

CHAPTER: 100
Agency Administration/Management

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Department Order Manual





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PURPOSE

The Department has zero tolerance for sexual contact of any kind with inmates and offenders including sexual harassment, conduct, assault and/or contact, by inmates, staff, contractors, volunteers and others. This Department Order establishes the standards and accountability measures to prevent such conduct, regardless of location and to respond appropriately should a sexual conduct occur. This process includes meeting the medical and psychological needs of the victims. Allegations of sexual conduct shall be investigated and as warranted, result in disciplinary action and/or criminal prosecution. This Department Order complies with the Prison Rape Elimination Act (PREA) of 2003, 42 U.S.C.A. 15601 through 15609. For other information relating to inmate and staff sexual conduct see Department Order #601, Administrative Investigations and Employee Discipline, and Arizona Revised Statute (A.R.S.) §13-1401 et al.

References to health care professional (i.e., Health Services, Mental Health Services, and Dental Services) are referring to the Health Services Contractor or their sub-contractors unless otherwise stated.

PROCEDURES

1.0 SEXUAL CONDUCT AND SEXUAL ASSAULTS

- 1.1 All allegations and incidents of sexual conduct shall be investigated as outlined in Department Order #608, Criminal Investigations, and Department Order #601, Administrative Investigations and Employee Discipline.
- 1.2 Staff Misconduct - Staff sexual harassment and any sexual contact or conduct between staff and inmates or offenders is strictly prohibited. There is no consensual sexual contact between staff and inmates or offenders. A staff member who engages in Unlawful Sexual Conduct is subject to state and/or federal criminal prosecution.
 - 1.2.1 For purposes of this Department Order, Unlawful Sexual Conduct is defined as engaging in any act of a sexual nature with an inmate or offender who is in custody or under supervision of the Department, a contracted private prison or a contracted county jail. A.R.S. §13-1419.
 - 1.2.1.1 The term “person” includes any of the following: A.R.S. §13-1419
 - 1.2.1.1.1 Employee of the Department of Corrections.
 - 1.2.1.1.2 Employee of a contracted private prison, or contracted county jail.
 - 1.2.1.1.3 Contractor with the Department, contracted private prison, or contracted county jail.
 - 1.2.1.1.4 Official visitor, volunteer or representative of the Department of Corrections, contracted private prison, or contracted county jail.
 - 1.2.1.2 Any acts of a sexual nature, as defined below, conducted with the intent to arouse or gratify sexual desire, includes any:

- 1.2.1.2.1 Completed, attempted, threatened or requested touching of the genitalia, anus, groin, breast, inner thigh, pubic area or buttocks. A.R.S. §13-1419
- 1.2.1.2.2 Exposing genitalia, anus, groin, breast, inner thigh, pubic area or buttocks. A.R.S. §13-1419
- 1.2.1.2.3 Photographing, videotaping, filming, digitally recording or otherwise viewing – with or without a device, an inmate or offender, while the inmate or offender is in a state of undress or partial undress, or while the inmate or offender is urinating or defecating. A.R.S. §13-1419
- 1.2.1.3 A.R.S. § 13-1419 does not apply to:
 - 1.2.1.3.1 Acts conducted by persons lawfully married to the inmate or offender prior to incarceration in the Department. A.R.S. §13-1419
 - 1.2.1.3.2 Acts conducted for a bona fide medical exam or a lawful internal search. A.R.S. §13-1419
 - 1.2.1.3.3 Urinalysis Collection as outlined in Department Order #709, Substance Abuse, Detection and Control.
- 1.2.2 Sexual harassment, sexual contact or conduct does not apply to staff conducting pat down searches of inmates in the performance of their duties as outlined in Department Order #708, Searches.
- 1.2.3 Following an investigation, a person found to have engaged in unlawful sexual conduct with an inmate or offender is subject to disciplinary action including dismissal as outlined in Department Order #601, Administrative Investigations and Employee Discipline, and may be referred for criminal prosecution.
- 1.2.4 All employees, volunteers and contract employees are expected to have the highest ethical standards of honesty, integrity, impartiality and conduct in their interaction with inmates, offenders, other employees and the general public. For additional information relating to staff-inmate or offender conduct see Department Order #501, Employee Professionalism, Ethics and Conduct, and Department Order #601, Administrative Investigations and Employee Discipline.
- 1.3 Inmate Sexual Assaults – Abusive sexual contact and any sexual contact (consensual or nonconsensual sexual acts) between inmates are strictly prohibited.
 - 1.3.1 An inmate who sexually assaults another inmate is subject to disciplinary action as outlined in Department Order #803, Inmate Disciplinary Procedure. All such disciplinary actions shall be treated as major violations with the sternest sanctions imposed. The inmate shall be classified to the highest custody level in accordance with Department Order #801, Inmate Classification. A.R.S. §13-1419

- 1.3.2 Following an investigation, an inmate who is identified as sexually assaulting another inmate may be referred for criminal charges as outlined in Department Order #608, Criminal Investigations, pursuant to A.R.S. §13-1406, Sexual assault; classification; increased punishment.
 - 1.3.3 If found or pled guilty following criminal prosecution, the sexually assaultive inmate (See the Glossary of Terms) may receive an additional prison sentence and may be required to register as a sex offender upon release, in accordance with statutory mandate.
 - 1.3.4 Inmates who knowingly or intentionally make false accusation(s) of sexual assault shall receive disciplinary action as outlined in Department Order #803, Inmate Disciplinary Procedure and may be criminally prosecuted under the applicable statute. All such disciplinary action shall be treated as major violations with the highest possible sanctions imposed. A.R.S. §13-2907.01
- 1.4 Retaliation against inmates or staff by other inmates or staff for reporting staff sexual conduct or harassment and inmate on inmate sexual assaults is prohibited. All acts of retaliation shall be investigated. If an act of retaliation is proven, the perpetrator(s) shall be subject to disciplinary action.
- 1.4.1 Staff who observe or have knowledge of shall immediately report any:
 - 1.4.1.1 Retaliation against inmates or staff who report sexual abuse or sexual harassment.
 - 1.4.1.2 Staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
 - 1.4.2 Any other individual/witness who cooperates with an investigation expresses a fear of retaliation; the Department shall take appropriate measures to protect that individual against retaliation.
- 1.5 All issues related to reporting contract staff unlawful sexual conduct and harassment and inmate on inmate sexual assaults shall be coordinated through the Contract Beds Operations Director.

2.0 PREVENTION

- 2.1 The Division Director for Prison Operations shall ensure every institution, including private prisons, provides inmates with information on preventing sexual assault during their orientation (Attachment C). All material shall be made available to inmates and shall, at a minimum, include:
 - 2.1.1 Oral and written information in English and Spanish.
 - 2.1.2 Information on prevention, self-protection and avoiding sexual abuse.
 - 2.1.3 Treatment and counseling for inmate victims of sexual abuse.
 - 2.1.4 A simplified and expedient process for inmates to report sexual assaults.

- 2.2 The Department "Sexual Assault Awareness" pamphlet shall be provided to each inmate as part of the institutional orientation process. The pamphlet shall include material outlined in this Department Order and shall be written to be easily understood by all inmates. Assistance shall be given to inmates who speak languages other than English or who are identified as being unable to understand the material.
- 2.3 Wardens shall ensure information on preventing sexual assaults, inmate notification and informative posters (i.e., Attachments A, B, and D) are posted on inmate bulletin boards and are available to all inmates regardless of their custody level or location.
- 2.4 Each unit Deputy Warden shall ensure staff conducting the orientation document each inmate's attendance in the Arizona Correctional Information System (ACIS). The entries shall note the written materials outlined in 2.2 of this section were provided to each inmate and, if appropriate, oral and written translations were provided.
 - 2.4.1 When any staff member learns that an inmate is subject to a substantial risk of imminent sexual abuse, immediate action to protect the inmate shall be initiated.
 - 2.4.1.1 Inmates at high risk for sexual victimization shall not be placed in Protective Custody involuntarily 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.

3.0 INTERVENTION

- 3.1 In the event an inmate is sexually assaulted, the inmate shall notify a staff member that a sexual assault has occurred. An inmate may report such occurrences at any time to any staff member.
 - 3.1.1 To preserve evidence, the assaulted inmate should be requested not to wash, brush their teeth, shower, urinate, defecate, smoke, eat, drink or change clothing prior to notifying mental health practitioners, investigators, facilitate chain of command or receiving a medical evaluation. ***[Revision – May 1, 2017]***
 - 3.1.2 The Department shall take immediate action on all allegations of sexual conduct (includes conduct, assault and/or contact).
- 3.2 Staff who observe or become aware (i.e., verbally, in writing, anonymously, or from third parties) of a sexual assault or sexual conduct shall:
 - 3.2.1 If appropriate, intervene, separate the inmates and, if necessary, initiate the Incident Command System (ICS) as outlined in Department Order #706, Incident Command System (ICS).
 - 3.2.2 Immediately notify the Shift Commander by telephone or have another staff member make the notification. To protect the victim, notification shall not be made over the radio:
 - 3.2.2.1 Where the victim reports a sexual assault, staff shall separate the victim from other inmates for protection and to preserve the evidence as outlined in 3.1.1 of this section. Staff shall remain with the inmate.

- 3.2.2.2 The victim shall immediately be escorted for medical treatment, as deemed necessary by clinicians, and mental health assessment. At no time will staff leave the victim alone until evaluated by mental health staff.
- 3.2.3 Identify and secure the crime scene until the Criminal Investigations Unit investigator arrives.
- 3.2.4 Complete an Information Report, Form 105-2, as outlined in Department Order #105, Information Reporting.
- 3.3 The Shift Commander shall:
 - 3.3.1 Initiate ICS, and consult with the Criminal Investigation Unit. If it is determined during the interview the alleged assault occurred within a timeframe where recovery of evidence is considered likely, generally 72 hours:
 - 3.3.1.1 If not already initiated, ensure the crime scene is secured and recorded as outlined in the General Post Order.
 - 3.3.1.2 Access to the crime scene shall be controlled until the scene is cleared and released by a Criminal Investigation Unit investigator. The Criminal Investigation Unit investigator shall ensure:
 - 3.3.1.2.1 Other evidentiary items not directly associated with the crime scene, such as the clothing of the alleged victim and that of the suspect are secured and a chain of custody initiated.
 - 3.3.1.2.2 Each item suspected as contaminated with bodily fluids is stored in individual paper wrapping or a paper sack and a chain of custody is initiated.
 - 3.3.2 Ensure the inmate victim is protected and has no contact with any other inmates. At no time will the victim be left alone until evaluated by mental health staff for risk of self-harm. The suspect(s) and the victim shall not be permitted to communicate with each other, and shall be escorted and held separately out of sight and sound from each other. The inmate victim shall be immediately protected on site, at the hospital and upon return to institution/facility.
 - 3.3.3 Ensure the inmate victim is immediately escorted to the Health Unit for examination, treatment and evaluation, and if determined appropriate by the investigator and/or health care and/or mental health professional, transported to the hospital emergency room for the collection of forensic evidence and medical treatment. At no time will staff leave the inmate victim alone until he/she is evaluated by mental health staff.
 - 3.3.4 Immediately contact mental health staff to provide assessment and intervention.
 - 3.3.4.1 After normal business hours, the Shift Commander shall contact the on-call psychologist or psychiatrist.

- 3.3.4.2 The on-call psychologist or psychiatrist, if unable to respond in person, shall request that the inmate victim be interviewed over the telephone, ideally with a nurse present during the interview.
- 3.3.4.3 After interviewing the victim, the on-call psychologist or psychiatrist shall consult with and advise the nurse of mental health interventions, such as the need for health/welfare or suicide watch.
- 3.3.4.4 In the absence of a nurse, the on-call psychologist or psychiatrist shall provide direction about mental health interventions to security staff.
- 3.3.5 Preserve all evidence as outlined in 3.1.1 of this section.
- 3.3.6 Notify the Criminal Investigations Unit as outlined in Department Order #608, Criminal Investigations. If the alleged victim is:
 - 3.3.6.1 Under the age of 18, the Criminal Investigation Unit investigator shall notify the Arizona Department of Economic Security, Child Protective Services.
 - 3.3.6.2 Considered a vulnerable adult under Arizona Vulnerable Adult Act, the Criminal Investigation Unit investigator shall notify the Arizona Department of Economic Security, Adult Protective Services.
- 3.3.7 Question the victim only to determine the identity of the suspect, and where and when the alleged assault occurred.
- 3.3.8 Remove any identified suspect(s) from the area and isolate them until questioned by the investigator; ensure the suspect(s) do not wash, brush his/her teeth, shower, urinate, defecate, smoke, eat, drink or change clothing.
 - 3.3.8.1 After the Criminal Investigations Unit investigator(s) has completed the interview, the suspect(s) shall be taken to medical as outlined in 3.3.3.10.1 of this section.
 - 3.3.8.2 If the suspect is a staff member, contract employee or volunteer they shall be reassigned pending the completion of the investigations as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
 - 3.3.8.3 If warranted, the Criminal Investigations Unit investigator shall obtain a Court Order for the collection of forensic evidence. If the process for a Court Order is initiated, the suspect(s) shall not be permitted access to facilities/areas where evidence may be located, and/or to prevent destruction of evidence.
- 3.3.9 Ensure the inmate victim is escorted to the Health Unit for an examination and evaluation. When determined necessary by the Health Services staff, ensure the inmate victim is escorted to the local emergency room facility.

- 3.3.9.1 If the suspect is identified as another inmate, the inmate suspect shall also be escorted to the Health Unit for evaluation and documentation.
- 3.3.9.2 The inmate victim and the inmate suspect(s) shall be escorted and held separately. The inmates shall be out of sight or sound from each other and shall not be permitted to communicate.
- 3.3.9.3 Health Services staff shall immediately contact mental health staff and provide clinical information discovered during the medical examination.
- 3.3.10 At the conclusion of the medical and mental health examination(s), or upon return from the emergency room, reassign the inmate victim and the inmate suspect(s), if known, to the Complex Detention Unit or a Protective Custody Unit pending the outcome of a Protective Custody review and/or investigative process, if appropriate. The inmate victim and the inmate suspect(s) shall: ***[Revision – November 3, 2014]***
 - 3.3.10.1 Not be housed in cells next to each other if the inmate victim and the inmate suspect(s) are placed in the same detention or Protective Custody Unit.
 - 3.3.10.2 Be housed out of sight and hearing range from one another.
- 3.3.11 Ensure a Significant Incident Report, Form 105-3, is initiated as outlined in Department Order #105, Information Reporting, and proper notifications are made to at least the following:
 - 3.3.11.1 Warden
 - 3.3.11.2 On-Site Duty Officer
 - 3.3.11.3 Off-Site Duty Officer
 - 3.3.11.4 Unit Deputy Warden
 - 3.3.11.5 Unit Chief of Security
 - 3.3.11.6 Central Office Communications Center
- 3.3.12 Complete the Sexual Assault Procedures Checklist, Form 125-1 and forward it to the Deputy Warden and the Criminal Investigation Unit.
- 3.4 Inmates who observe, are involved in or have knowledge of a sexual assault shall immediately report their observation to a staff member.
 - 3.4.1 Inmates may report staff sexual misconduct and/or staff sexual harassment and inmate on inmate sexual assaults as follows:
 - 3.4.1.1 Inmate Letter, Form 916-1. Refer to Attachment A, Inspector General Poster (English/Spanish).
 - 3.4.1.2 Official correspondence through the United States (US) mail. Refer to Attachment A.

- 3.4.1.3 PREA Hotline (Attachment B) - When an inmate leaves a message on the PREA Hotline (contracted inmate phone system), designated staff members in the Inspector General Bureau will receive an email alerting them a message was left.
 - 3.4.1.3.1 The message will be recorded in an anonymous mailbox in the Secure Call Platform (SCP) where designated staff members can access the voicemail remotely at any time.
 - 3.4.1.3.2 If there appears to be sufficient information to have an allegation investigated, the staff member shall contact the respective Criminal Investigations Unit Manager or Supervisor.
- 3.4.1.4 Third Party Reporting – Constituent Services shall ensure:
 - 3.4.1.4.1 Information related to sexual assault/abuse reporting is available in the Constituent Services Information handbook located on the Department internet website (<https://corrections.az.gov/>). **[Revision – November 3, 2014: Sections 3.4.1.4.1 and 3.4.1.4.2]**
 - 3.4.1.4.2 The Department internet website, under the Family Assistance and Other Useful Links, provides an avenue for family and friends to report an incident by providing a list of the Criminal Investigations Unit Supervisors and their office numbers at the respective complexes.
- 3.4.2 Any instance of sexual conduct by staff and/or sexual assault by inmate shall be reported and shall be investigated as outlined in Department Order #608, Criminal Investigations.
- 3.5 Employees who receive sexual conduct/assault information from a source other than an inmate victim shall complete an Information Report and immediately forward it to the Shift Commander, who shall notify the Warden through the chain of command. The Shift Commander shall:
 - 3.5.1 Question the inmate victim and forward all information to the Criminal Investigations Unit, who shall determine if further investigation is required.
 - 3.5.2 Begin the Protective Custody process, if appropriate.
 - 3.5.3 Refer the victim to Medical and Mental Health Services.
 - 3.5.4 If the victim identifies another inmate as the suspect, place the suspect(s) into detention pending the outcome of the investigation, if appropriate. **[Revision – November 3, 2014]**

- 3.6 Upon receiving an allegation that an inmate was sexually assaulted while confined at another facility, the Warden or designee that received the allegation shall notify the appropriate agency where the alleged abuse occurred.
 - 3.6.1 Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
 - 3.6.2 The Warden or designee shall document they have provided such notification with the Significant Information Report (SIR).
 - 3.6.3 Upon receiving such notification the Department shall ensure the allegation is investigated in accordance with this Department Order.

4.0 HEALTH SERVICES

- 4.1 When the inmate victim arrives at medical, Health Services staff shall:
 - 4.1.1 Assess and provide any necessary emergency care and treatment. Health staff shall evaluate the inmate and, if necessary, make arrangements with security staff for the inmate to be escorted to an outside medical facility or emergency room for treatment and the collection of forensic evidence.
 - 4.1.2 Ensure emergency treatment of the inmate is not delayed for any administrative reason.
 - 4.1.3 Notify the Contract Facility Health Administrator of the alleged assault and the need for tertiary care at an outside facility. The Contract Facility Health Administrator shall:
 - 4.1.3.1 Coordinate the collection of evidence with the Criminal Investigations Unit.
 - 4.1.3.2 Determine if hospital based treatment is necessary, and if necessary, ensure the proper notifications and arrangements are made to have the inmate escorted.
 - 4.1.3.3 Provide timely information and access to emergency contraception in accordance with professionally accepted standards of care, where medically appropriate.
 - 4.1.4 Explain to the inmate:
 - 4.1.4.1 Medical and mental health staff members are required to report sexual abuse in accordance with section 3.0 of this Department Order.
 - 4.1.4.1.1 Medical and mental health staff shall 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.

- 4.1.4.2 Medical care is being provided for proper evaluation and treatment of any injuries.
- 4.1.4.3 The necessity of the physical exam, including blood drawings and specimen collection.
- 4.1.4.4 The necessity to check for sexually transmitted diseases and sexually transmitted infections prophylaxis.
- 4.1.4.5 Treatment services will be provided to the victim without financial cost, regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- 4.1.5 Answer any questions the inmate may have regarding the examinations and specimen collection.
- 4.1.6 Advise the inmate that a chaplain will be available to meet with them if they so choose.
- 4.1.7 Notify mental health staff of the assault, as outlined in section 5.0 of this Department Order.
- 4.1.8 Document in the inmate's Medical Record all clinical actions taken, communications with the inmate, and any refusals of treatment or assessment.
- 4.1.9 Complete an Information Report as outlined in Department Order #105, Information Reporting, and forward it to the Contract Facility Health Administrator.
- 4.2 Ongoing medical and mental health evaluation, and as appropriate, treatment shall be offered to all Arizona Department of Corrections (ADC) inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
 - 4.2.1 The evaluation and treatment of such victims shall include, as appropriate:
 - 4.2.1.1 Follow-up services.
 - 4.2.1.2 Treatment Plans.
 - 4.2.1.3 Referrals for continued care following their transfer to, or placement in, other facilities, or release from custody.
 - 4.2.2 The institution shall provide such victims with medical and mental health services consistent with the community level of care.
 - 4.2.3 Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
 - 4.2.3.1 Victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

5.0 MENTAL HEALTH SERVICES

- 5.1 Screening for Sexual Abuse – During the initial Mental Health Assessment, inmates that have:
- 5.1.1 Experienced prior sexual victimization, whether it occurred in an institution setting or in the community, shall be scheduled to meet with a mental health practitioner within 14 workdays of the assessment being completed.
 - 5.1.2 Perpetrated sexual abuse, whether it occurred in an institution setting or in the community, shall be scheduled to meet with a mental health practitioner within 14 workdays of the assessment being completed.
- 5.2 Any inmate who is the victim of staff sexual misconduct, staff sexual harassment, or inmate on inmate sexual assault shall be offered mental health services or assistance in recovery and protection from future incidents of misconduct and sexual assaults. Mental Health Services shall make referrals for long-term continuity of care and treatment for victims, and document the referrals in the inmate's Medical Records and on an information report.
- 5.3 Upon notification of an alleged sexual assault, mental health staff shall:
- 5.3.1 Evaluate the inmate as soon as the inmate's physical evaluation and treatment allows and determine if a suicide or mental health watch is necessary.
 - 5.3.2 If after normal business hours, contact the on-call psychologist or psychiatrist as outlined in section 3.0 of this Department Order.
 - 5.3.3 Continue to provide mental health follow-up consistent with the inmate's needs and services provided for individuals who are victims of sexual assault.
- 5.4 Institutions shall conduct a mental health evaluation of all known inmate on inmate sexual abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.
- 5.5 The Correctional Officer III shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse.

6.0 INVESTIGATIONS

- 6.1 Investigative Detention – An inmate may be placed in investigative detention, in accordance with the appropriate Department Order(s) as part of an active investigation.
- 6.1.1 Unless exceptional circumstances apply, investigative detention is limited to 30 calendar days. Extensions shall be requested in accordance with Department Order #804, Inmate Behavior Control. Any extensions shall be requested, in writing, from the Division Director for Prison Operations and approved in writing. A copy of extension requests and approvals shall be provided to the Warden.
 - 6.1.2 Investigative detention is not punitive in nature.
 - 6.1.2.1 Staff shall take all reasonable measures to ensure inmates so confined are afforded all privileges, in accordance with Department Order #804, Inmate Behavior Control.

- 6.1.2.2 Any restriction or deviation shall be authorized by the Duty Officer and shall be documented by on-duty staff using an Information Report.
- 6.2 Wardens shall request investigations as outlined in Department Order #608, Criminal Investigations, and provide written notification to the Division Director for Prison Operations through the appropriate Regional Operations Director when an investigation involving a staff on inmate sexual assault allegation is opened. Once the criminal investigation is initiated, an administrative investigation shall be initiated as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
- 6.2.1 All staff terminations for violations of Department sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the Criminal Investigation Unit, unless the activity was clearly not criminal, and to any relevant licensing bodies.
- 6.3 Investigations of inmate sexual assaults shall be actively pursued and closed upon exhaustion of all evidence processes and investigative leads.
- 6.3.1 Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. This shall be documented in the investigation report and includes a description of the physical and testimonial evidence, and investigative facts and findings.
- 6.3.2 Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
- 6.3.3 The Inspector General shall retain all written reports referenced in 6.6.1 and 6.6.2 of this section in accordance with Department Order #103, Correspondence/Records Control.
- 6.4 In every case, investigators shall interview all potential witnesses, the victim and the suspect, if identified.
- 6.4.1 When the quality of evidence appears to support criminal prosecution, investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- 6.4.2 The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an inmate or staff. An inmate who alleges sexual abuse shall not be requested to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- 6.5 The investigator shall actively seek out potential witnesses by interviewing inmates who are housed with or work with the alleged victim.

- 6.6 Investigations of Unlawful Sexual Conduct by Staff - Both criminal and administrative investigators shall search for past investigations in their respective records systems concerning allegations of staff sexual misconduct and inmate sexual assaults, whether sustained or not, against the alleged perpetrator (staff member). Information of previous allegations shall be included in their reports respectively and shall include the disposition (substantiated, unsubstantiated, unfounded, etc.) of the investigation; to include disciplinary sanctions and convictions if appropriate. Management review at each level, as outlined in Department Order #601, Administrative Investigations and Employee Discipline, shall verify the report contains this information.
- 6.7 Staff, including volunteers and contractors, shall cooperate during any investigation as outlined in Department Order #601, Administrative Investigations and Employee Discipline. Failure to cooperate shall subject the offending staff member to disciplinary action including dismissal.
- 6.8 Wardens shall temporarily remove staff under investigation for staff unlawful sexual conduct from contact with inmates pending final resolution of the investigation. Such removal may entail reassignment or Administrative Leave with Pay in accordance with applicable Department Orders and shall be documented in writing as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
- 6.9 The resignation of a staff member, departure of alleged abuser or victim during the course of an investigation does not preclude an on-going criminal investigation.
- 6.9.1 Investigators shall continue to complete investigations and, if appropriate, refer the case to the appropriate prosecuting authority.
- 6.9.2 Resignation of a staff member under these circumstances shall be considered in anticipation of disciplinary action or a resignation not in good standing, unless there is credible evidence to the contrary.
- 6.9.3 Wardens shall complete a memo identifying the staff member is ineligible for rehire and forward it to the Human Services Bureau with a copy to the Inspector General. The staff member shall be identified in the database as ineligible for rehire.
- 6.9.4 In the event an employee "resigns in lieu of termination" during an administrative investigation, Wardens and Deputy Wardens, in consultation with the Division Director for Prison Operations, shall review the circumstances of the investigation and determine if there are sufficient administrative concerns to continue the inquiry.
- 6.9.4.1 Wardens shall complete a memo identifying that the staff member is ineligible for rehire and forward it to the Human Services Bureau with a copy to the Inspector General.
- 6.9.4.2 The staff member shall be identified in the database as ineligible for rehire. This decision shall be documented in writing.
- 6.10 The Inspector General shall ensure staff who maintain the database creates a tracking system allowing Department management to determine when a staff member:

- 6.10.1 Has been the principal subject of an investigation for inappropriate staff-inmate relationships involving an inmate more than two times within five years.
 - 6.10.2 Resigns during the course of an investigation of an inappropriate staff-inmate relationship.
 - 6.10.3 Resigns in lieu of termination during an investigation of an inappropriate staff-inmate relationship.
 - 6.10.4 Is dismissed as a result of an investigation of an inappropriate staff-inmate relationship.
- 6.11 A staff member who has been the principal subject of an investigation for staff unlawful sexual conduct or sexual harassment shall be the subject of a management review during which appropriate action shall be taken regarding the employee. This provision does not apply to staff members that are criminally prosecuted for unlawful sexual conduct or sexual harassment. Options include:
- 6.11.1 Meeting with a supervisor.
 - 6.11.2 Referral to the employee assistance program.
 - 6.11.3 Retraining or reassignment to a different unit or institution.
- 6.12 Staff Discipline – Department staff members found to have engaged in staff unlawful sexual conduct and/or staff sexual harassment are subject to disciplinary action up to and including dismissal as outlined in Department Order #601, Administrative Investigations and Employee Discipline, and may be referred to the County Attorney for prosecution.
- 6.12.1 There shall not be any standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
 - 6.12.2 Private prison employees are subject to discipline as provided for by the contract and may be referred for criminal prosecution.
 - 6.12.3 As outlined in Department Order #501, Employee Professionalism, Ethics and Conduct, prohibited staff behaviors include, but are not limited to:
 - 6.12.3.1 Any acts or actions prohibited by the Department such as horseplay, taking or sending messages (verbal or written), or the introduction of contraband.
 - 6.12.3.2 Any unprofessional conduct such as improper use of language, lewd gestures, staring or leering, or engaging in personal conversation with an inmate.
 - 6.12.3.3 Any sexual contact or physical touching.

- 6.13 Sexual Abuse Incident Reviews – The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The sexual abuse incident review shall occur within 30 workdays of the conclusion of the investigation. The PREA Compliance Manager shall ensure a review of a sexual assault incident is completed within 30 workdays of the investigation conclusion.
- 6.13.1 The sexual abuse incident review team shall include the unit Deputy Warden, Chief of Security, and Correctional Office IV, with input from line supervisors, investigators, and medical or mental health practitioners. The review team shall:
- 6.13.1.1 Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
- 6.13.1.2 Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- 6.13.1.3 Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- 6.13.1.4 Assess the adequacy of staffing levels in that area during different shifts.
- 6.13.1.5 Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- 6.13.1.6 Prepare the Sexual Abuse Incident Review, Form 125-2, and report the findings, including but not necessarily limited to determinations made as outlined in 6.13.1.1 and 6.13.1.5 of this section, and any recommendations for improvement. The Sexual Abuse Incident Review form shall be submitted to the Warden, and designated PREA Compliance Manager for review.
- 6.13.2 The Warden shall implement the recommendations for improvement or shall document the reasons for not doing so.
- 6.13.3 For Reentry Centers, the sexual abuse incident review team shall include the unit Deputy Warden and Project Manager, with input from line supervisors, investigators, and, as applicable, medical or mental health practitioners. ***[Revision – May 30, 2018: Sections 6.13.3 and 6.13.3.1]***
- 6.13.3.1 The Community Corrections Manager shall implement the recommendations for improvement or shall document the reasons for not doing so.
- 6.14 The PREA Compliance Manager shall forward the completed Sexual Abuse Incident Review form to the Inspector General within 15 workdays of the review committee’s findings.

7.0 EMPLOYMENT SCREENING

- 7.1 The Human Services Bureau shall screen all applicants for Department positions in accordance with Department Order #504, Recruitment and Hiring, Department Order #602, Background Investigations and applicable statutes.
- 7.1.1 The Contract Beds Operations Director shall ensure employees of the private prisons undergo required background checks conducted by the Department's Background Investigation Unit.
- 7.2 For all Department positions with significant inmate contact, the hiring authority in conjunction with the Human Services Bureau shall ensure prospective staff members undergo a background check in accordance with Department Order #602, Background Investigations, and Department Order #504, Recruitment and Hiring, prior to job offer. The Human Services Bureau shall ensure the hiring authority is notified of the outcome.
- 7.2.1 For private prisons, the Human Services Bureau shall coordinate notification of the hiring authority through the Contract Beds Operations Director.
- 7.2.2 Health Services and Mental Health Services may employ contract licensed medical providers.
- 7.3 Where inmates are employed by an off-site contractor, only those contract employees who have direct supervisory responsibilities or who may be involved in one-on-one situations, are required to undergo a background investigation. Background investigation and training shall remain a requirement designated in all contracts.
- 7.3.1 All Department contracts shall outline this requirement in writing. The prospective contractor shall sign the agreement prior to any inmates actually beginning work at the site.
- 7.3.2 Wardens shall ensure that such work sites are inspected and that adequate security measures are in place.
- 7.4 Contractors and Service technicians (such as product delivery or repair) who have infrequent access to the institutional areas and are supervised are not required to have a complete background check. Volunteers who conduct group sessions are not required to have a background investigation. These individuals shall be required to have an ACIC/NCIC check prior to entering the institution.
- 7.4.1 Background investigations shall be conducted as outlined in Department Order #602, Background Investigations.
- 7.4.2 Whether or not the applicant has ever worked in a Department or other correctional facility, and if so, whether or not they were the subject of investigations and allegations of inappropriate staff-inmate relationships. (Including queries of Department databases and Human Services Bureau rehire information.)
- 7.5 Criminal background checks shall be conducted at least every five years of current employees and contractors who may have contact with inmates.

8.0 MONITORING

- 8.1 The Inspector General or designee shall semi-annually provide a written report to the Director and Deputy Director outlining each actual incident of inmate sexual assault(s), whether by staff or inmates. This report shall include:
- 8.1.1 The name(s) of the involved inmate(s).
 - 8.1.1.1 For the victim(s): their name, ADC number, race, physical characteristics, gender, age, whether or not physical injury occurred, medical treatment for injuries, and any gang affiliations.
 - 8.1.1.2 For the sexually assaultive inmate(s), if identified: their name, ADC number, race, physical characteristics, gender, age, any gang affiliations and, if applicable, the disposition of any criminal actions.
 - 8.1.1.3 The individual who reported the incident.
 - 8.1.2 The name(s) of the involved staff, contractor or volunteer member(s), gender, age, race, and primary position.
 - 8.1.3 The time, date and location (facility and area within the facility) of the incident(s).
 - 8.1.4 The number of cases in which investigations sustained employee misconduct and the type of misconduct, sanction imposed, and whether or not the case was referred for prosecution.
 - 8.1.5 The numbers of cases in which employees were exonerated or the allegations were not sustained.
 - 8.1.6 The number of cases in which the sexual assaultive inmate is identified and if the allegations were sustained, sanctions imposed, whether or not the case was referred for prosecution.
 - 8.1.7 The numbers of cases in which the sexual assaultive inmate was exonerated or the allegations were not sustained.
 - 8.1.8 The facts of the incident.
 - 8.1.9 Any relevant history of sexual assaults for the victim or perpetrator, whether staff or inmate.

9.0 CONFIDENTIALITY

- 9.1 The Department encourages victims of unlawful sexual conduct to report the conduct and the Department encourages cooperation in its investigation and prosecution. The identity and dignity of the victim will be protected to the fullest extent possible.

- 9.2 Except as required for investigations and criminal prosecution, any information relating to data collection, inmate and staff reports, verbal or written, including all records and information associated with claims of unlawful sexual conduct, Information Reports, investigation reports, inmate information, case disposition and medical and counseling evaluation findings shall be treated as confidential. See Department Order #105, Information Reporting.
- 9.3 Staff shall follow existing instructions in preserving confidentiality except as provided for in instructions relating to investigations.
- 9.4 Any staff member who violates confidentiality is subject to disciplinary action as outlined in Department Order #601, Administrative Investigations and Employee Discipline.

10.0 TRAINING – Topics and material shall be relevant to all staff and inmates.

- 10.1 The Staff Development and Training Bureau shall conduct pre-service (i.e., Correctional Officer Training Academy and New Employee Orientation) and in-service PREA training classes. All employees, and contractors with inmate contact, shall complete PREA training annually as outlined in the Annual Training Plan, and sign the PREA Training Acknowledgment, Form 125-3; or if PREA training is a computer-based course, complete the online PREA Training acknowledgment. Volunteers are required to receive PREA training prior to providing volunteer services. Training shall include, but is not limited to: ***[Revision – November 3, 2014]***
 - 10.1.1 Training staff what to do when an actual or suspected sexual assault has occurred or been reported.
 - 10.1.2 Understanding the identification and referral process when an alleged sexual abuse occurs.
 - 10.1.3 How to report staff unlawful sexual conduct and sexual harassment, including when, how and to whom it should be reported. Emphasis shall be placed on each staff member's obligation to monitor, observe and report such behavior of other staff, and the disciplinary consequences for failing to do so.
 - 10.1.4 Recognizing inmates who may be vulnerable to sexual assault and possible intervention strategies.
 - 10.1.5 Recognizing inmates who appear to be having difficulty or require protection, such as an inmate with injuries or one who suddenly becomes very quiet and withdrawn.
 - 10.1.6 Recognizing an inmate who may be, is being, or has been sexually abused or the victim of extortion.
 - 10.1.7 Recognizing victims who may be at risk for suicide.
 - 10.1.8 Recognizing the signs of sexual abuse.
 - 10.1.9 Recognizing inmates who may be prone to victimizing other inmates, especially in regards to sexual behavior.
 - 10.1.10 Preserving confidentiality regarding investigations and allegations of sexual assault and unlawful sexual conduct.

- 10.1.11 Preservation of crime scenes and evidence in a sexual assault allegation.
- 10.1.12 Basic understanding of sexual abuse prevention and response techniques.
- 10.1.13 Recognizing that inmates who are having difficulty adjusting to the institutional environment or who are experiencing specific problems with other inmates may display verbal and non-verbal signs of anxiety or act out aggressively and methods of intervention.
- 10.1.14 The identification of what constitutes staff unlawful sexual conduct and/or staff sexual harassment and how to report such incidents.
- 10.1.15 An explanation of how inmates are harmed by staff unlawful sexual conduct and sexual harassment.
- 10.1.16 Descriptions of how the security of the facility is jeopardized by staff unlawful sexual conduct and harassment.
- 10.1.17 A statement of the legal consequences and disciplinary actions of engaging in staff unlawful sexual conduct and/or staff sexual harassment.
- 10.1.18 Instruction on supervising, observing and interacting with opposite gender inmates including, where appropriate, knock and announce situations.
- 10.1.19 Instruction on the privacy interests that inmates retain while incarcerated.
- 10.1.20 Unlawful sexual conduct and inappropriate staff inmate relations for all non-correctional staff including contractors and contract employees.
- 10.1.21 Instruction on how to conduct cross-gender pat down searches and searches of transgender and intersex inmates, in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.
- 10.2 All newly hired Correctional Administrators and Correctional Officers shall receive pre-service training addressing staff unlawful sexual conduct and staff sexual harassment. Training shall address the topics listed in 10.1.1.1 through 10.1.21 of this section.
- 10.3 All non-correctional staff including contractors or contract employees, with significant inmate contact and volunteers with inmate contact shall receive pre-service training addressing the topics listed in 10.1.1 through 10.1.21 of this section upon hire or assignment to an institution.
 - 10.3.1 Contractors and Service Technicians (such as product delivery or repair) who have infrequent access to institution areas and are supervised are not required to attend training.
 - 10.3.2 Where an off-site contractor employs inmates, only those contract employees who have direct supervision responsibilities, or who may be involved in one-on-one situations shall be required to attend training. Each contract shall outline this requirement in writing.

- 10.4 The Criminal Investigation Unit investigators shall receive training in conducting sexual abuse investigations in confinement settings.

IMPLEMENTATION

The Inspector General or designee shall maintain the records retention system to track inmate on inmate, or others on inmate sexual assaults for both state and private prisons.

DEFINITIONS/GLOSSARY

Refer to the Glossary of Terms

ATTACHMENTS

Attachment A, Inspector General Poster (English/Spanish)
Attachment B, PREA Hotline (English/Spanish)
Attachment C, Inmate Orientation to Prison Rape Elimination Act (PREA)
Attachment D, Notice to All Inmates – Gender Staff Announcement

FORMS LIST *[Revision – November 3, 2014]*

125-1, Sexual Assault Procedures Checklist
125-2, Sexual Abuse Incident Review
125-3, Prison Rape Elimination Act (PREA) Training Acknowledgment

AUTHORITY

A.R.S. §13-1406, Sexual Assault; Classification; Increased Punishment
A.R.S. §13-1419, Unlawful Sexual Conduct; Correctional Employees; Persons In Custody; Classification
A.R.S. §13-1401, Definitions
A.R.S. §36-3702, Notice of Release; Immunity
42 U.S.C.A. 15601 through 15609, Prison Rape Elimination Act of 2003, P.L. 108-79

ATTACHMENT A

INSPECTOR GENERAL

**ARIZONA DEPARTMENT OF CORRECTIONS
INSPECTOR GENERAL BUREAU
801 SOUTH 16th STREET
PHOENIX, AZ 85034
MAIL CODE 930**

You may write to the Inspector General Bureau in regard to staff sexual misconduct and/or staff sexual harassment, and inmate on inmate sexual assaults. Such writing may be in the form of an inmate letter or as an official correspondence through the US mail. No staff member may retaliate against you for your correspondence, and except for required investigations and necessary consultations with prison administration,* your communication will be kept confidential. You may still file a grievance or report the behavior through other authorized channels if you desire.

You may place your correspondence in the box provided for US mail in accordance with the appropriate mail regulations.

- Employees are required to take action if you report staff sexual misconduct and/or staff sexual harassment, or inmate on inmate sexual assault as a victim or as a witness. Such action may include official department investigations and interviews.

ATTACHMENT A - SPANISH

INSPECTOR GENERAL

**ARIZONA DEPARTMENT OF CORRECTIONS
INSPECTOR GENERAL BUREAU
801 SOUTH 16th STREET
PHOENIX, AZ 85034
MAIL CODE 930**

Usted puede escribir a la Oficina del Inspector General en lo que respecta a la mala conducta sexual de empleados y / o el acoso sexual de empleados, y ataques sexuales de preso contra preso. Tal puede ser escrito en la forma de una carta de preso o como una correspondencia oficial a través del correo de los EE.UU. Ningún miembro del departamento puede tomar represalias contra usted por su correspondencia, y con excepción de las investigaciones necesarias y las consultas necesarias con la administración penitenciaria, La comunicación se mantendrá confidencial. Usted todavía puede presentar una queja o reportar la conducta a través de otros canales autorizados si lo desea.

Usted puede colocar su correspondencia, en la casilla correspondiente para el correo de los EE.UU. de conformidad con las normas apropiadas de correo.

- El personal están obligados a tomar medidas si reportar la mala conducta sexual del empleado y / o acoso sexual del empleado, o preso en asalto sexual recluso como víctima o como testigo. Tal acción podrá comprender las investigaciones oficiales del departamento y las entrevistas.

ATTACHMENT B
[Revision – May 30, 2018]

PREA HOTLINE

Inmates may report staff sexual misconduct and/or staff sexual harassment, and inmate on inmate sexual assaults by utilizing the PREA Hotline (contracted inmate phone system) by following the below instructions:

- Pick up the handset and hit option number 9, followed by option number 1.
- Dial 7732 (PREA). Inmates are not required to enter their PIN number or voice print.
- Listen to the message recording, which states – “You have reached the PREA Hotline. If you would like to report a sexual assault or sexual abuse please leave a detailed message. This information will remain anonymous. If you would like to report other issues not related to PREA please utilize the established procedures at your unit as no action will be taken on non-PREA issues.”
- Leave a message detailing the alleged occurrence.

The information will be confidential and you will remain anonymous.

If you would like to report other issues not related to PREA please utilize the established procedures at your unit.

ATTACHMENT B - SPANISH

[Revision – May 30, 2018]

PREA HOTLINE

Los presos pueden reportar la mala conducta sexual de oficial y/o acoso sexual de oficial, y las agresiones sexuales del preso contra preso utilizando la línea directa de PREA (sistema telefónico interno contratado) siguiendo las siguientes instrucciones:

- Levante el auricular y oprima opción número 9, seguido de la opción número 1.
- Oprima 7732 (PREA). Los presos no están obligados a introducir su número PIN o huella de voz.
- Escuche la grabación del mensaje, que dice - "Ha llegado a la línea directa de PREA. Si usted desea reportar un asunto sexual o abuso sexual por favor deje un mensaje detallado. Esta información permanecerá en el anonimato. Si usted desea reportar otros asuntos no relacionados con el PREA por favor utilice los procedimientos establecidos en la unidad como no se tomará ninguna acción en asuntos que no sean PREA."
- Deje un mensaje que detalla la supuesta ocurrencia.

La información será confidencial y se mantendrá en el anonimato.

Si usted desea reportar otros asuntos no relacionados con el PREA por favor utilice los procedimientos establecidos en su unidad.

ATTACHMENT C

INMATE ORIENTATION TO PRISON RAPE ELIMINATION ACT (PREA)

- ◆ Inmate orientation to Prison Rape Elimination Act (PREA), shall include at a minimum, the following information:
 - ◇ Acts of sexual assault are not acceptable behaviors in the Department.
 - ◇ There is no consensual sex between staff and inmates.
 - ◇ Identification of what constitutes sexual assault and unlawful sexual conduct.
 - ◇ Ways to avoid a sexual assault, which may include:
 - When possible avoid isolated areas. (This will vary depending on the geographical layout of the institution or unit.)
 - When possible stay within eyesight of correctional staff.
 - Be aware of body language. Do not walk with your head down and eyes lowered. Walk with confidence.
 - Do not accept food, cigarettes or other items from other inmates. Do not incur debt in any manner; you may be expected to "repay" these debts with sex.
 - Beware of inmates who say they will protect you; protection frequently has a cost.
 - Do not offer information about your family, friends or financial support.
 - Do not purchase large amounts from the inmate stores or otherwise give the impression of having access to money.
 - ◇ Encouraging inmates who are subjects of or who witness sexual assaults to report sexual assaults or threats of sexual violence to a staff member.
 - ◇ Reinforcing the idea if an inmate becomes a victim of a sexual assault, it is not their fault; they should not be ashamed of being a sexual assault victim.
 - ◇ The inmates or staff found guilty of such behaviors shall be subject to disciplinary action and referral to the appropriate County Attorney for investigation leading to the filing of criminal charges.
 - ◇ The Department will make every effort to ensure the safety and protection of the victim.
 - ◇ Mental and medical health treatment and a physical examination are essential for the inmate's health and the health of their families if they are sexually assaulted while incarcerated.
 - ◇ Preserving confidentiality regarding investigations and allegations of sexual assaults.
 - ◇ Mental Health, Chaplains and religious volunteers are available for support as needed, however they are required to report all PREA allegations if inmate discusses during course of counseling.
 - ◇ Outlining the consequences of being identified as a sexually assaultive inmate.
 - ◇ Sexual activity while in prison increases the risk of contracting the HIV virus and AIDS.
 - ◇ How to report sexual assault, including when, how and to whom it should be reported.
 - ◇ The consequences of false reporting of sexual assault.

- ◆ Instructions regarding staff responses to the inmate who has been sexually assaulted.
- ◆ Methods of preserving evidence in a sexual assault allegation or investigation.
- ◆ PREA Standard, section 115.15 – This shall serve as opposite gender staff announcement: Male and female staff routinely work and visit inmate housing areas.
- ◆ PREA Standard, section 115.51 – Inmates may utilize instructions provided in Attachment B of this Department Order as an additional way to report sexual abuse or sexual harassment to a private entity.

ATTACHMENT D

**PREA Standard,
Section 115.15**

**This shall serve as opposite
gender staff announcement:**

**Male and female staff
routinely work and visit
inmate housing areas.**