



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure No.: PPD 1.1.1700	Subject: PRISON RAPE ELIMINATION ACT OF 2003 (PREA)
Reference: DOC 1.1.6; DOC 1.1.17; DOC 1.3.12; DOC 1.8.1; DOC 3.1.19; DOC 3.3.3; DOC 4.2.2; 41-3-201, MCA; 45-5-501, MCA; 45-5-502, MCA; 45-5-503, MCA; 28 CFR Part 115	Page 1 of 4
Effective Date: 12/07/15	Revised: 09/12/16; 12/26/17
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator	

This procedure is referenced as ACCD 1.3.1400 PREA in Section 1.J.1.a. Standard Contract Terms; Compliance with Laws; State, federal, and local laws; Prison Rape Elimination Act, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Connections Corrections Program (CCP), Elkhorn, Nexus, START, and WATCH Contract.

I. PURPOSE:

The employees of the Probation and Parole Division and its facilities will comply with requirements established by the Prison Rape Elimination Act of 2003 by following established procedures for the prevention, intervention, reporting and investigation of any sexual abuse or sexual harassment against offenders.

II. DEFINITIONS:

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility, or program operation and management.

LEAJ-Law Enforcement Agency of Jurisdiction – The government agency, i.e. sheriff’s office or local police department, operating within their defined area of responsibility.

Offender – Any individual in the custody or under the supervision of the Department of Corrections or its contracted service providers. The term includes former offenders for whom less than one year has elapsed since discharge from Department custody or supervision.

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, prerelease, and treatment services.

PREA Coordinator – The Department position responsible for administration and management of the Department-wide PREA program including, but not limited to, compliance, policy and procedure development, staff training, offender education, and records and statistical tracking.

Prerelease and Treatment Facilities Contract Manager – The Department’s employee who acts as the liaison for services and monitors the contractual agreements between the Department and PPD contract treatment facilities and prerelease centers.

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Service Provider – This term includes contracted persons, volunteers, interns, temporary employees, or other vendors providing service whose assignment is primarily on Department premises, e.g. facility or program office.

Sexual abuse of an offender by another offender – Sexual acts, sexual contact or any other intentional touching, either directly, through the clothing, or with an object, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation, in which the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse.

Sexual abuse of an offender by a staff member or service provider – Sexual acts, sexual contact or any other intentional contact, either directly, through the clothing, or with an object, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks; any attempt, threat, or request by a staff member or service provider to engage in these activities; any display by a staff member or service provider of his or her uncovered genitalia, buttocks, or breast in the presence of an offender; or voyeurism by a staff member or service provider, when these acts are unrelated to official duties or where the staff member or service provider has the intent to abuse, arouse, or gratify sexual desire.

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 offender directed toward another or repeated verbal comments or gestures of a sexual nature to an offender by a staff member or service provider.

Sexual Misconduct – Includes sexual abuse of an offender by another offender, sexual abuse of an offender by a staff member or service provider, sexual harassment, and voyeurism.

Substantiated Allegation – An allegation that was investigated and determined to have occurred.

Unfounded Allegation – An allegation that was investigated and determined not to have occurred.

Unsubstantiated Allegation – An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Voyeurism – An invasion of privacy of an offender by a staff member or service provider for reasons unrelated to official duties.

III. PROCEDURES:

A. GENERAL REQUIREMENTS

1. The Department and the PPD have zero tolerance for any sexual misconduct incidents against offenders. These offenders will be recognized as crime victims and victim services will be available to them.
2. PPD contract facilities will be compliant with 28 CFR Part 115 Prison Rape Elimination Act National Standards, have an appropriate PREA policy and/or procedure in place, and report PREA incidents to the PPD as outlined in this procedure and *PPD 1.1.601 Priority Incident Reporting: PPD Facilities*.
3. All PPD employees will read, understand, and comply with this procedure, *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), DOC Policy 1.3.12, Staff Association and Conduct with Offenders, DOC Policy 3.3.3 Offender Grievance Program, and PPD 3.3.300 Offender*

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Grievance Program, have an opportunity to ask questions and receive answers about the procedures, and complete *PPD 1.1.1700(B) Staff PREA Acknowledgment*.

4. Information distributed to offenders regardless of their supervision level, status, disciplinary, or administrative status is as follows:
 - a. At sign-up, offenders under Probation & Parole supervision and offenders at MASC must be provided a copy of this operational procedure, *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, *DOC Policy 1.3.12, Staff Association and Conduct with Offenders*, *DOC Policy 3.3.3, Offender Grievance Program*, and *PPD 3.3.300 Offender Grievance Program* and be given the opportunity to review them, ask questions, and receive answers.
 - i. P&P offender will complete *PPD 1.1.1700(C) Offender PREA Acknowledgement* and form is placed in offender's file.
 - ii. MASC offenders will complete *PPD 1.1.1700 (D) MASC Offender PREA Acknowledgement* and form is placed in offender's file.
 - b. Offenders in a PPD facility must be provided the facility's appropriate policies and/or procedures for PREA and grievances during facility admission and be given the opportunity to review them, ask questions, and receive answers. Offender must complete a form acknowledging receipt of the information and form is placed in offender's file.
5. Administrators or designees will immediately respond to allegations of sexual misconduct, fully investigate reported incidents, pursue disciplinary action, and refer for investigation and prosecution those who violate the requirements set forth in this procedure and *DOC Policy 1.1.17*.
6. Pursuant to *DOC Policy 1.1.17*, administrators will assign a PREA specialist responsible for:
 - a. coordinating facility or program PREA-related activities with the PREA coordinator;
 - b. ensuring facility/program compliance with *DOC Policy 1.1.17* training requirements;
 - c. maintaining records of all allegations, investigations, and incident reviews; and
 - d. tracking and reporting related statistical data to the PREA coordinator.

B. INVESTIGATION AND REPORTING

1. Probation & Parole (P&P):

- a. When an offender discloses that he/she was sexually abused and/or harassed while incarcerated in a facility, staff receiving the disclosure must notify their supervisor and the head of the facility where the alleged incident occurred as soon as possible, but no later than 72 hours after receiving the allegation.
- b. Staff receiving the disclosure will report the incident as a priority II incident by completing *DOC 1.1.6 (Attachment) Incident Report Form* including information regarding when and to whom notification was made and submit it to the immediate supervisor as soon as possible, but no later than by the end of the shift.
- c. Supervisor reviews and immediately forwards *Incident Report Form* to Deputy Chief (DC).
- d. DC will email *Form* to CORPrea@mt.gov and the Prerelease and Treatment Facilities Contract Manager as soon as possible, with "PREA" in email subject line.

2. Missoula Assessment and Sanction Center (MASC): When an incident is determined to be sexual misconduct, the following procedures will be followed:

- a. MASC and the Missoula County Detention Facility will establish facility-specific protocols and the PREA specialists will be responsible for the administrative and unit investigations of allegations of sexual misconduct.
- b. If a criminal element is found, LEAJ is contacted to determine whether local law enforcement will investigate the incident, coordinate a criminal investigation with the Department's Office

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of Investigations, or give authority to the Department to investigate. Staff assigned to investigate administratively or at the unit level will work in cooperation with law enforcement and/or Department investigator to ensure the criminal investigation is not compromised.

- c. When LEAJ is contacted, incident is considered a Priority I incident and reporting procedures pursuant to *PPD 1.1.601 Priority Incident Reporting: PPD Facilities* will be followed. Immediate [within one (1) hour] notification will be made as follows:
 - i. to MSP Command Post at 406-846-6059;
 - ii. email to the Department’s PREA Coordinator and Office of Investigations at CORPrea@mt.gov; and
 - iii. email to the Programs and Facilities Bureau Chief with “PREA” in the subject line.
- d. If no criminal element is found, incident will be reported as a Priority II incident pursuant to *PPD 1.1.601* with notification to the Programs and Facilities Bureau Chief.
- e. Following the investigation, the offender will be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

3. PPD Contract Facilities:

- a. Facilities must establish facility-specific protocols and be responsible for the administrative investigations of allegations of sexual misconduct. The Department will assist with an administrative investigation if requested by the facility.
- b. Facility must contact LEAJ to determine whether local law enforcement will investigate the incident, coordinate a criminal investigation with the Department’s Office of Investigations, or give authority to the Department to investigate. Staff assigned to investigate administratively will work in cooperation with law enforcement and/or Department investigator to ensure the criminal investigation is not compromised.
- c. When LEAJ is contacted, incident is considered a Priority I incident and reporting procedures pursuant to *PPD 1.1.601 Priority Incident Reporting for PPD Facilities* will be followed. Immediate [within one (1) hour] notification will be made as follows:
 - i. to MSP Command Post at 406-846-6059;
 - ii. an email to the Department’s PREA Coordinator and Office of Investigations at CORPrea@mt.gov; and
 - iii. an email to the Prerelease and Treatment Facilities Contract Manager with “PREA” in the subject line.
- d. Following the investigation, the facility will:
 - i. continue to update the Contract Manager or designee regarding the incident; and
 - ii. inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

IV. CLOSING:

Questions regarding this procedure will be directed to the Prerelease and Treatment Facilities Contract Manager, Programs and Facilities Bureau Chief, Facility Administrator, or PREA Coordinator.

V. FORMS:

- PPD 1.1.1700 (B) Staff PREA Acknowledgment
- PPD 1.1.1700 (C) Offender PREA Acknowledgment
- PPD 1.1.1700 (D) MASC Offender PREA Acknowledgment
- DOC 1.1.6 (Attachment) Incident Report Form