

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

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DATE: 11/07/18

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SUPERSEDES: 06/22/05

SUBJECT: PRISON RAPE ELIMINATION ACT PROGRAM/SAFE PRISONS

AUTHORITY: Prison Rape Elimination Act (PREA) of 2003, Public Law 108-79; Texas Government Code §§ 501.002, 501.008, 501.149 and 501.172

PURPOSE: To provide specific guidelines and procedures for reporting incidents of sexual abuse and sexual harassment of offenders that occurred during confinement in a correctional facility.

DEFINITIONS:

Prison Rape Elimination Act (PREA): A federal law established to provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information resources, recommendations, and funding to protect individuals from prison rape.

Contract Employee: A representative of a company under contract with the Texas Department of Criminal Justice (TDCJ) or an individual who performs services for the TDCJ on a contractual basis.

Correctional Facility: A secure facility operated by or under contract with the TDCJ for housing offenders.

Employee: Any individual employed by the TDCJ on a full-time, part-time, contract, or temporary basis.

Offender: An individual under the supervision, custody, incarceration, or otherwise confined in a facility operated by the TDCJ, or any facility under contract with the TDCJ.

Offender-on-Offender Sexual Abuse: Sexual abuse of an offender by another offender 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:

1. Contact between the penis and vulva or the penis and anus, including penetration, however slight.
2. Contact between the mouth and the penis, vulva, or anus.

3. Digital penetration of the anal or genital opening of another person, however slight, by a hand, digit, object, or other instrument.
4. 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.

Office of the Inspector General (OIG): The OIG serves as the primary law enforcement and investigative entity of the TDCJ. The OIG investigates allegations of criminal activity and misconduct that have an impact on TDCJ programs, personnel, and resources, including allegations of waste, fraud, and abuse.

Other Individual: A contract employee, employee of a vendor, intern, or volunteer. The definition does not include an individual under the supervision or custody of the TDCJ.

PREA Complaint: Any grievance, expression of dissatisfaction, or concern regarding sexual abuse or sexual harassment.

PREA Inquiry: A written or verbal communication requesting information regarding the PREA, or allegation of sexual abuse or sexual harassment.

PREA Ombudsman: The official appointed by the Texas Board of Criminal Justice to respond to PREA complaints or PREA inquiries.

Public: Refers to all persons except TDCJ employees, contract employees, or offenders.

Safe Prisons/PREA Program: The TDCJ program established to prevent, detect, and respond to sexual abuse, sexual harassment, extortion, and acts of violence perpetrated against an offender. The Safe Prisons/PREA Management Office is responsible for coordinating TDCJ efforts to incorporate PREA standards into agency policies and procedures, maintain compliance with agency policies and procedures relating to Safe Prisons and PREA standards, and for database management regarding sexual abuse incidents.

Sexual Harassment:

1. Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, gestures, actions of a derogatory or offensive sexual nature by one offender directed toward another offender.
2. Repeated verbal comments or gestures of a sexual nature to an offender by an employee or other individual, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Staff-on-Offender Sexual Abuse: Sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer, that includes any of the following acts, with or without the consent of the offender, detainee, or resident:

1. Contact between the penis and vulva or the penis and anus, including penetration, however slight;
2. Contact between the mouth and penis, vulva, or anus;

3. 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;
4. Penetration of the anal or genital opening, however slight, by a hand, digit, 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;
5. 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;
6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident; or
8. Voyeurism by a staff member, contractor, or volunteer.

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

PROCEDURES:

The TDCJ has a zero-tolerance toward all forms of sexual abuse and sexual harassment of offenders. Offenders are provided with multiple internal ways 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. Any Parole Division employee who receives a Prison Rape Elimination Act (PREA) complaint, inquiry, or becomes aware of a violation of TDCJ policies regarding sexual abuse and sexual harassment of offenders, shall immediately report the incident.

I. REPORTING ALLEGATIONS

- A. A Parole Division employee shall accept reports made verbally, in writing, anonymously, from third parties, or the public, and shall promptly document any verbal reports.
- B. Verbal reports received by Parole Division staff shall be reported to the Region Director (RD) or designee. The information received by staff shall be used to contact the Emergency Action Center (EAC) at 936-437-6600, within three (3) hours of the incident, or within three (3) hours of staff receiving notification that an incident occurred. The EAC will obtain a brief summary of the incident and will issue an incident number.

This number will be required and documented during the submission of an Offender Related Incident (ORI) and an email referral to the OIG, both of which will be due by the close of business on the date of incident or notification. The Deputy Director of Field Operations shall be included on distribution of these emails.

II. TYPES OF PREA REPORTS RECEIVED

- A. An employee who receives a PREA complaint or inquiry shall immediately report the allegations in the following manner.
1. Allegations reported to a Parole Division employee while an offender is residing in a Transitional Treatment Center (TTC) or Residential Reentry Center (RRC).
 - a. The administrator of any facility has the responsibility of reporting all PREA incidents occurring in his facility. Parole Division employees who receive allegations of sexual abuse or sexual harassment shall:
 - i. Obtain basic facts of the alleged incident from the client making the allegation;
 - ii. Follow their chain of command; and
 - iii. Report the information immediately (within one hour) to the RD or designee.
 - b. The RD or designee will review the incident with the facility administrator, in order for the facility staff to:
 - i. Complete the PREA referral and offender-related incident report;
 - ii. Obtain the PREA incident number; and
 - iii. Confirm that the incident was referred to the OIG and/or local law enforcement.
 - c. The investigating or supervising parole officer shall document in the Offender Information Management System (OIMS) all suspected allegations of sexual abuse or harassment. Parole officers shall take immediate action to reduce the risk of future incidents.
 - d. After reviewing the information collected, the parole officer shall staff the case with his unit supervisor to determine if a Violation Report is required. If so, the parole officer shall complete a Violation Report, in accordance with PD/POP-4.1.1, *Processing Violations of the Rules and Conditions of Release*.
 2. Allegations reported to a Parole Division employee following an offender's release from a contracted or secured facility.
 - a. Parole Division employees receiving allegations of sexual abuse or sexual harassment of an offender shall follow their chain of command and report the information immediately (within one hour) to the RD or designee.
 - b. The RD or designee will notify the Warden or administrator where the abuse is alleged to have occurred within 72 hours of notification.

- c. The RD will report information in accordance with Section I.B. of this policy.
- B. All allegations of offender-on-offender or staff-on-offender sexual abuse or misconduct shall be reported to the OIG in accordance with AD-16.20, “Reporting Incidents/Crimes to the Office of the Inspector General.”
- C. Any TDCJ employee may privately report allegations of sexual abuse and sexual harassment to the Texas Board of Criminal Justice (TBCJ) PREA Ombudsman Office in accordance with ED-02.10, “Prison Rape Elimination Act Complaints and Inquiries” and PD-29, “Sexual Misconduct with Offenders” at the contact information following. The PREA Ombudsman Office will initiate an investigation into the allegations.

PREA Ombudsman Office
P.O. Box 99
Huntsville, TX 77342
Office: (936) 437-2133 or Fax: (936) 437-6981
prea.ombudsman@tdcj.texas.gov

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