hours, the prisoner accused of the sexual abuse shall be placed into segregation until the investigation is complete, unless other circumstances require the transfer or other placement of the alleged aggressor. During the course of the investigation the potential victim and the prisoner accused of sexual abuse shall remain separated.
5. Evidence collection for victims shall be conducted by emergency personnel at a hospital.
6. The crime scene shall be secured. Access to the crime scene should be limited to the proper investigative authority. Anyone entering the crime scene will have their identity, time of entry and departure time noted in writing. Furthermore, anyone entering shall wear proper foot and head coverings. The area shall remain secured as a crime scene until the appropriate investigative authority releases it.
7. The prisoner accused of sexual abuse shall be instructed to remove their clothing one item of clothing at a time, over a paper sheet designated for this purpose. The paper sheet is part of the evidence collection kit and includes the sheet, paper bag and Chain of Custody form 1208.08B in order to collect any potential forensic evidence that may be on their clothes or that falls from their person. Each individual item of clothing shall be placed in a separate paper bag. The paper sheet shall also be placed in a separate paper bag. Each bag shall have a Chain of Custody form attached to the paper bag and sealed with staples and stored in evidence or transferred to an appropriate Law Enforcement Agency. In the event of wet items,

the paper bag shall be stored in a red bio-hazard bag with the bio-hazard bag left open for air flow.

8. If the alleged attempted or completed sexual abuse occurred outside of 72 hours, staff shall secure the alleged crime scene if feasible. The alleged aggressor, if known, shall be placed in segregation for further investigation. Medical Services shall conduct an examination of the alleged victim for the presence or absence of physical trauma and, as appropriate, refer for testing for sexually transmitted diseases and pregnancy testing, as well as emergency contraception and sexually transmitted infections prophylaxis, to the local hospital emergency room. Medical Services shall refer the prisoner to Mental Health Services for emergency evaluation and referral for follow up counseling by an outside agency, if requested.

**F. Administrative and Criminal Sanctions:**

1. The institutional PREA Coordinator shall work together with the local Prosecutor's Office, Alaska State Troopers or local law enforcement agency to ensure appropriate criminal prosecution of sexual abuse cases.
2. Any prisoner alleged of sexual abuse, sexual harassment or sexual misconduct shall be subject to the department's disciplinary process regardless of the outcome of the law enforcement investigation.
3. Disciplinary action may be taken when it is determined that a prisoner made a false report of sexual abuse, sexual harassment or staff sexual misconduct. If the Departmental Disciplinary Process finds a prisoner guilty of making a false report, restitution may be ordered for the costs incurred by the Department in response to the false report. However, no prisoner reporting sexual abuse, sexual harassment or sexual misconduct shall receive an incident report for making a false report based solely on the fact their allegations could not be substantiated or that the prisoner later recanted his allegation. Each case shall be carefully evaluated on its merits, considering all evidence and circumstances and whether there is any possibility that the alleged incident could have occurred.
4. Any employee determined to have engaged in sexual misconduct with a prisoner shall be subject to discipline consistent with the employee standards of conduct and/or collective bargaining agreement. The employee shall be referred for criminal prosecution. A prisoner engaging in sexual misconduct with an employee may be subject to discipline contingent upon the particular facts and consistent with the offender rules of conduct.

**G. Medical Services Responsibilities**

1. In cases of alleged sexual abuse, Medical Services will follow medical and nursing protocol for alleged sexual assaults.
2. All services related to sexual misconduct are free of charge to the prisoner.

**H. Mental Health Responsibilities**

1. Prisoners referred to Mental Health following an allegation of sexual misconduct shall be given crisis counseling by a qualified mental health professional.
2. All alleged victims of sexual abuse shall be offered a referral to an outside mental health provider for further trauma counseling, if requested.

**I. Data Collection**

1. Each facility shall collect accurate, uniform data for every allegation of sexual

misconduct.

- a. Collected data should include at a minimum the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice
- b. Data shall be maintained on sexual abuse for at least 10 years after the date of the initial collection unless Federal, State or Local Law requires otherwise.

VIII. Implementation

This policy and procedure is effective as of the date signed by the Commissioner. Each Manager shall incorporate the directions outlined in this document into local policy and procedure.

6/12/2014

\_\_\_\_\_  
Date

SIGNATURE ON FILE

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Joseph D. Schmidt, Commissioner  
Department of Corrections

Forms Applicable to This Policy:  
808.19A PREA Risk Assessment