



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

Procedure No.: PPD 1.1.1700	Subject: <b>PRISON RAPE ELIMINATION ACT OF 2003 (PREA)</b>
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; 42 USC §15601	Page 1 of 4
Effective Date: 12/07/15	Revised: 09/12/16
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.

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.

Department Employee – A person employed by the Department of Corrections. This term does not include service providers.

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, training, 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.

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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.

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, PPD and its facilities have zero tolerance for any sexual misconduct incidents against offenders. The PPD recognizes these offenders as crime victims and will make victim services available to them.
2. All employees of the PPD 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 Grievance Program*, have an opportunity to ask questions and receive answers about the procedures, and complete *PPD 1.1.1700(B) Staff PREA Acknowledgment*.
3. Information to offenders regardless of their supervision level, status, disciplinary, or administrative status:
  - a. Offenders under Probation & Parole supervision 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* at sign-up for community supervision and be given the opportunity to review them, ask questions, and receive answers.

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Offender will complete *PPD 1.1.1700(C) Offender PREA Acknowledgement* and form is placed in offender's file.

- b. Offenders in a PPD facility must be provided the appropriate policies and/or procedures for grievances and the Prison Rape Elimination Act of 2003 (PREA) during facility admission and be given the opportunity to review them, ask questions, and receive answers. Offender will complete *PPD 1.1.1700(C) Offender PREA Acknowledgement* and form is placed in offender's file.
4. 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*.
  5. Pursuant to *DOC Policy 1.1.17*, administrators will assign a PREA specialist who is 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. REPORTING AND INVESTIGATION**

1. Treasure State Correctional Training Center will follow the procedures of *CTC Operational Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*.
2. Probation & Parole (P&P):
  - a. When an offender under P&P supervision discloses that he/she was sexually abused and/or harassed while incarcerated in a facility, the staff receiving the disclosure will 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. The 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 fax *Form* to the PPD Administrator or designee at (406) 444-7909, the PREA coordinator and the Office of Investigations at (406) 846-2051 as soon as possible.
3. Missoula Assessment and Sanction Center (MASC): When an incident is determined to be sexual misconduct, the following procedures will be followed:
  - a. Immediate [within one (1) hour] notification will be made to the MSP Command Post at 406-846-6059 and the MASC Administrator once the Priority I incident is confirmed.
  - b. LEAJ will be notified, if warranted, and MASC Administrator will immediately contact PPD Administrator, or designee.
  - c. If possible, initial written reports for all Priority I incidents will be faxed to the MSP Command Post at (406) 846-2953, the DOC Office of Investigations at (406) 846-2951 and to the PPD Administrator or designee at (406) 444-7909 within one (1) hour of verbally reporting the incident to the MSP Command Post. The MASC Unit Sergeant is responsible to review all reports for accuracy, completeness and clarity before forwarding the report to the MASC Administrator.

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- d. Once the MASC Administrator has reviewed the reports, he/she will distribute copies according to established procedures. Final reports will be faxed to the MSP Command Post, the Office of Investigations and to the PPD Administrator or designee within 24 hours of incident.

4. PPD Contract Facilities:

- a. If there is a question as to whether an incident deemed inappropriate in a PPD facility is covered under PREA, the Facilities Contract Manager (FCM) will be contacted immediately for direction.
- b. Supervisor or designee will initiate *PPD 1.1.1700(A) Sexual Assault Response and Containment Checklist*. The completed checklist will be faxed to the MSP Command Post at (406) 846-2953, the DOC Office of Investigations at (406) 846-2951, and to the FCM at (406) 444-7909.
- c. Facility will contact LEAJ to determine whether local law enforcement will investigate the incident, coordinate a criminal investigation with the DOC Office 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.
- d. Facilities will establish facility-specific protocols and be responsible for the administrative and unit investigations of allegations of sexual misconduct.
- e. All *DOC 1.1.6 (Attachment) Incident Report Form*, and any subsequent reports, will be faxed to MSP Command Post, the DOC Office of Investigations, and the FCM.
- f. Following the investigation, the facility will inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- g. When a facility administrator receives a report of a disclosed incident of sexual misconduct, he/she will keep the PPD Administrator informed of the actions taken by the facility to investigate the allegation.

**IV. CLOSING:**

Questions regarding this procedure will be directed to the Facilities Contract Manager, Facility Administrator, or PREA Coordinator.

**V. FORMS:**

PPD 1.1.1700 (A)	Sexual Assault Response and Containment Checklist
PPD 1.1.1700 (B)	Staff PREA Acknowledgment
PPD 1.1.1700 (C)	Offender PREA Acknowledgment
DOC 1.1.17 (Attachment)	Medical Treatment Refusal Form
DOC 1.1.6 (Attachment)	Incident Report Form