



Policies and Procedures

Subject: Prison Rape Elimination Act of 2003 (PREA)

Supersedes: All executive orders and related memoranda

Revised December 1, 2014

Purpose

The purpose of this policy is to provide guidelines and procedures to protect inmates and staff from sexual violence, misconduct and harassment.

Policy

Chester County Prison has zero tolerance for sexual misconduct involving inmates. It is the policy of Chester County Prison to provide a safe, humane, and secure environment, free from sexual violence, misconduct, harassment, or retaliation, by establishing definitions of prohibited conduct and maintaining a program of prevention, detection, investigation, response and tracking of all alleged and substantiated sexual misconduct. Newly committed inmates will be provided information about sexual assault, to include; self protection, reporting sexual assault, prevention/intervention, treatment and counseling.

Sexual misconduct between staff and inmates, volunteers or contract personnel and inmates, inmates and inmates, regardless of consensual status is prohibited and subject to administrative discipline and/or criminal sanctions.

Definitions

PREA Coordinator: Individual designated by the Detention Administrator who is responsible for developing, implementing and overseeing facility compliance with PREA standards and coordinating the facility's response to allegations of sexual misconduct.

Retaliation: Any act of vengeance, covert or overt action or threat of action taken against an individual in response to their claim of sexual misconduct, sexual contact or sexual abuse or cooperation in the reporting or investigation of sexual misconduct, regardless of the disposition of the complaint. Examples of retaliation include:

1. Unnecessary discipline.
2. Verbal or physical intimidation or threats.
3. Unnecessary changes in housing classification.
4. Unnecessary changes in work or program assignments.
5. Unjustified denials of privileges or services.
6. Any action to compromise the victim or witness's safety, including refusal or failure to protect.



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Sexual Acts: Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any intrusion of any part of the body of one person, or any object into the sex organ, mouth, or anus of another person.

Sexual Contact: Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of a person other than by staff for medical purposes or for purposes of performing legitimate policy authorized searches.

Sexual Harassment: For purposes of this policy sexual harassment includes comments of a sexual nature; demeaning references to gender; lewd remarks about clothing, body or appearance; profane or obscene language or gestures; and displaying sexually oriented images.

Sexual Misconduct: All forms of sexual behavior prohibited by this policy, including sexual abuse, sexual harassment, sexual acts and sexual contact regardless of whether it is consensual. Examples of sexual misconduct include:

1. Requests for sexual favors, sexual acts or sexual contact.
2. Influencing, promising or threatening an inmate's safety, custody or security level, including recommendations for court actions, privacy, housing, privileges, work detail or program status in exchanges for sexual favors.
3. Promise of protection in exchange for sexual favors.
4. Statements, comments or innuendo made directly or indirectly concerning the sexual orientation or perceived sexual orientation of any person.
5. Intimate or close relationships with an inmate defined as any relationship beyond the boundaries of a professional relationship.
6. Intimate conversation or correspondence with an inmate.
7. Exchanging letters, pictures, phone numbers, addresses, email addresses or other personal information with inmates.
8. Unreasonable invasion of an inmate's privacy such as inappropriate viewing of any inmate. Except in exigent circumstances or during routine cell checks, inmates shall not be subject to cross gender viewing while changing clothes, performing bodily functions, showering, or at any other time when their genitalia, breasts or buttocks may be exposed.
9. Any verbal, non-verbal or physical conduct which is sexual in nature or sexually suggestive.



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10. Creating an intimidating, hostile or offensive environment by engaging in or permitting sexually offensive behavior or language that is directed at or observable by inmate's or others.
11. Kissing, hugging fondling or other touching of an individual's breast, genital, anal or other intimate area either directly or through clothing for sexual arousal, gratification, abuse or assault of either party.
12. Rape, sexual assault, sexual intercourse, oral sex, anal sex, vaginal sex.
13. Sex or penetration with any object or body part.

Victim: Any person who has been the target of sexual misconduct.

Victim Support Person: An individual designated by the Detention Center Administrator who has been specially trained to support a victim during investigation of alleged sexual acts or contact.

Procedural Overview

A. Hiring and Promotion

Chester County Prison prohibits the hiring and promotion of anyone who may have contact with inmates who:

- Has engaged in sexual abuse in a prison, jail, lockup community correction facility, juvenile facility, or other institution;
- Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse, or;
- Has been civilly or administratively adjudicated of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse.
- All prospective employees must clear a criminal records background check prior to being hired, and all current employees and contractors shall be subject to a criminal records background check at least every five years.

B. Training

Training for Employees. All facility employees shall receive instruction related to this policy and the following critical subjects:

- The facility's zero tolerance policy for sexual misconduct.



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- How employees should fulfill their responsibilities under the prison sexual misconduct prevention, detection, reporting, and response policies and procedures.
- Inmates' right to be free from sexual misconduct.
- The right of inmates and employees to be free from retaliation for reporting sexual misconduct.
- The dynamics of sexual misconduct in confinement.
- The common reactions of sexual misconduct victims.
- How to detect and respond to signs of threatened and actual sexual misconduct.
- How to avoid inappropriate relationships with inmates.
- How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates.

Upon entry into the prison all new employees will receive this training as part of their initial Officer Basic Training or Orientation. Current employees will receive this training within one year of implementation of this policy.

- As part of their annual in-service training all employees shall receive refresher training on these subjects every year.
- **Specialized Training for PREA Coordinator, Investigator and Victim Support Personnel.** Specialized training is provided for employees who respond to incidents of sexual misconduct. This training includes facility policy, crime scene management, elimination of contamination, evidence collection protocol for confinement settings, techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, and crisis intervention.
- **Training for Contractor, Volunteer, and Non-Employee Personnel with Inmate Contact.** Contractors who will have interaction with an inmate shall receive formal instructional handout with regards to the prison's policy, prohibited conduct, prevention, detection, response, and reporting of sexual misconduct prior to assuming responsibilities that include inmate contact. An informational handout will be provided to the volunteer and non-employee personnel. It may be tailored to reflect the extent of time they are in the facility and their length of access to inmates.
- **Medical and Mental Healthcare Personnel** will provide training for all of their staff in accordance with the PREA 2003 Standard. Upon conclusion of their training they will know:



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- How to detect and assess signs of sexual misconduct.
- How to preserve physical evidence of sexual abuse.
- How to respond effectively and professionally to victims of sexual misconduct.
- How and to whom to report allegations or suspicions of sexual misconduct.
- **Lesson Plans and Materials.** All lesson plans or materials used for training on sexual assault and abuse shall be approved by the Prison Administration.
- **Documentation.** Documentation confirming training for all employees is maintained by the facility. All contract agencies will be responsible to maintain their records confirming training.

C. Inmate Orientation and Education.

All individuals booked into the facility shall receive verbal and written information about sexual misconduct during their orientation. This information shall address:

- The Detention Center's program for prevention of sexual misconduct
- Methods of self-protection
- How to report sexual misconduct and retaliation
- Protection from retaliation
- Treatment and counseling

Information regarding these topics will be approved by the Warden or his designee and included in the Inmate Handbook, orientation materials, and on posters in visitation and housing areas in the facility.

Appropriate provisions shall be made as necessary for inmates not fluent in English and inmates with disabilities, (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) so that all inmates have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and harassment. At no time shall inmate interpreters be employed for this purpose, absent exigent circumstances

Inmates detained solely for immigration violations shall be provided information on how to contact consular and/or Homeland Security officials.

The facility will maintain documentation of inmate receipt of this information.



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D. Screening/Assessing Inmates at Intake

All inmates booked into the facility are screened for potential vulnerabilities or tendency to act out with sexually aggressive behavior within 72 hours of arrival at the facility.

Inmates identified as potential or confirmed victims of sexual assault or as having a tendency to act out with sexually aggressive behavior shall be considered for protective custody placement or placement in a special custody unit or other appropriate setting.

Inmates shall not be subject to disciplinary action for failing to answer questions regarding disabilities, sexual orientation or perception, past sexual victimization, or perception of vulnerability.

Inmates shall not be placed in involuntary protective custody unless all other available alternatives have been examined and found to be unsuitable to maintain separation from likely abusers.

E. Additional Screening/Assessing

Inmates identified as high risk with a history of sexually assaultive behavior or who have been identified as at risk for sexual victimization are assessed by a mental health or other qualified health professional. Such inmates will also be monitored by mental health services and provided with counseling.

If at any time an inmate is identified as a sexual predator or as a victim/potential victim, the inmate shall be re-evaluated for appropriate housing, available programs, monitoring and counseling.

F. Recommendation for Special Housing

Based on their observation of the inmate's behavior or at the inmate's request, any employee may make a referral for alternative housing. These recommendations can be based on concerns that an inmate may be at significant risk of sexual victimization.

This recommendation shall be documented on the Mental Health Referral Form.

G. Sexual Misconduct Between Inmates and Non-Inmates

Chester County has zero tolerance for sexual misconduct between inmates and non-inmates. Sexual misconduct perpetrated by non-inmates is contrary to the policies of this prison and professional ethics that all employees are bound to uphold. Any such



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conduct by staff is cause for disciplinary action up to and including termination. Any such conduct by a contractor or volunteer is cause for termination of access to Chester County Prison.

There is no consensual sex in a custodial or supervisory relationship as a matter of law. A sexual act with an inmate by a person in a position of authority over the inmate is a felony subject to criminal prosecution. **Pa Crimes Code § 3124.2.**

Retaliation against inmates who refuse to submit to sexual activity, or retaliation against individuals (including witnesses) because of their involvement in the reporting or investigation of sexual misconduct is also prohibited and possible grounds for disciplinary action, including termination and/or criminal prosecution.

Failure of employees to report incidents of sexual misconduct is cause for disciplinary action, including termination of employment.

Cases involving sexual misconduct may be referred to the County Detectives for investigation and possible prosecution.

Inmates who knowingly make false allegations of sexual misconduct are subject to discipline

H. Sexual Misconduct Between Inmates

Sexual contact, sexual acts, and other sexual misconduct between Inmates are prohibited by this policy regardless of whether it is alleged to be consensual.

Inmate aggressors are subject to discipline.

Inmates or staff who report sexual misconduct, or inmates who have been reported to have suffered sexual misconduct are protected from retaliation, and inmates or staff who engage in retaliation are subject to discipline.

- For at least 90 days following a report of sexual abuse, the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse shall be monitored to see if there are changes that may suggest possible retaliation by inmates or staff, and action shall be taken promptly to remedy any such retaliation. Items to be monitored should include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. Monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need.
- In the case of an inmate's potential exposure to retaliation, the block supervisor shall monitor events in order to insure against such.
- In the case of a staff member's potential exposure to retaliation, the PREA Compliance Manager shall monitor events to insure against such.

Inmates who knowingly make false allegations of sexual misconduct are subject to discipline.



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I. Supervision and Monitoring

Security Supervisors will conduct and document unannounced rounds to identify and deter staff sexual misconduct. Staff is prohibited from alerting other staff members that such supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility.

J. Reporting and Investigation

All staff, contractors and volunteers have a duty to immediately report to the Duty Officer and PREA Coordinator any knowledge, suspicion, or information regarding sexual misconduct involving an inmate and/or any retaliation or neglect in violation of this policy.

First Responder Instructions—All Alleged Sexual Misconduct.

- An inmate may report sexual misconduct or threats of sexual misconduct to any staff member or non-inmate. Any staff member or non-inmate who receives a report of sexual misconduct, whether verbally or in writing, shall immediately notify the shift supervisor and complete an incident report. The shift supervisor shall immediately notify the Warden, Prison Administrators and PREA Coordinator and shall ensure that the alleged victim and aggressor are physically separated, either through the placement of one or both in the special management unit or some other effective means.
- The PREA Coordinator shall direct the facility's response to all allegations of sexual misconduct, including prompt assignment of a Victim Support Person, Investigator, and/or referral to medical/mental health services when warranted.
- In every case where the alleged aggressor is an employee, there will be no contact between the alleged aggressor and the alleged victim without the approval of the Warden.
- Allegations of sexual misconduct shall be treated with discretion and, to the extent permitted by law, confidentiality. Individuals who fail to keep allegations of sexual misconduct confidential are subject to discipline.

First Responder Instructions--Allegations Involving Abuse, Assault or other Sexual Acts or Contact.

- Advise the victim not to shower or otherwise clean themselves, or if the assault was oral, not to eat, drink, brush their teeth, chew gum or otherwise take any action that could damage or destroy evidence.



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- Secure the scene of the alleged assault if feasible and secure any video footage.
- Notify the PREA Coordinator who along with the Legal Liaison will assume responsibility for handling the sexual misconduct allegations and who will, in consultation with the Warden or his designee decide whether to notify law enforcement. Cases involving alleged sexual acts will be reported to law enforcement.
- If the alleged assault occurred within the previous 96 hours arrangements shall be promptly made to have the alleged victim transported and examined at a local hospital. If the alleged assault occurred more than 96 hours before being reported, the PREA Coordinator in consultation with the Prison and Medical Health Care Administrators will determine whether to send the alleged victim to the hospital for examination by a Sexual Assault Nurse Examiner (SANE) or other qualified medical practitioner.

Reporting to Other Facilities

- Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden or his designee shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- The Warden or his designee shall document that such notification has been provided.

Access to Emergency Medical and Mental Health Services.

- Alleged victims of sexual abuse shall 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.
- If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, the PREA Coordinator shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners.
- Alleged victims of sexual abuse shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate.
- Treatment services shall 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.



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Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

- The facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual acts. When necessary and feasible, the evaluation and treatment of such victims shall include follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- Alleged inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
- If pregnancy results from the conduct described in paragraph (c) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- Alleged inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
- Treatment services are 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.
- The facility shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Investigations. All reports of sexual misconduct, sexual contact or sexual abuse must be considered credible and promptly investigated criminally and/or administratively without regard to whether:

- The inmates who are named in the allegation are in custody or not. Staff members named in the allegation are currently employed or not.
- The report of the allegation was made in a timely manner or not.
- The inmate reporting the allegation is known to have made past false allegations.
- The source of the allegation recants the allegations.
- The employee receiving the complaint believes or does not believe the allegations.

The Administrative Investigator is required to receive special training in conducting sexual abuse investigations in confinement and shall be responsible for conducting and fully documenting the investigation in accordance with prison's practice.



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In determining whether an allegation of sexual abuse or sexual harassment is substantiated, the Administrative Investigator shall employ a standard of preponderance of evidence.

Allegations of sexual assault shall be referred to Chester County Detectives for investigation for possible criminal action.

Victim Support Person. When the victim alleges that a sexual act occurred, a designated victim support person shall be notified as soon as possible, but no later than the next business day. This person will consult with the investigator on the case and offer assistance to the alleged victim as is appropriate based on their training. The victim support person may sit in on administrative interviews of the victim but may not in any manner obstruct or interfere with the course of the investigation.

Reporting to Inmates. Inmates who are currently in the custody of the facility are entitled to know the outcome of investigation into their allegation as follows:

- Following an investigation into an inmate's allegation of sexual abuse in the facility, the PREA Coordinator or Prison Administrator shall inform the inmate whether the allegation was determined to be substantiated, unsubstantiated, or unfounded.
- If the inmate's allegation involved a staff member, the PREA Coordinator shall inform the inmate whenever:
 - The staff member is no longer posted within the inmate's unit;
 - The staff member is no longer employed at the facility;
 - The staff member has been indicted on a charge related to sexual abuse within the facility; or
 - The staff member has been convicted on a charge related to sexual abuse within the facility.
- If the allegation involved another inmate, the PREA Coordinator shall inform the alleged victim when:
 - The alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - The alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- All such notifications or attempted notifications shall be documented.
- The facility's obligation to report under this standard terminates if the inmate is released from custody.



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K. Data Collection and Review

- Within 30 days of the conclusion of an investigation into an allegation of sexual abuse, a sexual abuse incident review shall be conducted, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

- The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

- The review team shall prepare a report of its findings, including any recommendations for improvement and submit such report to the Warden and PREA Compliance Manager.

- Accurate, uniform data shall be collected for every allegation of sexual abuse using a standardized instrument and set of definitions.
 - The incident-based data collected shall 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.

- All incident-based sexual abuse data shall be aggregated at least annually and compiled in an annual report. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall assess the effectiveness of the prison's sexual abuse prevention, detection and response policies, and shall be reviewed by prison administration. The annual report shall be made readily available to the public through its website or, if it does not have one, through other means.

- All data collected shall be securely retained for at least 10 years after the date of initial collection.