

<p>Commonwealth of Pennsylvania</p>  <p>Pennsylvania Board of Probation and Parole</p>	<p>Volume III Chapter 1</p> <p>Procedure 1.08.01</p>	<p>Date Revised: NEW</p>
<p>Chapter Title PRISON RAPE ELIMINATION ACT (PREA)</p>		<p>Date of Issue March 17, 2016</p>
<p>Subject PREA for PBPP Lockups</p>		<p>Effective Date March 24, 2016</p>

I. AUTHORITY

The chairman of the board is granted the authority to “direct the operations of the board and fulfill the functions established by the act... including organizing, staffing, controlling, directing, and administering the work of the staff.” 61 Pa. C.S. § 6112 (a)(1) & (a)(4).

II. PURPOSE

This purpose of this procedure is to provide staff with directions necessary to maintain compliance for the Prison Rape Elimination Act (PREA) to include prevention and response planning; training and education; risk screening; reporting and responses to offender reports; investigations; discipline; referrals; and data collection and review.

The Pennsylvania Board of Probation and Parole (PBPP) is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilities it operates directly or with which it holds contracts for the confinement of offenders. Sexual abuse of an offender and sexual harassment of an offender are prohibited.

III. APPLICABILITY

This procedure is applicable to all Board staff as well as any contractors and volunteers.

IV. DEFINITIONS

It is noted that the below definitions are specific to this procedure only.

Agency refers to the unit of a state, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency head refers to the principal official of an agency.

Community confinement facility refers to a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in

gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Consent refers to cooperation in act or attitude pursuant to an exercise of free will and with full understanding of the nature of the act. Inmates cannot consent to sexual contact with staff members, volunteers, or contractors.

Contractor refers to a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee refers to any person detained in a lockup, regardless of adjudication status.

Direct staff supervision refers to the Board staff in the same room with, and within reasonable hearing distance of, the resident or offender.

Employee refers a person who works directly for the agency or facility.

Exigent circumstances refers to any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility refers to a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility head refers to the principal official of a facility.

Full compliance refers to compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming refers to a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate refers to any person incarcerated or detained in a prison or jail.

Intersex refers to a person with sexual or reproductive anatomy or chromosomal pattern that does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail refers to a confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile refers to any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility refers to a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Law enforcement staff refers to employees responsible for the supervision and control of detainees in lockups.

Lockup refers to a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- a. Under the control of a law enforcement, court, or custodial officer; and is
- b. Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner refers to a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner refers to a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search refers to a running of the hands over the clothed body of an inmate, detainee, offender or resident by an employee to determine whether the individual possesses contraband.

Prison refers to an institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime.

Resident refers to any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility refers to a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows resident access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

Security staff refers to employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Sexual abuse refers to:

- a. Sexual abuse of an offender, inmate, detainee, or resident by another offender, inmate, detainee, or resident; or
- b. Sexual abuse of an offender, inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an offender, inmate, detainee, or resident by another offender, inmate, 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:

- a. Contact between the penis and the vulva or the penis and the 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 a hand, finger, object, or other instrument; and
- d. 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.

Sexual abuse of an offender, inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the offender, inmate, detainee, or resident:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b. Contact between the mouth and the penis, vulva, or anus;
- c. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs a - e of this section;
- g. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, inmate, detainee, or resident, and
- h. Voyeurism by a staff member, contractor, or volunteer.

Sexual harassment refers to:

- a. 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, inmate, detainee, or resident directed toward another; or
- b. Repeated verbal comments or gestures of a sexual nature to an offender, inmate, detainee, or resident 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.

Staff refers to employees of the Pennsylvania Board of Probation and Parole.

Strip search refers to a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender refers to a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation refers to an allegation that was investigated and determined to have occurred.

Unfounded allegation refers to an allegation that was investigated and determined not to have occurred.

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

Volunteer refers to an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Voyeurism by a staff member, contractor, or volunteer refers to an invasion of privacy of an offender, inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Youthful inmate refers to any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Youthful detainee refers to any person under the age of 18 who is under adult court supervision and detained in a lockup.

V. POLICY

A. Responsibilities for Prevention Planning

For the purposes of PREA, the Pennsylvania Board of Probation and Parole (PBPP) enforces a zero tolerance of sexual abuse, sexual harassment, and retaliation directed to anyone who reports it.

1. A Prison Rape Elimination Act (PREA) coordinator is designated within PBPP to ensure compliance under the PREA Act. The PREA coordinator is responsible for a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining PBPP's approach to preventing, detecting, and responding to such conduct. The agency's PREA coordinator oversees agency efforts to comply with the PREA standards in all of its lockups including holding cell(s) within each of the District and Sub-offices.
2. For the purposes of supervision and monitoring of each holding cell or lockup, District Directors shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, District Directors shall take into consideration:
 - a. The physical layout of each holding cell or lockup;
 - b. The composition of the detainee population;
 - c. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - d. Any other relevant factors.
3. In the event circumstances exist where a staffing plan is not complied with, the District Director shall document and justify all deviations from the plan. Whenever necessary, but no less than once each year, the District Directors in collaboration with the agency PREA Coordinator, shall assess, determine, and document whether adjustments are needed to:
 - a. The staffing plan and patterns established pursuant to the above;
 - b. The holding cell or lockup's deployment of video monitoring systems and other monitoring technologies; and
 - c. The resources the District has available to ensure adequate staffing levels.
4. If vulnerable detainees are identified pursuant to the required screening, appropriate staff shall provide such detainees at each holding cell or lockup, with heightened protection, to include continuous direct sight and sound monitoring, single-holding cell or placement in a holding cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible. Adult detainees are held separately from any other populations. See Section D of this procedure, and Procedure 2.05.04 Office Security and Identification Badge Display.
5. As it pertains to limits on cross-gender viewing and searches, parole supervision staff at respective holding cell(s) or lockups shall not conduct cross-gender strip searches.

6. Consistent with security needs, if at any time a situation necessitates for an offender to shower, perform bodily functions, and/or change clothing, District Directors shall implement policies and procedures that enable such without nonmedical staff of the opposite gender viewing the offenders' breasts, buttocks, or genitalia, except when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be performing the aforementioned functions. Reference Procedure 4.01.11 Supervision Tools.
7. Parole Supervision Staff shall not search or physically examine a transgender or intersex detainee for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
8. The Staff Development Division shall train parole supervision staff on how to conduct cross-gender pat-down searches, and searches of transgender and intersex detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.
9. Detainees with disabilities and detainees who are limited English proficient (LEP). PBPP staff shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of PBPP's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

Such steps shall include the use of interpreters if necessary, and written materials provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. PBPP is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under Title II of the Americans With Disabilities Act, 28 CFR 35.164.

PBPP staff shall not rely on detainee interpreters, detainee readers, or other types of detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's safety, the performance of first-response duties or the investigation of the detainee's allegations.

10. Hiring and promotion decisions. The Bureau of Human Resources (HR) is responsible to ensure that PBPP shall not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor or volunteer who may have contact with detainees, who—
 - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

- b. 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
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described in this section.
 - d. HR shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with detainees.
 - e. Before hiring new employees who may have contact with detainees, HR or other staff shall:
 - 1) Perform a criminal background records check; and
 - 2) Consistent with federal, state, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
 - f. Appropriate staff shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with detainees.
 - g. HR shall conduct an annual PREA Employee Questionnaire for capturing such information for current employees. (SEE ATTACHED)
 - h. HR shall ask all applicants and employees who may have contact with detainees directly about previous misconduct described above in written applications or interviews for hiring or promotions using the PBPP Vacancy Bidding Form PBPP-253 and in any interviews or written self-evaluations conducted as part of reviews of current employees.
 - i. HR shall also impose upon employees a continuing affirmative duty to disclose any such misconduct through the use of an annual PREA Employee Questionnaire.
 - j. Material omissions regarding such misconduct, or the provision of materially false information, or the failure to complete the PREA Employee Questionnaire (PBPP-9) shall be grounds for discipline, including termination.
 - k. Unless prohibited by law, HR shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.
11. Upgrades to facilities and technologies. When designing or acquiring any new holding cell(s) or lockups and/or in planning any substantial expansion or modification of existing holding cell(s) or lockups, the respective District Director

in conjunction with the Bureau of Budget and Office Services shall consider the effect of the design, acquisition, expansion, or modification upon parole supervision staff's ability to protect detainees from sexual abuse.

12. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, District Directors in conjunction with appropriate staff shall consider how such technology may enhance parole supervision staff's ability to protect detainees from sexual abuse.

B. Responsive Planning

1. Evidence protocol and forensic medical examinations.

In accordance with Memorandums of Understanding (MOU) and to aid the appropriate Law Enforcement Agencies (LEA) with responsibility for investigating allegations of sexual abuse within PBPP holding cell(s) or in its lockups, parole supervision staff shall follow a uniform evidence protocol that maximizes the potential for the LEA to obtain usable physical evidence for criminal prosecutions; or administrative actions by PBPP.

2. The protocol shall be based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011. Employees and volunteers who may have contact with lockup detainees shall receive basic training regarding how to detect and respond to victims of sexual abuse.
3. PBPP shall offer all victims of sexual abuse access to forensic medical examinations at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. Parole supervision staff shall document efforts to provide examination by a SAFE or SANE in the offender's Record of Interview (PBPP-259). See Section 1 of this procedure.
4. If the victim/detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the victim/detainee shall be permitted to use such services to the extent available, consistent with security needs.
5. Policies to ensure referrals of allegations for investigations.
 - a. PBPP shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
 - b. To the extent that PBPP itself is not responsible for investigating allegations of sexual abuse within its holding cell(s) or lockups, appropriate parole supervision staff shall request that the investigating agency follow the requirements of paragraphs one (1) through four (4) above.

- c. Other Law Enforcement Agencies (LEA) are responsible for conducting investigations of allegations of sexual abuse or sexual harassment at District or Sub Office holding cell(s) or lockups. These LEA have the legal authority to conduct criminal investigations (unless the allegation does not involve potentially criminal behavior). PBPP shall publish said policy, including a description of responsibilities of both PBPP and the investigating entity, on its website. Appropriate PBPP staff shall document all such referrals.

C. Training and Education

1. Employee and volunteer training. PBPP employees and volunteers who may have contact with holding cell or lockup detainees will be trained to be able to fulfill their responsibilities for sexual abuse prevention, detection, and response policies and procedures, including training on:
 - a. PBPP's zero-tolerance policy and detainees' right to be free from sexual abuse, sexual harassment, and retaliation for reporting it;
 - b. The dynamics of sexual abuse and harassment in confinement settings, including which detainees are most vulnerable in holding cell or lockup settings;
 - c. The right of detainees and employees to be free from retaliation for reporting sexual abuse or harassment;
 - d. How to detect and respond to signs of threatened and actual sexual abuse;
 - e. How to communicate effectively and professionally with all detainees; and
 - f. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
2. All current PBPP employees and volunteers who may have contact with holding cell or lockup detainees shall be trained within one year of the effective date of the PREA standards, and appropriate PBPP staff shall receive annual refresher information to all such employees and volunteers to ensure that they know and understand the Commonwealth's and PBPP's current sexual abuse and sexual harassment prevention policies and procedures. PBPP staff shall document, through employee signature or electronic verification that employees understand the training they have received.
3. Offender and contractor notification of PBPP's zero-tolerance policy. During the intake process, parole supervision staff shall notify all offenders of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment with written notification, through execution of a PREA Fact Sheet. Additionally, PREA posters in both English and Spanish will be displayed in areas of District and Sub offices most commonly used by offenders such as lobby/waiting areas, holding cells, outside holding cells, and inside interview rooms. Parole supervision staff shall ensure that, upon entering the holding cell or lockup, any contractors who

may perform work in the holding cell or lockup are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.

4. Specialized training: Investigations. If at any time PBPP conducts sexual abuse investigations, our investigators will have received training in conducting such investigations in confinement settings. This training includes: techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. PBPP staff shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

D. Screening for Risk of Sexual Victimization and Abusiveness.

1. Due to PBPP holding cells or lockups not being utilized to house offenders overnight, before placing any offenders together in a holding cell, Parole supervision staff shall consider whether, based on the information before them, if an offender may be at a high risk of being sexually abused and, when appropriate, shall take necessary steps to mitigate any such danger to the offender. This consideration will include the following for risk of sexual victimization:

- a. Whether the detainee has a mental, physical, or developmental disability;
- b. The age of the detainee;
- c. The physical build and appearance of the detainee;
- d. Whether the detainee has previously been incarcerated;
- e. The nature of the detainee's alleged offense and criminal history;
- f. Whether an offender is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
- g. Whether the offender has previously experienced victimization; and
- h. The offender's own perception of his or her own vulnerability to sexual abuse or sexual harassment.

2. This consideration will include the following for risk of sexual abusiveness:

- a. Whether the offender has prior convictions for sex offenses against an adult or child; and
- b. Prior acts of sexual abuse, prior convictions for violent offenses, and a history of prior institutional violence or sexual abuse, as known to parole supervision staff.

3. Controls must be limited on the dissemination of responses to questions asked pursuant to this procedure to ensure that sensitive information is not exploited. Offender responses are voluntary.

E. Reporting

1. Offender reporting. PBPP shall provide multiple ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. PBPP shall also inform offenders of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency such as the Sex Offender Assessment Board (SOAB), which is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to PBPP officials, allowing the offender to remain anonymous upon request.
2. PBPP staff shall accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports.
3. "Anonymous" refers to an offender making the report and should not be required to identify him or herself. Examples of anonymous reporting include an unsigned grievance alleging sexual abuse, a caller who does not identify him or herself, or an inmate disclosing suspected abuse to a staff member and asking that their name not be included in the report.
4. Parole supervision staff in receipt of information regarding allegations of sexual abuse / sexual harassment occurring at a Community Corrections Center (CCC) or Community Contract Facility (CCF) involving another offender and/or CCC/CCF staff member, volunteer, or contractor working at the facility, will be reported within one (1) hour to the Bureau of Community Corrections (BCC) at **610-621-1961**, Option 3, by asking for the Shift Commander. Parole supervision staff shall also complete a Blueteam complaint online at <http://blueteam.cor.state.pa.us>
5. PBPP staff in receipt of information regarding allegations of sexual abuse / sexual harassment occurring during detention in a Contracted County Jail (CCJ) involving another offender and/or staff member, volunteer, or contractor working at the facility, shall immediately notify the local Law Enforcement Agency (LEA) having jurisdiction of the respective CCJ. PBPP staff shall also complete a Blueteam complaint online at <http://blueteam.cor.state.pa.us>. The chain of command shall also be notified.
6. PBPP staff in receipt of information regarding allegations of sexual abuse / sexual harassment occurring during detention in a PBPP holding cell or lockup involving another offender and/or PBPP staff member, volunteer, or contractor working at the facility, shall immediately notify the local Law Enforcement Agency (LEA) having jurisdiction of the respective District or Sub Office. PBPP staff shall also complete a Blueteam complaint online at <http://blueteam.cor.state.pa.us>
7. Any other allegations of sexual abuse / sexual harassment occurring outside of the above settings and involving a PBPP staff member, will be reported immediately to the local LEA providing support, appropriate PREA Coordinator(s), Deputy Executive Directors, and the Director of Internal Affairs, who will decide the appropriate action to initiate regarding the allegation.

8. PBPP staff may privately report sexual abuse and sexual harassment of offenders by completing a Blueteam complaint online at <http://blueteam.cor.state.pa.us> on behalf of such offenders.
9. Central Office staff receiving PREA complaints including allegations made by a third-party, shall document the complaint and report it via Blueteam. If staff is unsure if the complaint meets the criteria for a PREA complaint, send an email to the **PM, PREA** resource account as soon as possible, as well as by contacting the PBPP PREA Coordinator.
10. Third-parties may report allegations of sexual abuse and sexual harassment on behalf of offenders. PBPP's public website will include information on how to report sexual abuse and sexual harassment.
11. "Third parties" include other offenders, family members, attorneys, and outside advocates. It is noted that third-party reporting is distinct from outside reporting, which requires an external entity to forward reports to PBPP immediately. Third-party reports are made directly to PBPP.
12. Upon receipt of an allegation of sexual abuse / sexual harassment, under no circumstance is PBPP staff to question the alleged abuser(s), victim(s) witness(s), etc. for the purposes of obtaining additional details. Such questioning could compromise an official investigation conducted by the appropriate LEA and/or internal investigation conducted by PA DOC/BCC. PBPP staff will obtain only the minimum information necessary and submit the information via Blueteam.
13. To file a complaint online using Blueteam, visit <http://blueteam.cor.state.pa.us> Log in is required. From the dropdown box, select PREA. The application will prompt users through the process. Users should be as complete as possible to avoid returned complaints due to missing information. At the last screen, select "Mark Incident Complete." It will be forwarded to the PBPP PREA Coordinator and to the Director of Internal Affairs for review.
14. If PBPP staff are unsure if an allegation meets the criteria for sexual abuse / sexual harassment and/or does not have access to Blueteam, staff should send, as soon as possible, an email to the **PM, PREA** resource account, as well as by contacting the PBPP PREA Coordinator.

F. Official Response Following an Offender Report

1. PBPP Staff and agency reporting duties. PBPP requires all staff to report immediately in accordance with this procedure, any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in an agency holding cell or lockup; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
2. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in PBPP policy, to make treatment and investigation decisions.

3. If the alleged victim is under the age of 18 or considered a vulnerable adult under a state or local vulnerable person(s) statute, PBPP staff shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws.
4. PBPP staff shall report all allegations of sexual abuse, including third-party and anonymous reports, as described under section E, Reporting of this procedure.
5. Agency protection duties. When parole supervision staff learn that an offender is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the offender.
6. Reporting to other confinement facilities. Upon receiving an allegation that an offender was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. This notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation; PBPP staff shall document that it has provided such notification. The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with PREA standards.
7. Staff first responder duties. Upon learning of an allegation that an offender was sexually abused and prior to LEA arrival, the first parole supervision staff member to respond to the incident shall be required to:
 - a. Separate the alleged victim and abuser;
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence by LEA officers;
 - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
 - e. If the first PBPP staff responder is not a parole supervision staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify the appropriate LEA having jurisdiction over the District or Sub Office.
8. Coordinated response. PBPP staff shall develop a written plan to coordinate actions taken in response to a holding cell or lockup incident of sexual abuse, among staff first responders, medical and mental health practitioners, LEA staff, and agency leadership.

9. If a victim is transferred from the holding cell or lockup to a jail, prison, or medical facility, parole supervision staff shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.
10. Preservation of ability to protect detainees from contact with abusers. Neither PBPP nor any other governmental entity responsible for collective bargaining on PBPP's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits PBPP's ability to remove alleged PBPP staff sexual abusers from contact with offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
11. Nothing in this procedure shall restrict the entering into or renewal of agreements that govern:
 - a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of Evidentiary Standards of Administrative Investigations and Disciplinary Sanctions for Staff; and
 - b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the PBPP staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.
12. Agency protection against retaliation. PBPP shall establish a policy to protect all offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other offenders or staff. DED Office of Field Probation and Parole Services is responsible for monitoring retaliation. Monitoring shall include:
 - a. Periodic in-person conversations with offenders and/or staff;
 - b. Review of sanctioning actions involving offenders;
 - c. Review of supervision changes; and
 - d. Review of negative performance reviews or reassignments of staff.
13. PBPP shall employ multiple protection measures, such as supervision changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for PBPP staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
14. PBPP staff shall monitor the conduct and treatment of offenders or PBPP staff who have reported sexual abuse and of offenders who were reported to have suffered sexual abuse, and shall act promptly to remedy any such retaliation.
15. If any other individual who cooperates with an investigation expresses a fear of retaliation, PBPP staff shall take appropriate measures to protect that individual against retaliation.

16. PBPP's obligation to monitor for retaliation shall terminate if an investigation determines that the allegation is unfounded.

G. Investigations

1. Criminal and administrative agency investigations. When PBPP conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
2. Where sexual abuse is alleged in a holding cell, during a transport, or lockup, PBPP shall use internal affairs investigators who have received special training in sexual abuse investigations in accordance with this procedure.
3. PBPP internal affairs investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
4. When the quality of evidence appears to support criminal prosecution, PBPP internal affairs investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
5. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an offender or staff. No agency shall require a detainee who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
6. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
7. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
8. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
9. PBPP shall retain all written reports referenced above for as long as the alleged abuser is under PBPP supervision or employed by PBPP, plus five years.
10. The departure of the alleged abuser or victim from the employment or supervision of PBPP shall not provide a basis for terminating an investigation.

11. When outside agencies investigate sexual abuse, PBPP staff shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.
12. Evidentiary standard for administrative investigations. PBPP shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

H. Discipline

1. Disciplinary sanctions for PBPP staff. PBPP staff shall be subject to disciplinary sanctions, up to and including termination, for violating the Commonwealth's or PBPP sexual abuse or sexual harassment policies.
2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
3. Disciplinary sanctions for violations of the Commonwealth's or PBPP policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the PBPP staff member's disciplinary history, and the sanctions imposed for comparable offenses by other PBPP staff with similar histories.
4. All terminations for violations of the Commonwealth's or PBPP sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the appropriate law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
5. Corrective action for contractors and volunteers. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to the appropriate law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
6. PBPP staff shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any other violation of Commonwealth or PBPP sexual abuse or sexual harassment policies by a contractor or volunteer.
7. Referrals for prosecution for offender-on-offender sexual abuse. When there is probable cause to believe that an offender sexually abused another offender in a holding cell or lockup, Parole supervision staff shall refer the matter to the appropriate prosecuting authority.
8. To the extent that PBPP itself is not responsible for investigating allegations of sexual abuse, appropriate PBPP staff shall inform the investigating entity of this policy.

I. Medical and Mental Care

1. Access to emergency medical services. Victims of sexual abuse in holding cells or lockups shall receive timely, unimpeded access to emergency medical treatment, consistent with security needs.
2. Mental Health 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. This includes referrals to community based service providers for counseling services.

J. Data Collection and Review

1. Sexual abuse incident reviews. PBPP staff shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. This shall occur within 30 days of the conclusion of the investigation. The review team shall include Regional Director(s), District Director(s), with input from Supervisor(s). The review team shall:
 - a. Consider whether the allegation or investigation indicates a need to change procedure to better prevent, detect, or respond to sexual abuse;
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the holding cell;
 - c. Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during duty hours;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by PBPP staff; and
 - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to the above, and any recommendations for improvement and submit such report to the Deputy Executive Directors and the PBPP PREA coordinator.
 - g. The District or Sub Office shall implement the recommendations for improvement, or shall document its reasons for not doing so.
2. Data collection. PBPP staff shall collect accurate, uniform data for every allegation of sexual abuse at holding cells or lockups under its direct control according to this procedure. PBPP staff shall also:
 - a. Aggregate the incident-based sexual abuse data at least annually;
 - b. Incident-based data collection shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of

Justice, or any subsequent form developed by the Department of Justice and designated for lockups;

- c. Maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews;
 - d. Obtain incident-based and aggregated data from any private agency with which it contracts for the confinement of its detainees, if applicable;
 - e. Provide all such data from the previous calendar year to the Department of Justice no later than June 30, upon request.
3. Data review for corrective action. PBPP shall review data collected and aggregated pursuant to the above in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
- a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of its findings and corrective actions for each lockup, as well as PBPP as a whole to include:
 - 1) A comparison of the current year's data and corrective actions with those from prior years and an assessment of the agency's progress in addressing sexual abuse.
 - 2) PBPP's report shall be approved by the Board Chair and made readily available to the public through its website.
 - 3) PBPP may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a holding cell or lockup, but must indicate the nature of the material redacted.
4. Data storage, publication, and destruction. PBPP shall ensure that data collected pursuant to this procedure is securely retained.
- a. PBPP staff shall make all aggregated sexual abuse data, from holding cells or lockups under its direct control and any private agencies with which it contracts, readily available to the public at least annually through its public website.
 - b. Before making aggregated sexual abuse data publicly available, PBPP staff shall remove all personal identifiers.
 - c. PBPP staff shall maintain sexual abuse data collected pursuant to this procedure for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise.

K. Auditing

1. During a three-year period PBPP shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once.
2. PBPP shall bear the burden of demonstrating compliance with the standards.
3. PBPP shall permit the auditor to:
 - a. Review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility.
 - b. Request and receive copies of any relevant documents (including electronically stored information).
 - c. Conduct private interviews with inmates.
4. PBPP shall make available to the auditor, at a minimum:
 - a. A sampling of relevant documents and other records and information for the most recent one-year period.
 - b. A sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.
5. PBPP shall ensure the auditor has access to all areas of the audited facilities.
6. PBPP shall cooperate with the auditor to ensure a representative sample of inmates and of staff, supervisors, and administrators can be interviewed by the auditor.
7. PBPP shall ensure at least one way for inmates to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
8. PBPP shall ensure that audits are conducted by a qualified auditor, which includes:
 - a. A member of a correctional monitoring body that is not part of, or under the authority of PBPP;
 - b. A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or
 - c. Other outside individuals with relevant experience and credentials.
9. All auditors shall be certified by the Department of Justice.

10. No audit shall be conducted by an auditor who has received financial compensation from PBPP, except for compensation received for conducting prior PREA audits, within the three years prior to the agency's retention of the auditor.
11. PBPP shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to PBPP's retention of the auditor, with the exception of contracting for subsequent PREA audits.
12. Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.
13. Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.
14. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings:
 - a. Exceeds Standard (substantially exceeds requirement of standard);
 - b. Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period);
 - c. Does Not Meet Standard (requires corrective action).
15. The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.
16. Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.
17. PBPP shall ensure that the auditor's final report is published on PBPP's website, or otherwise made available to the public.
18. A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.
19. The auditor and PBPP shall jointly develop a corrective action plan to achieve compliance.
20. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
21. After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
22. If PBPP does not achieve compliance with each standard, it may request a subsequent audit once it believes that it has achieved compliance.

23. PBPP may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
24. If the Department determines that PBPP has stated good cause for a re-evaluation, PBPP may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. PBPP shall bear the costs of this re-audit.
25. The findings of the re-audit shall be considered final.

VI. SUSPENSION DURING AN EMERGENCY

This procedure may be suspended during an emergency at the sole discretion of the Chairman.

VII. RIGHTS UNDER THIS PROCEDURE

This procedure creates an offenders' right to be free from sexual abuse and sexual harassment; and the right of offenders and employees to be free from retaliation for reporting sexual abuse and sexual harassment.

VIII. RELEASE OF INFORMATION AND DISTRIBUTION OF PROCEDURE

This procedure does not contain information that impacts the security of Board staff or offenders and may therefore be released to the public.

This procedure is to be distributed to all Board staff.

IX. CROSS REFERENCES

A. Statutes

1. Federal

National Standards to Prevent, Detect, and Respond to Prison Rape under the Prison Rape elimination Act (PREA), 28 C.F.R. Part 115 (115.5, 115.6, 115.111, 115.112, 115.113, 115.114, 115.115, 115.116, 115.117, 115.118, 115.121, 115.122, 115.131, 115.132, 115.133, 115.134, 115.135, 115.141, 115.142, 115.143, 115.151, 115.152, 115.153, 115.154, 115.161, 115.162, 115.163, 115.164, 115.165, 115.166, 115.167, 115.168, 115.171, 115.172, 115.173, 115.176, 115.177, 115.178, 115.181, 115.182, 115.183, 115.186, 115.187, 115.188, 115.189, 115.193, 115.401, 115.402, 115.403, 115.404, 115.405, 115.501)

2. State

61 P.S. § 6112

B. PBPP Policies

2.05.04, 4.01.03 (needs updated), 4.01.11, 4.01.19

C. American Correctional Association – None.

D. Management Directives

E.O. 2002-4, May 3, 2002

M.D. 505.30, June 19, 2002

E. Report of the Reentry Policy Council – None.