

Oklahoma Prison Rape Elimination Act.....	1
I. Zero Tolerance	2
II. Definitions and Clarification of Prohibited Conduct.....	4
A. Inappropriate Sexual Conduct	4
B. Invasion of Privacy	5
C. Sexual Assault Investigations	5
D. Definitions.....	6
III. Duties and Responsibilities.....	8
A. Employees.....	8
B. Investigators, Officers, Managers, Program Supervisors and Correctional Supervisors.....	9
IV. PREA Training	10
V. Offender Orientation and Education (PREA 115.33, 115.233).....	12
A. Verbal and Written Information	12
VI. Screening/Assessment at Reception Centers (4-4281-2).....	14
VII. Screening/Assessment at Receiving Facilities (4-4281-4).....	16
VIII. Use of Protective Custody and Segregation.....	16
IX. Reporting/First Response to Sexual Abuse/Assault or Harassment.....	17
A. Initial Reports and Separation	17
X. Reporting to Other Confinement Facilities (PREA 115.63, 115.263)	19
A. Notification.....	20
B. General Investigatory Guidelines.....	20
C. Investigative Techniques	20
D. Investigating Sexual Assaults	20
XI. Notifications to Offender Victims of Sexual Assault/Abuse.....	24
XII. Sexual Abuse Incident Reviews	25
XIII. DOC Medical Services Responsibilities.....	26
A. Provision of Medical Care for Offenders (Alleged Victims and Alleged Suspects).....	26
B. Guidelines for Medical Care and Investigations at Community Medical Facilities (4-4406).....	26
C. Mental Health Care Provider	26
XIV. Agency Reporting/Database Requirements	26
A. Records	26
XV. Confidentiality	28
XVI. References	28
XVII. Action	29
Referenced Forms	30
Attachments	30

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Oklahoma Prison Rape Elimination Act

It is the policy of the Oklahoma Department of Corrections (DOC) to provide a safe, humane, and secure environment for all offenders. The agency supports and administers a program of education, prevention, detection, response, investigation and

tracking of all reported acts of sexual assault and harassment. Punishment for the perpetrator is enforced.

The program includes treatment for the victim and the perpetrator and includes ongoing required support for the victim. The agency also provides education to offenders and staff regarding staff sexual misconduct and harassment.

During the admission process, all offenders are provided information about sexual assault, abuse or harassment to include: prevention/intervention, self-protection, reporting sexual assault, treatment and counseling. (4-4281-1)

For the purpose of this procedure, the term "offender" will apply to anyone in the authority, custody or care of a prison or a community-based facility operated by or contracted with the Oklahoma Department of Corrections. The terms "staff" and "employee" includes all DOC employees, contract personnel, contract employers, volunteers, official visitors or other agency representatives.

I. Zero Tolerance

DOC maintains a zero tolerance for offender-on-offender sexual assault, staff sexual misconduct and sexual harassment toward offenders. Every allegation of sexual assault, misconduct and harassment is thoroughly investigated. (2-CO-1C-11, 4-4281, 4-ACRS-6A-05, 4-APPFS-3E-05) (PREA 115.11, 115.211)

When the agency learns an offender is subject to substantial risk of imminent sexual abuse, it shall take immediate action to protect the offender. (PREA 115.62, 115.262)

Victims of forced and/or pressured sexual acts may suffer severe physical and psychological harm and could possibly be infected with a life-threatening disease. Consequently, each facility shall implement a Sexual Assault Prevention Program that includes: prevention, detection, response, and prosecution/discipline of assailants.

The prohibited conduct identified below applies to all employees, volunteers and contract staff of DOC. Sexual conduct between staff and offenders is strictly prohibited and subject to administrative disciplinary sanctions and referral for prosecution (21 O.S. § 1111. 7). (4-4281-6)

A. The agency shall designate a Prison Rape Elimination Act (PREA) coordinator to oversee agency efforts to comply with PREA standards. This position shall have sufficient time and authority to develop, implement and oversee the agency's efforts to comply. (PREA 115.111, 115.211)

1. Each facility (minimum security and above) shall assign one staff member as the facility PREA Compliance Manager (PCM) with overall responsibility of coordinating facility efforts to comply with PREA standards. (PREA 115.111) An alternate PCM shall also be designated.

2. Community corrections facilities shall designate an individual to serve as the point of contact for PREA related issues and compliance.
 3. The PCM and designated staff at community centers shall make recommendations regarding any treatment, counseling or special housing needed for those offenders identified as predators or victims.
- B. All staff and offenders shall be responsible for being alert to signs of potential situations in which assaults could occur.
- C. Staff shall be aware of offender's state of undress during times offenders may be showering, changing clothes or performing bodily functions.
1. Minimum, medium and maximum facilities shall ensure that at the beginning of each shift an announcement is made in the housing units notifying offenders that staff of the opposite gender will enter or be present on the housing unit during the shift.
 2. When the gender of the staff on the housing unit changes to the opposite gender, a notification will be made to offenders announcing the staff member's presence when entering an offender housing unit. (PREA 115.13)
 3. Community corrections facilities shall require staff of the opposite gender to announce their presence when entering an area where offenders are likely to be showering, performing bodily functions, or changing clothing. (PREA 115.215)
 4. Facilities will ensure signage indicating opposite gender staffing and the offender's responsibility to be in a state of dress at all times.
 5. An offender shall be able to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. (PREA 115.15, 115.215)
- D. Each facility shall ensure written policy and practice of having intermediate level or higher-level supervisors conduct and document unannounced rounds during day and night shifts to identify and deter staff sexual abuse and sexual harassment. (PREA 115.13)
1. These rounds will be documented in shift logs.

2. Staff are prohibited from alerting other staff members that these supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility. (PREA 115.13)

II. Definitions and Clarification of Prohibited Conduct

The presumptive disciplinary sanction for staff who have engaged in sexual abuse of an offender is termination. (PREA 115.76, 115.276)

A. Inappropriate Sexual Conduct

1. Sexual Abuse, Assault, Rape

- a. Sexual abuse includes, but is not limited to; sexual intercourse, oral or anal sodomy and sexual acts with instruments.
- b. Sexual abuse and/or rape includes, but is not limited to; sexual intercourse, oral or anal sodomy, sexual acts with instruments and sexual assault with an object, or sexual fondling of a person.
 - (1) In addition, rape is defined as, forced or against that person's will or sexual intercourse or the exploitation or fear or threat of physical violence or bodily injury.
 - (2) Rape and related sex crimes may also be defined by Oklahoma statute and include, but are not necessarily limited to, the elements defined in each crime (21 O. S. § 1111, 1111.1, 886, 888, 1123).
- c. Effective November 1, 2000, sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state is defined by law as a felony (21 O.S. § 888).

2. Sexual Contact/Intimacy/Battery

- a. The intentional touching, mauling or feeling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thighs or buttocks of any offender, when such touching is unrelated to the necessary performance of job duties and conversation or correspondence that demonstrates or suggests a romantic or intimate relationship.

- b. Sexual battery committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, county, municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state is defined by law as a felony.

3. Sexual Harassment

- a. Sexually offensive comments, gestures or any physical conduct which is of a sexual nature or sexually suggestive.
- b. Influencing, promising or threatening an offender's safety, custody or security level (including recommendations for court actions), privacy, housing, privileges, work detail or program status in exchange for sexual favors.
- c. Creating an intimidating, hostile or offensive environment for an offender or others by engaging in or permitting sexually offensive behavior or language that is directed at or observable by offenders or others.

- B. Invasion of Privacy

The act of observing, attempting to observe, or interfering in an offender's personal, intimate routines unrelated to the necessary performance of required job duties.

- C. Sexual Assault Investigations

For purposes of reporting and investigation, sexual assault is categorized as one of the following:

1. Offender-on-Offender

- a. Non-Consensual Sexual Acts

Contact of any offender without his or her consent or of an offender who is unable to consent or refuse; and one or more of the following: contact between the penis and the vagina or the penis and the anus including penetration, however slight; contact between the mouth and the penis, vagina or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object.

- b. Abusive Sexual Contacts

Contact of a sexual nature of any offender without his or her consent or of an offender who is unable to consent or refuse. Such acts may include intentional touching, either directly or through clothing of the genitalia, anus, groin, breast, inner thigh or buttocks. This does not include contact in which the intent was to debilitate the offender.

2. Staff-on-Offender

a. Staff Sexual Misconduct

Any behavior or act of a sexual nature toward an offender by an employee, consensual or nonconsensual, including, but not limited to:

- (1) Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire;
- (2) Kissing;
- (3) Sexual intercourse;
- (4) Completed, attempted, threatened, or requested sexual acts;
- (5) Occurrences of indecent exposure, invasion of privacy; or
- (6) Staff voyeurism for sexual gratification.

b. Staff Sexual Harassment

Repeated verbal statements or comments of a sexual nature to an offender by an employee, including one or more of the following: demeaning references to gender or derogatory comments about body or clothing or repeated profane or obscene language or gestures.

Due to the offender's custody or supervision status, and in accordance with Oklahoma Statute 21 O.S. § 1111 and this procedure, no prohibited act of sexual misconduct or harassment between a staff member and an offender can have as an affirmative defense, a claim of consent.

D. Definitions

1. PREA

The Prison Rape Elimination Act of 2003, an Act signed into law with the goal of preventing, detecting and responding to sexual abuse occurring in confinement facilities.

2. Sexual Assault Predator

An offender who has been identified and documented in the Offender Management System (OMS) as one who sexually abuses other offenders within the correctional setting.

3. SANE

Acronym for "Sexual Assault Nurse Examiner." Medical staff specially trained in the examination and collection of forensic evidence pursuant to a sexual assault.

4. Facility PREA Compliance Manager

A staff member designated by the facility/district head at each facility to assist the facility/district head in ensuring elements of the PREA Act is met in a coordinated fashion.

5. Youthful Offender

Any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

6. Voyeurism (by a staff member, contractor, or volunteer)

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 a toilet in his or her cell to perform bodily functions; requiring an offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions.

7. LGBTQTI

Acronym for a group of sexual minorities including: lesbian, gay, bisexual, transgender, questioning and intersex individuals.

8. Lesbian

Commonly refers to women typically sexually attracted to other women.

9. Gay

Commonly refers to men typically sexually attracted to other men.

10. Bisexual

A person who is romantically or sexually attracted to more than one gender or sexual category.

11. Transgender

A person whose gender identity differs from their birth sex.

12. Intersex

A condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns, and /or an endocrine system that does not fit typical definitions of male or female.

13. Questioning

Active process in which a person explores her or his own sexual orientation and/or gender identity and questions the cultural assumptions that they are heterosexual and/or gender conforming.

14. Sex

One's anatomical make-up, including external genitalia, chromosomes, and reproductive system.

15. Substantiated Allegations

An allegation that was investigated and determined to have occurred.

16. Unsubstantiated Allegation

An allegation that was investigated and the investigation produced insufficient evidence as to whether or not the event occurred.

17. Unfounded Allegations

An allegation that was investigated and determined not to have occurred.

III. Duties and Responsibilities

A. Employees

All employees shall be responsible for:

1. Adhering to these procedures by ensuring that their conduct does not constitute or promote sexual assault or harassment, nor in any other way violate the provisions of these procedures;
2. Treating all reported incidents of prohibited conduct seriously and ensure that known, suspected acts or allegations of sexual assault are reported immediately to the supervisor or higher authority and referred to the office of Inspector General for investigation in accordance with [OP-040117](#) entitled "Investigations." (4-4281-3) Failure to report will result in employee discipline.
3. Providing complete cooperation and full disclosure during any inquiry or investigation into alleged acts of sexual assault, abuse, harassment or retaliation; and
4. Reporting Abuse of Offender Under 18

In accordance with state law (Title 10A, Section 1-2-101), any employee who has reasonable cause to know or to suspect that an offender under the age of eighteen (18) has been subject to physical or sexual abuse or who has observed the offender being subjected to circumstances of physical and sexual abuse shall immediately report or cause to be reported such situation to the Oklahoma Department of Human Services. Such report shall be made using the Child Abuse Hotline, 1-800 522-3511. All reports shall be documented using the "Serious Incident Database Report" form ([OP-050108](#), [Attachment K-1](#), [K-2](#) or [K-3](#)) and forwarded through the chain of command to the Office of Inspector General. (PREA 115.61, 115.261)

5. Staff shall not make judgments or assumptions about the credibility of an alleged victim, suspect, or witness of sexual abuse or harassment. (PREA 115.71, 115.271)

B. Investigators, Officers, Managers, Program Supervisors and Correctional Supervisors

1. Staff, as indicated above, shall be responsible for:
 - a. Ensuring all substantiated allegations of prohibited conduct and all allegations that are substantiated or unfounded are referred appropriately for disciplinary action;
 - b. Ensuring all victims who report sexual assaults are appropriately referred for medical and mental health evaluation/assessment and for crisis intervention counseling and follow-up in accordance with [OP-140118](#) entitled "Emergency Care"; (4-4406) (PREA 115.82)

- c. Ensuring adequate measures are taken to provide separation between the alleged victim and alleged suspect, while ensuring that such separation does not represent a form of punishment for the alleged victim;
- d. Ensuring all offenders or staff members found guilty of committing sexual assault are disciplined in accordance with agency procedures and will be referred for criminal prosecution by the Office of Inspector General; and
- e. Ensuring any instance of alleged sexual assault is reported appropriately through their chain of command and ensuring the confidentiality of victims in incidents of offender sexual assault towards offenders is not compromised.

C. Medical/Mental Health Staff

1. The agency chief mental health officer ensures each facility/district employs, or has access to, the services of a mental health professional that has a scope of practice, training and/or experience in trauma counseling. Contract facilities shall also ensure offender access to mental health services.
2. Medical and mental health staff/providers shall report sexual abuse and shall inform all offenders during the initial orientation of the staff/provider's duty to report and the limitations of confidentiality at the initiation of services. (PREA 115.61, 115.261)

IV. PREA Training

A comprehensive training program provided for all staff in order to emphasize the zero tolerance of sexual abuse/harassment, aid in the prevention of sexual abuse and harassment of offenders and to promote awareness of the serious impact of sexual victimization within the correctional setting. (4-4084) (PREA 115.31, 115.231)

- A. All newly hired DOC employees shall receive the booklet "Sexual Misconduct and Harassment" ([Attachment A](#), attached).
- B. All DOC staff, contract staff, non-departmental offender work crew supervisors, volunteers and interns shall review the contract and procedure be trained to:
 1. Understand the agency's zero tolerance for sexual misconduct and retaliation against an offender in any form as a result of reporting an allegation of sexual misconduct.

2. Recognize the physical, behavioral and emotional signs of sexual assault and the dynamics of sexual abuse and sexual harassment in confinement.
 3. The offender's right to be free from sexual abuse and harassment.
 4. How to avoid inappropriate relationships with offenders.
 5. How to communicate effectively and professionally with lesbian, gay, bisexual, transgender, questioning, intersex, or gender non-conforming offenders.
 6. How to detect and respond to signs of threatened and actual sexual abuse.
 7. Understand the agency policy and protocols regarding prevention, detection reporting and response when an alleged sexual assault occurs.
- C. Training related to the prevention, detection, reporting and response of sexual abuse and harassment shall be a part of the orientation/pre-service training by the Oklahoma Correctional Career Development (OCCDC) Center in accordance with [OP-100101](#) entitled "Training and Staff Development." (PREA 115.31, 115.32, 115.231, 115.232)
1. All employees receive this training as part of the pre-service curriculum.
 2. All employees and volunteers with offender contact, will receive annual training at their facility/district/unit. Such training will include a review of this procedure and the employees and volunteers' responsibilities to prevent and report sexual abuse and harassment as well as other relevant PREA-related material. (PREA 115.31, 115.32, 115.231, 115.232)
 3. Contract staff whose primary duties include teaching, training or supervising offenders, shall receive training on the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents.
- D. PREA training shall be tailored to the gender of the offenders at the employee's facility/district.

If an employee changes work locations, the newly assigned facility/district shall ensure that additional training is provided for such staff that may have transferred from a male facility to female facility or from a female facility to male facility.

- E. Upon initial hire/service or during contract orientation for offender crew supervisors, employees, volunteers or contractors will acknowledge the receipt of the "Sexual Misconduct and Harassment" booklet ([Attachment A](#)) during initial enrollment/orientation. This documentation will be retained in the employee personnel file or volunteer/contract file.
1. All employees will receive a copy of this procedure at pre-service training or orientation.
 2. The facility/district/unit shall ensure all employees/volunteers sign and acknowledge verification confirming their understanding of the PREA training received. This documentation will be retained in the employee/volunteer or contractor/personnel file.
- F. Specialized Training (PREA 115.34)
1. Specialized training is provided for employees who may respond, as part of their job duties, to reported incidents of sexual assault. This training may include, but is not limited to: crime scene management, elimination of contamination in accordance with [OP-140125](#) entitled "Blood borne Pathogen Exposure Control Program," evidence collection protocol and crisis intervention.
 2. DOC Inspector General Agents

Such training shall include conducting sexual abuse investigations in confinement settings. Documentation of training will be retained in the employee personnel file.
 3. Medical and Mental Health (full and part-time)

Mental Health and medical staff will be provided training to detect and assess signs of sexual abuse and/or predation, preserve evidence of sexual abuse, respond to sexual assault victims, and knowledge of department procedures in regard to PREA reporting process. Documentation shall be retained in the employee's file.
 4. If medical staff employed by the agency is authorized to conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. Documentation shall be retained in the employee's file. (PREA 115.35, 115.235)
- V. Offender Orientation and Education (PREA 115.33, 115.233)
- A. Verbal and Written Information
1. During assessment and reception, all new offenders will receive verbal and written information about sexual abuse and harassment. This information will address the agency and facility zero tolerance

standard, prevention/intervention, self-protection, how to report acts or suspicions of sexual abuse, assaults or harassment by offenders or staff to include reporting utilizing the offender PREA hotline. The offender PREA hotline phones shall have instructions for use posted in a conspicuous location on or near the phones.

2. Offenders will also be informed of treatment and counseling services available pertaining to aspects of sexual assaults.
3. Additionally, offenders will be informed of sanctions for making false allegations. This information shall also be provided to offenders during initial orientation at all facilities. (4-4281-1, 4-4281-7)
4. Upon transfer to a different facility, the offender will receive orientation in regard to PREA policies and procedures of the new facility which may differ from the previous facility. Community corrections facilities shall provide refresher information whenever an offender is transferred to a different facility.
 - a. Each facility shall ensure offender education is provided in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to offenders who have limited reading/comprehension skills.
 - b. All offender education shall be provided to offenders by staff. No offender interpreters will be utilized except in exigent circumstances. However, approved community or facility volunteers maybe utilized.
 - c. The facility shall maintain documentation of the offender's orientation/education in the offender field file.

B. Comprehensive Education

Within 30 days of intake, the facility where the offender is housed shall provide the following comprehensive education to offenders either in person or through video regarding:

1. The offender's right to be free from sexual abuse and harassment from offenders and staff;
2. How to protect themselves from incidents of sexual abuse and harassment from offenders or staff;
3. That staff of the opposite gender will enter or be present on the housing units at any time;

4. The facility rules and procedures on showering, performing bodily functions, and maintaining an expected state of dress;
 5. Reporting sexual abuse and protection from retaliation for reporting, including methods to identify and report such misconduct. This will include information that the offender victim has the option to report the incident to a designated staff member or any other immediate staff. Other reporting methods include: facility/district head, third party contacts, GTL hotline, sick call, request to staff, Office of the Inspector General or the Oklahoma State Bureau of Investigations (OSBI);
 6. Treatment and counseling; and
 7. DOC's zero tolerance for sexual abuse or harassment.
- C. Information regarding these topics is included in the DOC "Offender Rules and Regulations Handbook" and the booklet entitled "Offenders' Guide to Sexual Misconduct" ([Attachment B](#), attached) which will be made available to all offenders during the assessment and reception orientation.
- D. The facility/district head shall designate staff to monitor offender access to handbooks and ensure information regarding sexual abuse and harassment is continuously and readily available or visible to offenders through posters or other written formats. (PREA 115.33, 115.233)
- VI. Screening/Assessment at Reception Centers (4-4281-2)

All offenders receive a mental health screening and/or evaluation, conducted by a trained mental health professional during the initial reception and assessment process within 24 hours at a receiving facility in accordance with [OP-140114](#) entitled "Screening New Arrivals." This screening and/or evaluation include potential vulnerabilities or risks of being sexually abused by other offenders or being sexually abusive towards other offenders. These screenings and or evaluations are conducted by a qualified mental health professional. (4-4281-4, 4-4281-5) (PREA 115.41, 115.241)

If the screening indicates an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community setting, staff shall ensure the offender is offered a follow-up meeting with a mental health provider within 14 days of the intake screening. (PREA 115.81)

- A. Offenders with a history of sexually violent behavior are identified, monitored in accordance with [OP-060106](#) entitled "Non-Associations and Protective Measures." (4-4281-4) Offenders will be offered counseling by a qualified mental health professional.
- B. Offenders at risk for sexual victimization are identified by mental health or intake staff, and monitored by mental health, case management or

security staff. Offenders are counseled by mental health staff. (4-4281-5) Risk factors for offenders included in this category are: younger, older, of small stature, first time offenders, mental or physically disabled, serving incarceration for a sexual related offense, prior institutional victimization, LGBTQI orientation, or perceived by other offenders as weak. (PREA 115.41, 115.241)

1. The facility shall use information from the risk screening evaluation in order to inform staff making housing, work, education, and program assignments; with the goal of keeping those offenders who are at risk of being sexually victimized separate from those at high risk of being sexually abusive.
 - a. Each facility shall make individualized determinations about how to best ensure the safety of each offender.
 - b. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the facility shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. (PREA 115.42, 115.242)
 - c. Placement and programming assignments for each transgender or intersex offenders shall be reassessed at least twice each year to review any threats to safety experienced by the offender.
 - d. A transgender or intersex offender's own views with respect to his or her own safety shall be given serious consideration.
 - e. Transgender and intersex offenders shall be given the opportunity to shower separately from other offenders.
 - f. The agency shall not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders.(PREA 115.42, 115.242)
2. As determined by classification or mental health staff and whenever possible, a single occupancy cell will be assigned in accordance with [OP-140201](#) entitled "Mental Health Services Duties and Responsibilities" and [OP-030102](#) entitled "Offender Housing."

3. Any housing concerns noted during the mental health screening regarding an offender's history of sexual abuse-victimization or sexual predatory behavior is communicated to the facility job and housing coordinator for entry into the offender's record. (4-4281-2)

VII. Screening/Assessment at Receiving Facilities (4-4281-4)

- A. Any offender who at any time displays predatory behavior or the potential for victimization is referred by the facility head/designee for appropriate mental health evaluation.
- B. If an offender is identified as a High Risk Sexual Predator (HRSP) or as a victim/potential victim at any time during his/her incarceration, the offender is evaluated for appropriate housing and programs.

VIII. Use of Protective Custody and Segregation

- A. Offenders at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the offender in involuntary segregated housing for no more than 24 hours while completing the assessment.
- B. Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education or work opportunities the facility shall document:
 1. The opportunities that have been limited;
 2. The duration of limitation; and
 3. The reasons for such limitations.
- C. The facility shall assign such offenders to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
- D. If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document:
 1. The basis for the facility's concern for the offender's safety; and
 2. The reason why no alternative means of separation can be arranged.

- E. Every 30 days, the facility shall afford each such offender a review to determine whether there is a continuing need for separation from the general population.

IX. Reporting/First Response to Sexual Abuse/Assault or Harassment

All staff, volunteers and contractors shall immediately report to their supervisor or higher authority any knowledge, suspicion, or other information regarding an incident of sexual abuse, assault or harassment that occurred in a facility/unit or other location, whether or not it is part of the agency.

Staff, volunteers or contractors shall accept reports made verbally, in writing and from third parties. Verbal reports shall be documented in an "Incident/Staff Report ([OP-050109](#), [Attachment A](#)) in accordance with [OP-050109](#) entitled "Reporting of Incidents." (PREA 115.51, 115.251)

All incidences of sexual abuse/assault or harassment, including third party and anonymous reports, will be reported to the Office of Inspector General in accordance with [OP-050108](#) entitled "Use of Force and Reportable Incidents." (PREA 115.61, 115.261)

Staff may privately report allegations or incidents of sexual abuse/assault or harassment of an offender to the Inspector General's office, PREA Hotline at 405-425-2493 or 1-855-871-4139, as well as preareport@doc.state.ok.us. (PREA 115.51, 115.251)

An investigation is conducted and documented whenever an allegation of sexual abuse or harassment is reported in accordance with [OP-040117](#) entitled "Investigations." Such allegations are treated with discretion and, to the extent permitted by law, confidentially. The "Sexual Assault Report" (Part A, B and C) ([Attachment C](#), attached) is completed and forwarded to the Office of Inspector General for all allegations of sexual abuse and harassment.

A. Initial Reports and Separation

1. Any offender may report acts of sexual assault, abuse or harassment to any employee, contract employee or volunteer using available methods of communication, including but not limited to: verbal reports, "Offender Grievance Process Request to Staff" ([DOC 090124D](#)) and/or sick call ([DOC 140117A](#) entitled "Request for Health Services").
2. Anyone that receives a report of alleged or suspected sexual abuse or harassment from an offender, whether verbally or in writing will immediately notify the supervisor and complete a "Serious Incident Database Report" ([OP-050108](#), [Attachment K-1](#), [K-2](#), [K-3](#)) and the "Sexual Assault Report, Part A ([Attachment C](#)).

3. The supervisor, through his/her chain of command, should ensure the alleged victim and alleged suspect are physically separated, either through the placement of one or both offenders in segregation, through staff transfer or leave options (including suspension), or other effective means. Once separated, designated staff conducts preliminary interviews with offenders regarding offender on offender alleged sexual abuse or harassment.
4. The alleged victim will be immediately taken to medical services for initial evaluation and when any immediate first aid treatment is needed.
5. In incidents where it is conceivable that physical evidence may exist, the Office of Inspector General will be immediately contacted for sexual assault response determination prior to offenders being transported to sexual assault examination sites to undergo examination.
6. With the alleged victim's and the investigator's consent, the case manager and/or the victim support person may sit in on the facility or Inspector General interviews. Any notes taken by the victim support person will be limited to the notation of emotional status and forwarded to mental health staff. Notes shall not reflect investigative information.

B. Zero Tolerance

When no physical evidence is present and upon agreement between the facility head and Inspector General, the facility may investigate allegations of offender on offender sexual assault or harassment and demonstrate compliance for zero tolerance through the misconduct process.

C. Retaliation

The facility shall ensure any offender or staff reporting allegations of sexual abuse or sexual harassment or cooperate in an investigation involving such allegations are protected from retaliation by other offenders or staff. The facility/unit head shall designate staff to monitor retaliation and take appropriate action(s) to include:

1. Employing protective measures, such as housing changes or transfers for offender victims or abusers;
2. Removal of alleged staff or offender abusers from contact with victims;
3. Engaging emotional support services such as mental health services for offenders and the Employee Assistance Program for

staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations; and

4. For at least 90 days following a report of sexual abuse, a facility designated monitor(s) shall assess the conduct and treatment of the offenders or staff who reported the abuse and of offenders who were reported to have suffered sexual abuse for changes that may suggest possible retaliation by offenders or staff. Findings shall be reported to the facility/unit head who shall act promptly to remedy any such retaliation. The facility monitoring will include:
 - a. Offender discipline or misconducts.
 - b. Housing, program or classification changes.
 - c. Negative job/performance reviews.
 - d. Reassignment of staff.

If the offender or staff is transferred during this 90 day period, the facility head of the current facility shall notify the receiving facility head of the continued need for monitoring. (PREA 115.67, 115.267)

E. Monitoring

The facility/unit obligation to monitor shall terminate if the Office of Inspector General determines the allegation is unfounded. (PREA 115.67, 115.267)

X. Reporting to Other Confinement Facilities (PREA 115.63, 115.263)

A. Notification

Upon receiving an allegation of an offender being sexually abused while confined at another facility/unit or contract facility the head of the facility/unit who received the allegation shall notify the head of the facility/unit or appropriate office of the agency where the alleged abuse occurred.

1. Such notifications shall occur by the facility/unit head as soon as received and no later than 72 hours after receiving the allegation.
2. The facility will document the reporting of the allegation notification.
3. The facility/unit head or office receiving such notification shall ensure the allegation is reported to the Office of Inspector General for investigation.

B. General Investigatory Guidelines

All case records associated with claims of sexual assault including incident reports, investigation reports, offender information, and case disposition is retained in the OIG Investigation file. Medical and mental health evaluative findings and recommendations for pre and post-release treatment and counseling are retained in the offender mental health medical record. (4-4281-3) All allegations and resulting investigations will be conducted in accordance with [OP-040117](#) entitled "Investigations" and if substantiated, will be presented to the District Attorney for criminal prosecution.

1. A "Sexual Assault Report" Part B or C ([Attachment C](#)) is completed by the investigator upon completion of the investigation and is included in the investigation report, along with Part A.
2. The "Sexual Assault Report" is retained by the Office of Inspector General for reporting purposes.

C. Investigative Techniques

Interviews are conducted in a thorough, professional, non-abusive and non-threatening manner. Action and exploration of findings consistent with acceptable practice are employed to help potentially traumatized victims of sex crimes.

1. Inspector General agents are trained specifically in the investigations of sexual assault in confined settings.
2. Gender-specific investigators are assigned, if deemed necessary.

D. Investigating Sexual Assaults

Investigations are conducted in accordance with [OP-040117](#) entitled "Investigations." Investigators will consult with, and have available during interviews, mental health support staff. Allegations which include intercourse, sodomy or physical force will require consultation with medical and mental health staff.

The facility shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers who are able to provide offenders with confidential emotional support services related to sexual abuse. (PREA 115.53, 115.253)

1. Preservation of Evidence in Recent Sexual Assaults

If the alleged sexual assault is reported or discovered within 120 hours of the incident, in addition to the provisions in this section, the

following steps are taken by the agent, if present, or the person who is in charge in accordance with [OP-140118](#) entitled "Emergency Care."

a. Physical Evidence – Victim

- (1) If the facility and the Office of Inspector General concur that the need for a sexual assault medical forensic exam exists, the alleged victim shall not be instructed to undress prior to transport to the hospital emergency room or sexual examination site. The offender's clothing will be retrieved as evidence at the hospital or exam site by the sexual assault nurse examiner (SANE). The transport staff will ensure the offender is transported with facility clothing for changing into after the examination.

However, if the offender is not taken for an off- site exam, at the direction of the Office of Inspector General, staff may be directed to immediately collect the offender's clothing. In doing so, the offender will be directed to undress over a clean sheet to collect any potential evidence. All will be placed in a paper bag with the appropriate chain of evidence form attached.

- (2) Forensic evidence collected by the hospital emergency/SANE staff will be collected by Inspector General Agents through appropriate protocol(s).

b. Physical Evidence – Offender Suspect

- (1) Immediately upon being identified as the alleged suspect who reportedly conducted an assault within 120 hours, the offender will be instructed to undress over a clean sheet to collect any potential forensic evidence that may fall from the person. The sheet, along with the alleged suspect's clothing, will be collected as evidence and placed in a paper bag with an appropriate chain of evidence form attached.
- (2) Thereafter, the alleged suspect under investigation will be held in segregation until the investigation is completed, unless other circumstances require transfer.
- (3) During the course of the investigation, the alleged victim and alleged suspect will remain separated.

c. Physical Evidence - Crime Scene

- (1) Based upon the amount of time passed since the alleged incident and other factors, a determination will be made to assess whether there is a possibility of the evidence still existing at the crime scene. If determined that a possibility of evidence still exists, and if possible, the crime scene is secured and any potential evidence remains for the agent's examination.
- (2) If the crime scene cannot be secured, the crime scene will be photographed and/or video-taped and if any evidence exists, placed in a paper bag with a chain of evidence form attached.
- (3) If a potential crime scene is established, limited access will be authorized and a log maintained as established in [OP-040117](#) entitled "Investigations." (4-4207)

2. Investigation of Sexual Assaults Occurring More than 120 Hours after the Incident

If the alleged sexual assault is reported or discovered more than 120 hours after the incident, the following steps will be taken by the supervisor in charge:

- a. If feasible, secure the alleged crime scene, as forensic evidence may exist.
- b. Place the alleged victim in an environment to assure safety and security.
- c. Place the alleged offender suspect, if known, in segregation or if a staff member, ensure separation from the victim.
- d. Notify the Office of Inspector General and the victim support designee. If the victim support person is not on-site, he/she is notified the next day.
- e. If injuries are reported by the offender or are visible, ensure the victim is examined by medical. Mental health providers shall be immediately notified

3. Interviewing and Reporting Guidelines

- a. With the investigative agent's consent, a victim support person or case manager is permitted to sit in on any victim

interviews if requested by the victim. Only employees, agency volunteers or community rape advocates approved in accordance with the community service provider memoranda of understanding who voluntarily agree to act as victim support persons, are utilized in this capacity. Victim support persons acting in this capacity will be approved by the facility/district/unit head.

- b. A medical report to the facility head/district supervisor will document the incident and treatment of the alleged victim in accordance with MRS 140118-01 entitled "Management of Alleged Rape/Sexual Assault."

- c. Findings/Recommendations

The investigative report will indicate whether the evidence substantiates a sexual assault has occurred or the allegations are unsubstantiated or unfounded. The Inspector General agent will complete the "Sexual Assault Report", Part B or C ([Attachment C](#)) and include it with the investigative report. If there is a substantiated finding of sexual assault which violates state statute, a copy of the Inspector General's agent's report and supporting documentation/ evidence will be forwarded to the appropriate jurisdiction for possible criminal prosecution.

- d. Prosecutions

The Inspector General agent will thoroughly document each case to assure evidence in the event of criminal prosecution of sexual assault.

- e. Tracking of Confirmed Sexual Assault Perpetrators

The Inspector General Intelligence Unit will gather information regarding sexual assault in accordance with [OP-040119](#) entitled "Intelligence." The information will be obtained from the "Serious Incident Database Report" ([OP-050108](#), [Attachment K-1](#), [K-2](#), or [K-3](#)) and completed investigations.

- (1) Confirmed sexual perpetrators will also be entered into the Offender Management System (OMS) by the Office of Inspector General and administrative flags will be utilized to monitor the movements of such offenders.

- (2) The agency PREA coordinator will submit annual information regarding sexual assault to the United States Census Bureau as required by PREA.
- f. Upon an offender's release to probation or parole, the appropriate district office will determine if any flags have been placed on new release offenders and ensure that appropriate action is taken if needed.
- g. In the event that a probationer or parolee reports to his/her probation officer that he/she the victim of sexual assault while incarcerated but never reported the incident, the probation and parole officer receiving this information will immediately report the sexual assault allegation to his/her supervisor who will immediately contact the Office of Inspector General. The probationer or parolee will then be referred to community resources for medical and or mental health services.

XI. Notifications to Offender Victims of Sexual Assault/Abuse

- A. Following an investigation into in offender's allegation that he or she suffered sexual abuse in a department facility, the facility head or designee shall inform the offender victim at the conclusion of the investigation as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.
- B. Following an offender's allegation that a staff member has committed a sexual offense against the offender the facility head or designee shall:
 1. Subsequently inform the offender victim (unless the investigation determines the allegation is unfounded) whenever the staff member is:
 - a. No longer posted at the offender's unit.
 - b. No longer employed at the facility.
 - c. Indicted on a sexual offense.
 - d. Convicted of a sexual offense.
- C. Ensure notification is documented on the routing sheets in the comments/review section of the Office of the Inspector General Investigation file.
- D. Following an offender's allegation of a sexual offense by another offender, the facility head or designee shall:

1. Subsequently inform the alleged victim whenever the suspect offender has been indicted or convicted on the sexual offense.
 2. The facility head will ensure notifications to offenders are documented on the "Notification of Investigation Status" form ([Attachment D](#), attached) and placed in the OIG investigation file.
- E. Obligation to report under this standard shall terminate if the offender victim is released from custody. (PREA 115.73, 115.273)

XII. Sexual Abuse Incident Reviews

In all instances when sexual abuse is not unfounded (whether substantiated or unsubstantiated) through an investigation, at the conclusion of the investigation the facility shall conduct a sexual abuse incident review. This review shall occur within 30 days of the receipt of the OIG investigative findings. The review team shall include administrative staff, with input from line supervisors, investigators, medical/mental health professional and facility PREA compliance manager.

A. Review Team

The review team shall:

1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
2. 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 facility;
3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
4. Assess the adequacy of staffing levels in that area during different shifts;
5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
6. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the Division Manager and Agency PREA Coordinator within 30 days after the review teams conclusion. (PREA 115.86, 115.286)

XIII. DOC Medical Services Responsibilities

A. Provision of Medical Care for Offenders (Alleged Victims and Alleged Suspects)

Medical Services will follow established protocol, which includes provisions for initial examination, documentation, transport to local emergency medical care when appropriate, testing for sexually transmitted diseases (including an HIV test) with counseling as appropriate, prophylactic treatment, follow up and mental health counseling and support as defined in [OP-140118](#) entitled "Emergency Care." Non-consensual sexual incidents will be documented in the offender's electronic health record by a qualified health care provider utilizing the nonconsensual sexual contact nursing protocol form.

B. Guidelines for Medical Care and Investigations at Community Medical Facilities (4-4406)

Victims of sexual assault will be referred under appropriate security provisions to a community-based health care provider or hospital.

C. Mental Health Care Provider

The qualified mental health professional (QMHP) or correctional health services administrator will be notified as soon as possible, but no later than the next business day of all alleged sexual assault. After providing mental health counseling, the QMHP will consult with the investigating agent regarding the investigation. Appropriate assistance/mental health services will be available to the offender victim(s) of sexual assault in accordance with [OP-140201](#) entitled "Mental Health Services Duties and Responsibilities."

XIV. Agency Reporting/Database Requirements

The Office of Inspector General will maintain a record of all reported incidences of sexual assault.

A. Records

The following categories are designated by Bureau of Justice Uniform Crime Reports. Records document the following:

1. Victim Information
 - a. Date of incident(s);
 - b. Facility;

- c. Number of victims;
 - d. Gender of victim(s);
 - e. Age category of victim(s);
 - f. Race/ethnic origin of victim(s);
 - g. Location and time of incident(s);
 - h. Injuries sustained by the victim(s) during the incident(s);
 - i. Medical treatment, counseling or mental health treatment, testing for HIV/AIDS or other sexually transmitted diseases, or rape kit provided or administered to the victim(s);
 - j. Person(s) who reported the incident;
 - k. Steps taken to protect the victim(s);
 - l. Type of sexual assault (offender-on-offender nonconsensual sexual act or abusive sexual contact or staff sexual misconduct or harassment); and
 - m. Whether incident occurred in area subject to video monitoring.
2. Offender-on-Offender Perpetrator Information
 - a. Number of perpetrators;
 - b. Gender of perpetrator(s);
 - c. Age category of perpetrator(s);
 - d. Race/ethnic origin of perpetrator(s);
 - e. Nature of the incident;
 - f. Type of pressure or physical forces used by the perpetrator(s) on the victim(s); and
 - g. Sanctions imposed on the perpetrator(s).
3. Staff-on-Offender Perpetrator Information
 - a. Nature of the incident;
 - b. Number of staff involved;

- c. Gender of the staff member(s);
- d. Age of staff member(s);
- e. Race/ethnic origin of staff member(s);
- f. Staff classification (i.e. full- or part-time employee, volunteer, intern, contract employee, vendor, etc.);
- g. Primary position description of staff member(s);
- h. Sanctions imposed on the staff member(s); and
- i. Time period staff has been employed at facility.

XV. Confidentiality

All documents associated with claims of sexual assault, including incident reports, investigative reports, offender information, case disposition, medical and mental health evaluation findings and recommendations for post release treatment and/or counseling are confidential and retained by DOC. (4-4281-8) All investigative files are considered confidential information. Copies of the investigative file will be maintained by the Office of Inspector General.

XVI. References

Policy Statement No. P-030100 entitled "Provisions of Services/Offender Rights and Responsibilities"

OP-030102 entitled "Offender Housing"

OP-040117 entitled "Investigations"

OP-040119 entitled "Intelligence"

OP-050108 entitled "Use of Force Standards and Reportable Incidents"

OP-050109 entitled "Reporting of Incidents"

OP-060106 entitled "Non-Associations and Protective Measures"

OP-100101 entitled "Training and Staff Development"

OP-140114 entitled "Screening New Arrivals"

OP-140118 entitled "Emergency Care"

OP-140125 entitled "Bloodborne Pathogen Exposure Control Program"

OP-140201 entitled "Mental Health Services Duties and Responsibilities"

MSRN 140118-01 entitled "Management of Alleged Rape/Sexual Assault"

Prison Rape Elimination Act of 2003, P.L. 108-79

Prison Rape Elimination Act Prisons and Jails Standards

Community Confinement Standards

21 O.S. 1111 Paragraph 7

Bureau of Justice Statistics Status Report entitled, "Implementing the Prison Rape Elimination Act of 2003" addressing "How Will Rape Be Measured?" (February 5, 2004)

Center for Disease Control, National Center for Injury Prevention and Control, report entitled "Sexual Violence Surveillance: Uniform Definitions and Recommended Data Elements" (2002)

XVII. Action

The associate director of Field Operations, division managers and Inspector General are responsible for compliance with this procedure.

The Inspector General is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director.

This procedure will be effective as indicated.

Replaced: Operations Memorandum No. OP-030601 entitled "Oklahoma Prison Rape Elimination Act" dated January 19, 2012

Distribution: Policy and Operations Manual
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
DOC 090124D	“Offender Grievance Process Request to Staff”	OP-090124
DOC 140117A	“Request for Health Services”	OP-140117
<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment A	“Sexual Misconduct and Harassment”	Attached
Attachment B	“Offenders’ Guide to Sexual Misconduct”	Attached
Attachment C	“Sexual Assault Report-Parts A, B and C”	Attached
Attachment D	“Notification of Investigation Status”	Attached
Attachment K-1 , K-2 , K-3	“Serious Incident Database Report”	OP-050108
Attachment A	“Incident/Staff Report”	OP-050109