

BRADFORD COUNTY CORRECTIONAL FACILITY POLICY AND PROCEDURES	Document # 3.10	Page # 1 of 7	Effective: 05/30/03
	Sources: 4- ALDF- 4D- 22-2, 22-5 / 7B- 10 / 7E- 01 37 PA. CODE: n/a 18 PA. Criminal Code: Section 3124.2 42 U.S.C. 15607 ©(2)		
Chapter: WARDEN:	PERSONNEL		
	Subject: Institutional Sexual Assault and the Prison Rape Elimination Act Update: 31 August 2016		

I. **PURPOSE:** To create a Zero Tolerance policy regarding all forms of sexual abuse and sexual harassment and to educate staff members about the felony crime, institutional sexual assault.

II. **APPLICABILITY:** All Staff

III. **DEFINITIONS:** As used in this document, the following definitions shall apply:

A. **Institutional Sexual Assault:** A person who is an employee or agent of the Department of Corrections commits a felony of the third degree when that person engages in sexual intercourse, deviant sexual intercourse, or indecent contact with an inmate, detainee, patient or resident.

B. **Sexual Misconduct/Abuse:**

1. Sexual contact including but not limited to intentional touching, either directly or through clothing, of the genitalia, anus, groin, breasts, inner thighs, buttocks or lips of any person with the intent to abuse, humiliate, harass, degrade, arouse or gratify the sexual desire of either person.
2. Letters or any type of communication, which is romantic or sexual in nature.
3. Sexual abuse includes
 - (a) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
 - (b) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.
4. Sexual abuse by another 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 buttocks of any person, excluding contact incidental to a physical altercation.

5. Sexual abuse by a staff member, contractor, or volunteer includes -
 - (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 (1) -(5) 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 inmate, detainee, or resident, and
 - (h) Voyeurism by a staff member, contractor, or volunteer.
6. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an 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.

- C. Zero Tolerance: Action will be immediate once a violation is determined. Warnings and written reprimands will not be an option. This policy stands equally for all staff members regardless of position, rank, title, or status.
- D. Employee: Any person receiving compensation from Bradford County Correctional Facility or the County of Bradford.
- E. Agent: Any person providing a service to Bradford County Correctional Facility or the County of Bradford.
- F. Professional Visitor: Any attorney, whether it be private counsel, representative of the Public Defender's Office, District Attorney's Office, etc. All members of any law enforcement agency be it federal, state, county, or municipal. This section also includes members of the clergy.
- G. Volunteer: Any person in the facility who does not receive compensation for purpose or function.
- H. Inmate: Any person, sentenced or un-sentenced, housed in the Bradford County Correctional Facility.
- I. 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 inmate, detainee, or resident directed toward another; and repeated verbal comments or gestures of a sexual nature to an 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.

- IV. **POLICY**: The Bradford County Correctional Facility will adhere to a “zero tolerance” policy pertaining to the area of staff and inmate sexual misconduct. This policy is in full support of the law of the Commonwealth of Pennsylvania entitled Institutional Sexual Assault and the Prison Rape Elimination Act (PREA). It will be the policy of the Jail to do its best to adhere to all the standards of PREA. Any staff member, volunteer, visitor or inmate who violates this section may be subject to internal investigation, criminal investigation by an outside agency, internal discipline, termination of employment, and criminal prosecution. It will be the policy of the jail to make the prevention of sexual abuse a top priority and it will develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape. The staff at the jail will adhere to not only this policy but also the Sexual Harassment policy set by the Bradford County Commissioners.
- V. **PROCEDURES**: The Corrections Councilor will be the PREA Coordinator, it will be up to him/her to oversee the prison’s efforts to comply with the PREA standards and report directly to the Warden. In cases of institutional sexual assault and PREA these procedures will be followed in the event of an allegation involving an inmate, prison employee, volunteer, contractor or visitor.
- A. **Mandatory Reporting**: Any staff member who has direct knowledge of a violation of this policy is required to report it to their immediate supervisor. Supervisors will forward such reports through the chain of command and ultimately said reports will go to the Warden. In the case that a staff member’s supervisor is the alleged offender; reports should go directly to the Warden. Failure to report may result in disciplinary action. All staff will immediately report any of the following: (1) knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility (whether or not it is part of the agency); (2) retaliation against inmates or staff who reported such an incident; and (3) any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- B. **Investigations**: The Warden or his/her designee shall immediately direct an investigation of all alleged sexual assaults occurring within the prison, on prison property, or while an inmate was in the custody of prison staff. Investigations are confidential. If evidence of an actual institutional sexual assault is discovered, the Warden and or his/her designee will notify the Pennsylvania State police and the District Attorney’s Office. All staff are required to cooperate with any internal investigations.
- C. **False Allegations**: Any person found to have made intentional untrue statements, (This precludes individuals who make statements in good faith with substantial reason to make such a report) pertaining to this section, will be subject to disciplinary action and potential criminal prosecution for violation of PAC Title 18 sections as follows:
1. 4903 False Swearing, 4904 Unsworn Falsification to Authorities
 2. 4906 False Reports to Law Enforcement Authorities.
- D. Inmates who allege sexual abuse while in the Jail’s custody will have access to outside victim advocates and provide, post, or otherwise make accessible specific contact information for victim advocacy or rape crisis organizations. The

Corrections Councilor will set up communication between inmates and these organizations as well as inform inmates (prior to giving them access) of the extent to which the Jail's policy governs monitoring of their communications and when reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

- E. Youthful Inmates: Bradford County Correctional will provide services and housing for youthful inmates. Youthful inmates will be placed in intake under the direct supervision of the intake officer. Every attempt will be made to have sight, sound, and physical contact separation from adult inmates at the same time still try and provide daily exercise, education, or other program/work opportunities in order to comply with the requirements.
- F. All inmates will be assessed during intake and upon transfer for their risk of being sexually abused or being sexually abusive. This screening is to be done within 72 hours of the inmate's arrival at the facility. A reassessment will be done within 30 days of the inmate's incarceration based upon any relevant information received by the facility since the intake screening. The facility will also do periodic inmate rescreening. Inmates cannot be disciplined for refusing to answer or not providing complete information in response to certain screening questions. Lastly, the facility will make this part of the inmates' med file and standard HIPPA laws will apply.
- G. The agency will use this information obtained from screening to inform a wide variety of assignments within the facility in order to keep potential inmate victims away from inmate potential abusers.
- H. If segregated housing is used, the inmate should have all possible access to programs and services for which he/she is otherwise eligible, and the facility should document any restrictions imposed. The standard states that involuntary segregated housing shall not ordinarily exceed a period of 30 days. In cases where involuntary segregated housing is needed for longer than the initial 30 days, the facility shall review the situation every 30 days to determine if ongoing involuntary segregated housing continues to be needed.
- I. Any inmate that is identified as a past sexual abuse victim (pursuant to the screening) in an institutional setting is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the screening. Information related to sexual victimization or abusiveness in an institutional setting only to medical and mental health practitioners and other necessary staff. It will also require medical and mental health practitioners to obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting (unless the inmate is under the age of 18). Follow-up meetings are intended to emphasize immediate mental health needs and security risks. If the medical or mental health practitioner determines through the follow-up meeting that further treatment is not warranted, the facility is not required to provide such services.
- J. Inmates can report sexual abuse and harassment through the inmate request form or verbally to any staff member. If they do not wish to do that they can contact victim services at the court house or use the free PREA Hotline number that will be posted by each phone in the housing units and intake.
- K. Inmates with disabilities have an equal opportunity to participate in or benefit from the prison's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Inmates who are limited English proficient will have

meaningful access to all such efforts. Finally, the prison will not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties or the investigation of the inmate's allegations.

- L. If inmates feel their requests for dealing with PREA are not answered, they will be allowed to initiate the inmate grievance process.
- M. The Jail will take immediate action to protect an inmate upon learning that the inmate is subject to a substantial risk of imminent sexual abuse. If the inmate is to be transferred to another institution the Jail will notify that institution no later than 72hrs. after receiving the notification.
- N. Security staff members who are the first to respond to a report that an inmate was sexually abused will do the following: take necessary steps to separate the alleged victim and abuser, preserve any crime scenes, and collect any physical evidence. A PREA Evidence Retention Kit will be kept in the Property Storage Room in Intake. The instructions for the kit are as follows:

1. INSTRUCTIONS FOR PREA EVIDENCE RETENTION:

ALL STAFF: To assist in proper evidence retention for clothing and materials related to PREA incidents, the following procedures should be followed. If you have any questions contact the PREA coordinator, Sergeant or Officer in charge for instructions.

- a.) The PREA box should be taken to the victim if possible, have the victim remain as close to the scene as possible so evidence is not lost in moving around.
- b.) The box should be opened at the scene not before.
- c.) The white linen sheet should be placed on the floor prior to any removal of clothing.
- d.) The paper sheet should be placed on top of the linen sheet prior to the removal of clothing.
- e.) All clothing should be removed by the victim and not handled by the staff person.
- f.) All clothing should be removed one item at a time and placed individually into an evidence bag.
- g.) The evidence bag should be sealed with evidence tape and initialed by the staff person conducting the evidence retention.
- h.) Upon completion of removal of all clothing items, the linen should be folded on itself so as not to lose any evidence which may have fallen on to the linen, and placed in an evidence bag.
- i.) Upon completion of bagging all of the evidence, the clothing provided can be issued to the inmate.
- j.) Check to ensure all evidence bags are properly marked and taped closed.
- k.) Empty all contents of the evidence box and place all of the evidence bags into the evidence box and reseal the box.
- l.) Fill out the chain of custody form (included in the packet of paperwork) and attach to the top of the evidence box.
- m.) Take the evidence box to the Sergeant's office for placement into the evidence locker for retention, to be transferred to the Pennsylvania State Police.

2. ADDITIONAL STEPS TO BE TAKEN

- a.) Refer to the Bradford County S.O.P Chapter 8 to be sure all procedures are followed.
 - b.) If the perpetrator is known, the same procedure must be completed using a completely separate evidence retention box.
 - c.) Without disturbing or entering the area pictures should be taken.
 - d.) The area should be secured and designated a crime scene for PSP to investigate and clear before usage.
 - e.) The victim should not be placed in Administrative Segregation or secluded unless there is no other means available to safely house them. (Placement in an intake camera cell is ok until the inmate sees the mental health department.)
- O. We will then coordinate with Medical and Mental Health Staff and if a crime was committed the Pennsylvania State Police.
- P. Inmate Notification: The Jail must inform the inmate of any determination that an allegation was substantiated, unsubstantiated, or unfounded. If an allegation is determined to be unfounded, at the conclusion of the investigation the Jail will inform the inmate who made the allegation of sexual abuse, and if any the status of the accused staff abuser. 'Status' includes whether the staff member is posted within the inmate's unit; whether the staff member is employed at the facility; and whether the staff member has been indicted or convicted of a charge related to sexual abuse within the facility. The Jail is similarly required to inform the inmate of indictments or convictions of alleged inmate abusers.
- Q. Inmates who are found guilty of engaging in inmate-on-inmate sexual abuse (either through an administrative or criminal investigation) will be held to disciplinary sanctions. However the Jail prohibits disciplining an inmate for sexual contact with staff unless it is found that the staff member did not consent to the contact. The Jail prohibits from considering an inmate report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred to constitute false reporting or lying. It also prohibits the Jail from assuming that sexual activity between inmates is sexual abuse unless it is determined that the activity was coerced.
- R. The Warden or his/her designee will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation (except those investigation determined to be unfounded), including those in which the allegation has not been substantiated.
- S. Data Collection: The jail will collect and retain data related to sexual abuse. This data must be aggregated at least annually and is required to include, at a minimum, the data necessary to answer all questions on the most recent version of the Survey of Sexual Violence conducted by the Bureau of Justice Statistics (BJS). This data will be available upon request to the Department of Justice. The Jail will review the data and use it to assess and improve the effectiveness of their sexual abuse prevention, detection, and response policies, practices, and training by identifying problem areas, taking ongoing corrective action, and preparing an annual report. The Jail's annual report will compare the current year's data and corrective action with prior year's; assess the Jail's progress in addressing sexual abuse; and be approved by the Warden.

- T. The jail will securely retain the data collected for at least 10 years. Additionally, the Jail will make the data readily available to the public at least annually.

This policy has been developed so that all individuals who may be affected by it understand violations within this section and possible consequences for such violations.