



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
**PRISON/WORK RELEASE/FIELD
OFFENDER MANUAL**

EFFECTIVE DATE
5/9/06

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DOC 490.800

POLICY

TITLE
PRISON RAPE ELIMINATION PROCEDURES

REVIEW/REVISION HISTORY:

Effective: 5/9/06

SUMMARY OF REVISION/REVIEW:

New policy. Read Carefully!

APPROVED:

HAROLD W. CLARKE, Secretary
Department of Corrections

3/6/06

Date Signed

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL		
	EFFECTIVE DATE 5/9/06	PAGE NUMBER 2 of 10	NUMBER DOC 490.800
	TITLE PRISON RAPE ELIMINATION PROCEDURES		

REFERENCE:

DOC 100.100 is hereby incorporated into this policy; RCW 9A.44.010, 040, 050, 060, 100, 115, 160, 170; RCW 72.09.225; ACA 4-4281-1; ACA 4-4281-3; ACA 4-4281-6; ACA 4-4281-7; ACA 4-4281-8; DOC 400.100 Duty Officer/Reporting of Emergencies and Significant Events; DOC 610.025 Medical Management of Offenders in Cases of Alleged Sexual Abuse, Assault, Contact, and Harassment; DOC 850.030 Employee Relationships/Contacts with Offenders; Prison Rape Elimination Act (PREA) of 2003

POLICY:

- I. The Department has zero tolerance relating to sexual assault/rape of offenders and staff sexual misconduct. It is the policy of the Department to fully investigate, pursue disciplinary action, and refer for prosecution those who are determined to be perpetrators in such conduct. [4-4281-3]
- II. The Department has established guidelines for the response and investigation of offender on offender sexual assaults.

DIRECTIVE:

- I. Sexual Contact Between Offenders in Total or Partial Confinement
 - A. When one or more offenders are considered to be engaging in, attempting to engage in, or have completed a sexual act with another offender, it is sexual misconduct.
 - B. When an offender, or group of offenders, through the use of threats, intimidation, force, or other actions and/or communications reasonably calculated to cause submission of another offender to engage in a sexual act against that offender's will, it may be a crime.
 1. A non-consensual sexual act is an incident in which one or more of the following acts occurs without the offender's consent, or the offender is unable to consent or refuse:
 - a) Contact between the penis and the vagina or the penis and the anus involving penetration, however slight. It does not include kicking, grabbing, or punching genitals when the intent is to harm rather than sexually exploit.
 - b) Contact between the mouth and the penis, vagina, or anus.
 - c) Penetration of the anal or genital opening of another person by a hand, finger, or other object.

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL		
	EFFECTIVE DATE 5/9/06	PAGE NUMBER 3 of 10	NUMBER DOC 490.800
	TITLE PRISON RAPE ELIMINATION PROCEDURES		

2. Abusive sexual contact includes one or more of the following behaviors:
 - a) Sexual contact without the offender's consent, or the offender is unable to consent or refuse, to include intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim.
 - b) Sexual contact does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

II. Custodial Sexual Misconduct

- A. Sexual conduct between offenders and Department staff, contract staff, or volunteers regardless of consensual status, is prohibited and subject to administrative and/or criminal disciplinary sanctions. [4-4281-6]
- B. Acts of sexual assault/rape or sexual misconduct by Department staff, contract staff, or volunteers against offenders, retaliation against offenders who refuse to submit to sexual activity, or intimidation of a witness may be a crime.
- C. Any procedure, such as but not limited to, taking pictures/photographs, pat searches, or medical exams that are required by Department policy, procedure, or process are not defined as staff sexual misconduct.
- D. Custodial sexual misconduct includes one or more of the following behaviors:
 1. Any behavior of a sexual nature, that involves touching, directed toward an offender by a Department staff, contract staff, or volunteer.
 2. Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire. It does not include kicking, grabbing, or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.
 3. All completed, attempted, threatened, or requested sexual acts between Department staff and the offender.
- E. Staff sexual misconduct includes:
 1. Consensual or non-consensual sexual acts, including verbal or written communication, involving an offender and Department staff, contract staff or volunteers.

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL		
	EFFECTIVE DATE 5/9/06	PAGE NUMBER 4 of 10	NUMBER DOC 490.800
	TITLE PRISON RAPE ELIMINATION PROCEDURES		

2. Incidents of indecent exposure or invasion of privacy for sexual gratification.
3. Sexual harassment, which includes one or more of the following behaviors:
 - a) Any verbal statements or comments of a sexual nature to an offender by a Department staff.
 - b) Incidents involving demeaning references to gender or derogatory comments about body or clothing.
 - c) Profane or obscene language or gestures of a sexual nature, with the intent to insult or demean.

III. Responsibilities

- A. The Prisons Deputy Secretary/designee is responsible for oversight of all Prison Rape Elimination Act (PREA)-related activities.
- B. A Headquarters Prisons Division Correctional Manager will be assigned to:
 1. Coordinate and develop procedures to identify, monitor, and track sexual assault/rape and sexual misconduct in the Department,
 2. Maintain statistics, and
 3. Conduct audits to ensure compliance with Department policy and the Prison Rape Elimination Act of 2003.
- C. Each Superintendent and Field Administrator will assign a staff to serve as PREA liaison to:
 1. Coordinate facility/office activities,
 2. Ensure compliance with training requirements, and
 3. Coordinate needed activities with the Correctional Manager.
- D. The facility investigator, Headquarters Special Investigation Unit Investigators, and/or assigned staff will cooperate with local law enforcement as needed for completion of thorough investigations.

IV. Offender Orientation and Education

- A. [4-4281-1] All offenders will receive information relating to sexual assault/rape and sexual misconduct during orientation. The information will be communicated

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	<p>APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL</p>		
	<p>EFFECTIVE DATE 5/9/06</p>	<p>PAGE NUMBER 5 of 10</p>	<p>NUMBER DOC 490.800</p>
	<p>TITLE PRISON RAPE ELIMINATION PROCEDURES</p>		

orally and in writing, in a manner that is clearly understood by offenders. Information provided will include, but not be limited to:

1. DOC 490.800 Prison Rape Elimination Procedures
2. Department zero-tolerance stance
3. Self-protection
4. Prevention and intervention
5. Reporting
6. Treatment and counseling
7. Protection against retaliation
8. Disciplinary actions for making false allegations

B. Information will also be provided to offenders during the field intake process.

V. Screening

A. Offenders in the reception centers will be administered assessment instruments to evaluate violence potential and victimization proneness.

1. These assessments will be administered regardless of the time the offender has to serve and may indicate the need for additional, more in-depth mental health assessments.

B. Assessment results will be a factor in classification and housing assignments.

C. Facility/housing assignments will follow a screening review in an effort to provide information to help avoid having known sexual predators assigned to cells with known sexual assault victims.

1. Information regarding known victim and/or predatory incidents will be recorded in Offender Based Tracking System (OBTS).

VI. Offender, Family, and/or Associate Reporting Procedure

A. Offenders, their families, and/or their associates may report any allegation of sexual assault/rape or sexual misconduct in writing or verbally to any Department staff, contract staff, or volunteer, any law enforcement agency, or by calling the confidential reporting hotline 800-586-9431. [4-4281-7]

B. Sexual Misconduct Hotline

1. Anyone having information regarding sexual assaults or custodial sexual misconduct is encouraged to call the Department toll-free hotline, 800-586-9431, and report the incident.

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	<p>APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL</p>		
	<p>EFFECTIVE DATE 5/9/06</p>	<p>PAGE NUMBER 6 of 10</p>	<p>NUMBER DOC 490.800</p>
	<p>TITLE PRISON RAPE ELIMINATION PROCEDURES</p>		

2. To minimize possible exposure of sexually explicit details to support staff and to reduce the possibility of losing evidentiary information, a live operator will not answer calls. Messages will be reviewed during normal work hours.
3. The introductory message on the hotline will be very clear regarding the information required. Anonymous calls will be reviewed but not given the same priority as a report that has all of the required information.
4. An offender may face disciplinary action for placing frivolous or false reports.

VII. Staff Reporting Procedure/Initial Notification

- A. Department staff, contract staff, and volunteers who receive any information, regardless of its source, concerning sexual assault/rape or sexual misconduct, or who observe an incident of sexual assault/rape or sexual misconduct, are required to immediately report the information or incident directly to their immediate supervisor and/or the shift supervisor/commander.
- B. As soon as any allegation of sexual assault, rape, or misconduct comes to the attention of an employee, the employee who receives the information will immediately inform his/her supervisor or shift commander, who will in turn inform the Appointing Authority, with the following exceptions:
 1. If the allegation is against a supervisor, the report will be made to the Appointing Authority.
 2. If the allegation is against the Appointing Authority, the report will be made to the appropriate Deputy Secretary/designee and Prison Administrator - West.
- C. Failure to report an allegation or to knowingly or willfully coerce or threaten another to submit inaccurate, incomplete, or untruthful information with the intent to alter a report may result in disciplinary action, up to and including dismissal, even on a first offense.
- D. The Appointing Authority will notify the appropriate Deputy Secretary/designee and Prison Administrator - West of all allegations of sexual assault, rape, or sexual misconduct. The appropriate Deputy Secretary/designee and the Appointing Authority will determine who is responsible for conducting the investigation. [4-4281-3]

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	<p>APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL</p>		
	<p>EFFECTIVE DATE 5/9/06</p>	<p>PAGE NUMBER 7 of 10</p>	<p>NUMBER DOC 490.800</p>
	<p>TITLE PRISON RAPE ELIMINATION PROCEDURES</p>		

- E. An incident report will be completed per DOC 400.100 Duty Officer/Reporting of Emergencies and Significant Events. Incidents resulting in death, serious injury, or substantial loss will be reported by the effected facility to the Risk Management Department.

VIII. Security Procedures

- A. Appropriate security procedures will be followed, which include at a minimum:
1. Mental health and medical assistance are made available to the alleged victim as soon as possible, per DOC 610.025 Medical Management of Offenders in Cases of Alleged Sexual Abuse, Assault, Contact, and Harassment.
 2. Separating the perpetrator and victim.
 3. Isolating witnesses.
 4. Secure the incident scene by taking protective measures to enclose the area so items cannot be removed or introduced. The incident scene will only be accessed by assigned investigators.
- B. Offender victims of sexual assault/rape will be transported to a local medical facility for the collection of evidence and necessary medical care per DOC 610.025 Medical Management of Offenders in Cases of Alleged Sexual Abuse, Assault, Contact, and Harassment.
- C. After an initial medical assessment and the collection of evidence is completed, all offender victims housed at a minimum security or Work Release facility may be transferred to a major facility with medical and mental health staff available.

IX. Investigative Protocols of Sexual Assaults

- A. The Shift Commander/designee will initiate Offender Sexual Assault Response and Containment checklist (Attachment 2).
- B. The assigned investigator will ensure that all investigative protocol criteria are met by using the Sexual Assault Investigation Protocols checklist (Attachment 3).
- C. Staff assigned to investigate are required to submit an Investigation Report, following the format of Attachment 1, to the Appointing Authority with a copy to the Investigations Manager.

X. Documentation

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	<p>APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL</p>		
	<p>EFFECTIVE DATE 5/9/06</p>	<p>PAGE NUMBER 8 of 10</p>	<p>NUMBER DOC 490.800</p>
	<p>TITLE PRISON RAPE ELIMINATION PROCEDURES</p>		

- A. All staff involved who work in the area where an incident occurred are required to submit memos with all pertinent information before the end of their shift. This includes staff who secured the incident scene, transported offenders, or talked to possible witnesses.
- B. At the completion of an investigation, the Appointing Authority will notify the appropriate Deputy Secretary/designee and Prison Administrator - West of the outcome of the investigation.

XI. Treatment for Victims

- A. Victim services for offenders in total or partial confinement include crisis intervention and trauma-specific treatment that will be offered to the victim and performed by a mental health and/or health care professional.
- B. Victim services will be made available to:
 - 1. All offenders involved in a sexual assault/rape who are housed in a total confinement facility.
 - 2. All offenders involved in a sexual assault/rape who are housed in a partial confinement facility or a Work Release, or are on active supervision, if the sexual assault/rape occurred by a Department staff, contract staff, or volunteer of the Department. All other offender victims of sexual assault/rape will be referred to local law enforcement.

XII. Staff Training

- A. All Department staff, contract staff, and volunteers will receive documented PREA training during New Employee Orientation (NEO), Correctional Worker CORE, and/or Volunteer Orientation, and, thereafter, annually.
- B. Training will include, but is not limited to:
 - 1. Review of this policy, the Prison Rape Elimination Act of 2003, and any other applicable state or federal laws.
 - 2. Prevention, investigation, and prosecution of sexual assault/rape and/or sexual misconduct.
 - 3. Zero tolerance.
 - 4. Recognition of possible signs of:
 - a) Sexual assault/rape and/or sexual misconduct,

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p> <p>POLICY</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER MANUAL		
	EFFECTIVE DATE 5/9/06	PAGE NUMBER 9 of 10	NUMBER DOC 490.800
	TITLE PRISON RAPE ELIMINATION PROCEDURES		

- b) Predatory offenders,
- c) Potential victims, and/or
- d) Staff involvement.

5. Confidentiality.

6. Reporting.

C. Training will be documented in STATIS, or such other training system used by the Department.

D. Specialized training will be provided for staff who will respond to, or be involved in, incidents of sexual assault/rape or sexual misconduct. Training may include, but is not limited to:

- 1. Crime scene management/investigation,
- 2. Sensitivity, and
- 3. Crisis intervention.

XIII. Data Collection/Tracking

A. The PREA Manager and the Planning Performance Department Manager's designee are responsible for compiling records and reporting statistical data to the Federal Bureau of Justice as required by the Prison Rape Elimination Act of 2003.

B. The Deputy Secretary's designee will complete DOC 05-787 Sexual Assault/Misconduct Initial Report to initiate an investigation.

C. Staff assigned to the investigation will complete DOC 05-788 Sexual Assault/Misconduct Date Collection and will forward the form and investigation report to the Investigations Manager for final review and data collection activities. [4-4281-3]

D. Records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained per the Records Retention Schedule. [4-4281-8]

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
**PRISON/WORK RELEASE/FIELD
OFFENDER MANUAL**

EFFECTIVE DATE
5/9/06

PAGE NUMBER
10 of 10

NUMBER
DOC 490.800

POLICY

TITLE
PRISON RAPE ELIMINATION PROCEDURES

Investigative Report (Sample) (Attachment 1)
Offender Sexual Assault Response and Containment Checklist (Attachment 2)
Sexual Assault Investigations Protocols (Attachment 3)

DOC FORMS (See Appendix):

DOC 05-787 Sexual Assault/Misconduct Initial Report
DOC 05-788 Sexual Assault/Misconduct Data Collection