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|  <p>NEW YORK STATE Corrections and Community Supervision</p> <p>DIRECTIVE</p> | TITLE | | NO. 4027 |
| | Sexual Victimization Prevention & Response | | DATE 07/21/2022 |
| SUPERSEDES DIR #4027 Dtd. 02/15/22 | DISTRIBUTION A B | PAGES PAGE 1 OF 9 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to) See Section VI | APPROVING AUTHORITY  | | |

I. POLICY

Prison Rape Elimination Act (PREA) Standard 115.11/211: Zero Tolerance Statement:

The Department has zero tolerance for sexual abuse, sexual harassment, and unauthorized relationships. No employee shall engage in sexual conduct, sexual contact, or an unauthorized relationship with an incarcerated individual or a releasee, whether in a correctional facility or under Community Supervision; engage in sexual harassment of an incarcerated individual or a releasee; or engage in retaliation related to such an incident or investigation. No incarcerated individual or releasee shall engage in sexual abuse or sexual harassment or engage in retaliation related to such an incident or investigation.

Incarcerated individuals and releasees have the right to be free from sexual abuse and sexual harassment. Sexual abuse, sexual harassment, and unauthorized relationships violate Department rules, may violate criminal statutes, and are a serious breach of the public trust. Additionally, they constitute serious threats to safety and security.

All allegations of sexual abuse, sexual harassment, unauthorized relationships, and retaliation against staff, an incarcerated individual, or a releasee for reporting a sexual abuse or sexual harassment incident or for participating in an investigation will be thoroughly investigated. Furthermore, any perpetrator of sexual abuse, sexual harassment, an unauthorized relationship, or retaliation related to such an incident or investigation will be dealt with severely through discipline or prosecution to the fullest extent permitted by law.

II. GOVERNING POLICIES AND RULES: The following Employees' Manual Sections and Standards of Incarcerated Individual Behavior are of particular relevance to the Department's Sexual Victimization Prevention and Response policy. Even if not specifically referenced herein, employees are reminded that other provisions of the Employees' Manual may be applicable to the prevention of sexual abuse, sexual harassment, and unauthorized relationships.

- A. Employees' Manual Section 2.15 prohibits unauthorized relationships including, but not limited to, engaging in any conversation, communication, dealing, transaction, association, or relationship with any incarcerated individual, formerly incarcerated individual, releasee, or former releasee, which is not necessary or proper for the discharge of the employee's duties.
- B. Employees' Manual Section 2.19 prohibits an employee from engaging in sexual abuse, sexual harassment, or related retaliation. Every staff person, including any employee, contractor or contract employee, volunteer or intern of the Department, or any employee, contractor or contract employee assigned to work in a Department correctional facility by any other State agency, is prohibited from engaging in any type of sexual conduct or sexual contact with any incarcerated individual or releasee.

- C. Employees' Manual Section 2.20 establishes the duty to report sexual abuse and sexual harassment, and retaliation; and provides for confidentiality apart from disclosures that are required by policy and as necessary for treatment, investigation, and other security and management decisions. This Directive extends the duty to report to include unauthorized relationships.
- D. Employees' Manual Section 2.45 requires employees to report any information concerning corruption, fraud, criminal activity, conflicts of interest, misconduct, or abuse by an employee or supervisory staff.
- E. Incarcerated Individual Rule 101.10, "Standards of Incarcerated Individual Behavior," prohibits incarcerated individuals from engaging in, or soliciting others to engage in sexual acts. Other sexual contact and conduct of a sexual nature are also prohibited under the Incarcerated Individual Rule Series 101.

III. ORGANIZATIONAL STRUCTURE

- A. PREA Coordinator (PREA Standard 115.11[b]): The Commissioner has designated the Associate Commissioner for PREA Compliance as the agency-wide PREA Coordinator, who is responsible for the implementation of policies and programs to address sexual victimization of incarcerated individuals and others under the jurisdiction of the Department, unauthorized relationships, and related forms of misconduct.
 - 1. The Associate Commissioner for PREA reports to the Commissioner and is a member of the Executive Team.
 - 2. The Associate Commissioner for PREA oversees the Sexual Abuse Prevention & Education Office.
- B. Director of PREA Compliance: The Director of PREA Compliance serves under the Associate Commissioner for PREA as the assistant agency-wide PREA Coordinator. The Director of PREA Compliance is responsible for administering the PREA Audit program; provides direct oversight of agency-wide PREA implementation activities; and assists in the development and implementation of programs and policies in areas relating to compliance with PREA and the reduction of sexual abuse, sexual harassment, and unauthorized relationships within the Department.
- C. PREA Compliance Managers (PREA Standard 115.11[c]): Each facility shall have a PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards and implementation of policies and programs to address sexual victimization of incarcerated individuals within the facility.
 - 1. Assistant Deputy Superintendent (ADS) PREA Compliance Managers (PCM) shall be appointed to designated primary correctional facilities and may have PREA compliance oversight duties at one or more facilities as designated by the Associate Commissioner for PREA.

An ADS PCM is responsible for fulfilling PREA Compliance Manager duties at their primary correctional facility under the supervision of the Associate Commissioner for PREA, Director of PREA Compliance, and the facility Superintendent.

 - a. Each ADS PCM shall be responsible for coordinating and providing oversight of PREA Compliance activities and efforts to address sexual victimization at their designated cluster facilities in coordination with the Superintendent and facility executive team at each cluster facility.

- b. The ADS PCM is expected to maintain ongoing communication with the Associate Commissioner, Director of PREA Compliance, and OSI to facilitate sexual victimization prevention efforts and investigative matters and shall keep the Associate Commissioner apprised of any issues requiring attention, including but not limited to matters regarding audit and compliance.
 2. Each Superintendent shall designate a Security Supervisor, not to fall below the rank of Lieutenant, as the PREA Point Person (PPP) for the correctional facility. The designated PPP will liaison with the facility's designated ADS PCM in a joint effort to implement the PREA Standards within the facility.

IV. SEXUAL VICTIMIZATION PREVENTION POLICY MANUAL

- A. The Sexual Victimization Prevention Policy Manual (SVPPM) supplements this Directive and shall have the same force and effect as a Directive in setting forth the Department's policies for the prevention of sexual abuse, sexual harassment, unauthorized relationships, and retaliation related to such incidents or investigations, and provides detailed operating procedures implementing the National PREA Standards.
 1. The SVPPM is issued by the Associate Commissioner and electronically maintained and distributed by the Sexual Abuse Prevention and Education Office (SAPEO). Relevant sections of the SVPPM shall be distributed by the ADS PCM or designated PPP to staff who have an operational need within their respective disciplines.
 2. Requests for interpretation of a SVPPM section or for a variance from the direction or requirements set forth in a section of the SVPPM shall be submitted, in writing, to the Associate Commissioner.
 3. Each SVPPM section shall be coded as either "A B", "A", or "D" (as noted in the "Distribution" box in the printed heading) for distribution and security purposes using the distribution codification established by Directive #0001, "Introduction to the Policy and Procedure Manual."
- B. The SVPPM is reviewed on an annual basis. Revisions to the content are made as warranted by SAPEO.

V. PROCEDURE

- A. Policies to Ensure Referrals of Allegations for Investigations (PREA Standard 115.22/222): An administrative or criminal investigation shall be completed for all allegations of sexual abuse, sexual harassment, and unauthorized relationships. Pursuant to Directive #0700, "Office of Special Investigations (OSI)," the Commissioner has designated OSI to conduct these investigations.
- B. Reporting
 1. Staff Reporting (PREA Standard 115.61/261).
 - a. All staff shall report to a supervisor immediately:
 - (1) Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility whether or not the facility is part of the Agency, and any unauthorized relationship. This duty to report includes any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment of a releasee whether in a community based residential program or while under Community Supervision, and any unauthorized relationship with a releasee.

- (2) Any acts of retaliation against an incarcerated individual, releasee, or staff for reporting such an incident or for participating in an investigation of an incident of sexual abuse, sexual harassment, or an unauthorized relationship.
 - (3) Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
 - b. For reporting purposes under this directive, “employee” includes any employee, contractor, contract employee, volunteer, or intern of the Department or any employee, contractor, or contract employee assigned to work in a Department correctional facility by any other State agency.
 - c. The duty to report includes verbal, written, third-party, and anonymous reports, regardless of whether staff personally believe the information to be true or reliable.
 - d. Staff may privately report suspected sexual abuse, sexual harassment, or an unauthorized relationship by calling the Department of Corrections and Community Supervision’s (DOCCS) OSI’s Sex Crimes Division at 1-844-OSI-4NYS or 518-457-2653, or via the [online reporting portal](#).
 - e. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse or sexual harassment report to anyone other than to the extent necessary, as specified in Agency policy including, but not limited to, the SVPPM, to make treatment, investigation, and other security and management decisions.
 - f. **Pursuant to Directive #0700, “Office of Special Investigations (OSI),” and Directive #2111, “Report of Employee Misconduct,” under no circumstances shall a facility or Community Supervision bureau investigation involving sexual abuse, sexual harassment, or an unauthorized relationship be initiated unless and until OSI has been consulted.** The only exception to this rule is when an initial facility or Community Supervision bureau investigation is authorized pursuant to one of the following:
 - (1) An approved Coordinated Response to Reports of Sexual Victimization Facility Operations Manual (FOM) (see SVPPM, Section 115.65).
 - (2) Form #4027RC, “Watch Commander Quick Reference Chart” (see SVPPM, Section 115.65).
 - (3) Form #4027CS, “Community Supervision Supervisor/Reentry Manager Quick Reference Chart” (see SVPPM, Section 115.65).
2. Incarcerated Individual and Releasee Reporting (PREA Standard 115.51/251): The Department provides multiple internal ways for incarcerated individuals and releasees to privately report sexual abuse and sexual harassment, retaliation by other incarcerated individuals, releasees, or staff for reporting sexual abuse and sexual harassment, unauthorized relationships, and staff neglect or violation of responsibilities that may contribute to such incidents.
 - a. As set forth in the Employees’ Manual, Section 2.20, and this Directive, staff are mandated to accept reports of sexual abuse, sexual harassment, and unauthorized relationships made verbally, in writing, anonymously, and from third parties.

- b. Incarcerated individuals and releasees may report to OSI. Reports may be made by writing to: DOCCS Office of Special Investigations, 1220 Washington Ave., Building 4, Albany, NY 12226-2050. Incarcerated individuals may also use the OSI Reporting Line by dialing 444 on the incarcerated individual telephone system during regular business hours. Calls to 444 are not monitored by facility staff. Releasees and family members may also contact the OSI reporting line at 1-844-OSI-4NYS, via email to OSIComplaint@doccs.ny.gov, or by submitting an online complaint at <https://doccs.ny.gov/doccs-office-special-investigations-osi>.
 - c. Incarcerated individuals and releasees may also report to the State Commission of Correction (SCOC), a separate State office that is not part of the Department by writing to: State Commission of Correction, Alfred E. Smith State Office Building, 80 South Swan Street, 12th Floor, Albany, New York 12210. Incarcerated individuals may use privileged correspondence for this purpose. The SCOC will receive and immediately forward reports of sexual abuse, sexual harassment, and unauthorized relationships to OSI. An incarcerated individual or releasee may request that the SCOC allow them to remain anonymous and the SCOC will not include their name in the report.
3. Third-party reporting (PREA Standard 115.54/254): Third-party reports on behalf of anyone under the Department's custody or supervision can be made to any employee. The receiving employee shall immediately forward such report to the facility Superintendent or Bureau Chief. Immediate after-hours reports concerning an incarcerated individual may be made to the facility Watch Commander. Anyone may report an incident of sexual victimization involving an incarcerated individual or a releasee to the Department's OSI through the OSI reporting line at 1-844-OSI-4NYS, via email to OSIComplaint@doccs.ny.gov, or by submitting an online complaint at <https://doccs.ny.gov/doccs-office-special-investigations-osi>.

C. Medical and Mental Health Care

1. Access to emergency medical and mental health services (PREA Standard 115.82/282).
 - a. All reports of sexual abuse must be medically assessed immediately at the facility or by an outside hospital emergency department, regardless of whether or not the allegation has been independently verified prior to the victim's presentation for treatment (see Health Services Policy Manual, Section 1.60).
 - b. If no qualified medical and mental health practitioners are on duty at the time a report of recent abuse is made, the Watch Commander will ensure that security staff first responders take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners pursuant to the facility specific Coordinated Response to Reports of Sexual Victimization FOM and shall document the action taken on Form #4027WC (see SVPPM, Section 115.65).
 - c. Incarcerated victims of sexual abuse shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis per Health Services Policy Manual, Sections 1.12B and 1.60.

- d. Treatment services shall be provided to the victim without financial liability and regardless of whether or not the victim cooperates in any investigation arising from the incident as set forth in Health Services Policy Manual, Section 1.60.
 2. Ongoing medical and mental health care for sexual abuse victims and abusers (PREA Standard 115.83/283).
 - a. The facility shall offer medical and mental health evaluations and, as appropriate, treatment to all incarcerated individuals who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
 - b. The evaluation and treatment, as appropriate, will include follow-up services, treatment plans, and, when necessary, continuing care upon transfer or release.
 - c. Incarcerated victims of sexual abuse will be provided with ongoing medical and mental health services consistent with the community standard of care, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
 - (1) Medical Care shall be in accordance with applicable sections of the Health Services Policy Manual.
 - (2) Mental Health Services shall be in accordance with the current Memorandum of Understanding between DOCCS and the Office of Mental Health (OMH), and in accordance with policy promulgated by OMH.
 - d. Upon learning that an incarcerated individual has a history of committing an act of sexual abuse against another incarcerated individual, including, but not limited to, a finding of guilt of a Tier disposition per the Incarcerated Individual Rule Series 101 for a sex offense, penal law offense of a sexual nature, or attempt thereof while incarcerated, the Offender Rehabilitation Coordinator (ORC) shall complete a referral to Central Office Guidance for evaluation for the Sex Offender Counseling and Treatment Program (SOCTP) and [Form #3150](#), "DOCCS - Mental Health Referral," for consideration by OMH for other appropriate mental health treatment to address sexual offending behavior.
- D. Reports of Sexual Victimization
1. The Deputy Superintendent for Security of each facility shall be responsible for maintaining a bound and numbered "Report of Sexual Victimization Logbook" that shall be a chronological listing of each report of sexual victimization or related conduct (i.e., sexual abuse, sexual harassment, sexual threat, unauthorized relationship, inappropriate frisk, etc.) that occurs.
 2. To preserve confidentiality, the logbook shall be secured and access to it limited to those personnel with an operational need, including the ADS PCM and the designated PPP. The ADS PCM shall conduct regular reviews of the logbook and ensure that details from case updates are properly recorded.

3. Report of Sexual Victimization Logbook entries shall include the following:

- a. Report log number.

NOTE: Each incident shall be numbered utilizing the facility three-letter code, followed by the four-digit calendar year of the report, and a three-digit number identifying the consecutive order that the report was received during that year (i.e., ADK-2022-001 denotes the first Sexual Victimization Report at Adirondack for calendar year 2022).

- b. Date and time of the report.
c. Date and time of the incident.
d. Name, DIN, and role of the incarcerated individual(s) involved.
e. Location of the incident.
f. Brief description of the incident.

NOTE: If the incident was also an Unusual Incident (UI), it is sufficient to list only the UI number in this section.

- g. Name, title, and role of staff and others involved.
h. Date and time facility health services was contacted.
i. Date and time that the incarcerated individual was referred to OMH by completion of [Form #3150](#) or other means.
j. Date, time, and manner OSI was contacted, noting who was contacted.
k. Case result (substantiated, unsubstantiated, or unfounded) and date of determination.
l. Date notification sent via legal mail to the incarcerated individual.

- E. Monthly Report of Sexual Victimization Summary: Each correctional facility shall complete Form #4027MR, "Monthly Report of Sexual Victimization Summary," using Form #4027MRC, "Monthly Report of Sexual Victimization Summary Continuation Sheet as needed, that shall be a chronological listing of each report of sexual victimization that occurs during a given month for review by the Superintendent. The Monthly Report shall be reviewed and approved by the ADS PCM and the Superintendent. The Superintendent shall forward a copy of the Monthly Report to the Associate Commissioner for PREA, at PREA@doccs.ny.gov, with a copy to the Deputy Commissioner for Correctional Facilities by the 15th of each month.

The original shall be secured for proper storage and a new summary will be started. Monthly Report of Sexual Victimization Summary entries shall include the following:

1. Report of Sexual Victimization log number.
2. Date and time of the report.
3. Date and time of the incident
4. Name, title, and role of the incarcerated individual(s) involved.
5. Location of the incident.
6. Brief description of the incident noting if the alleged act was threatened, attempted, or completed sexual conduct, touching, harassment, voyeurism, retaliation concerning an incident of sexual abuse, or a report of inappropriate contact during a frisk.

NOTE: If the incident was also a UI, it is sufficient to list only the UI number in this section.

7. Date, time, and manner that OSI was contacted.
8. Name, title, and role of staff and others involved.
9. Total number of reports of sexual abuse, sexual harassment, unauthorized relationships, and improper frisk allegations by month and year-to-date (if none, indicate that on the form).

F. Sexual Abuse Incident Reviews (PREA Standard 115.86/286)

1. Each facility is required to conduct a sexual abuse incident review within 30 days of the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. In furtherance of that mandate, OSI will develop the necessary investigative documentation in order to facilitate the completion of those incident reviews.
2. At the conclusion of any PREA reportable substantiated or unsubstantiated investigation, OSI will submit the necessary Sexual Abuse Incident Review Information (SAIRI) to SAPEO. SAPEO will forward an incident review packet to the Superintendent, ADS PCM, and the designated PPP with instructions to conduct the incident review and report back to SAPEO with any findings and recommendations.
3. OSI will also provide SAPEO with the relevant incident review information for any substantiated non-PREA reportable unauthorized relationship investigations. Such incidents present significant security threats. Accordingly, these acts of misconduct are included in the incident review process with the goal of identifying policy and operational improvements that will help detect and prevent unauthorized relationships.

G. Audits of Standards Implementation (PREA Standard 115.93/293)

1. Correctional Facility PREA Compliance Audits: During each three-year PREA Audit Cycle (e.g., August 20, 2022 – August 19, 2025), the agency shall ensure that each facility is audited at least once.
 - a. One-third of each facility type (i.e., adult prison and community confinement facility) shall be audited during each PREA Audit Year pursuant to a schedule established by the Associate Commissioner for PREA.
 - b. Audits shall be conducted by one or more Department of Justice-Certified PREA Auditors.
2. Contract Community Based Residential Program PREA Compliance Audits: During each three-year PREA Audit Cycle (e.g., August 20, 2022 – August 19, 2025), the agency shall ensure that each contracted Community-Based Residential Program (CBRP) is audited at least once to the extent required under the applicable contract.
 - a. CBRP audits are the responsibility of the contractor.
 - b. The CBRP audit schedule is established by the Associate Commissioner for PREA Compliance in coordination with the Office of Reentry Services.
 - c. The Office of Reentry Services oversees the conduct of CBRP PREA Compliance Audits as part of their contract monitoring responsibilities.

3. Audits shall primarily be the responsibility of the facility and shall be supported by Central Office SAPEO. For each audit, external staff shall be made available for audit interviews and records review including the agency PREA Coordinator or designee, representatives from OSI's Sex Crimes Division, and the appropriate Community Supervision Reentry Manager, as required under the audit process established by the U.S. Department of Justice.

VI. REFERENCES

- National PREA Standards 28 CFR, Part 115
- Prison Rape Elimination Act (PREA)
- ACA Expected Practices:
 - 5-ACI-1C-09, 5-ACI-3D-08, 5-ACI-3D-09, 5-ACI-3D-10, 5-ACI-3D-11, 5-ACI-3D-12, 5-ACI-3D-13, 5-ACI-3D-14, 5-ACI-3D-15, 5-ACI-3D-16, 5-ACI-6C-14
- Directive #0001, "Introduction to the Policy and Procedure Manual"
- Directive #0700, "Office of Special Investigations (OSI)"
- Directive #2011, "Disposition of Departmental Records"
- Directive #2111, "Report of Employee Misconduct"
- Sexual Victimization Prevention Policy Manual (SVPPM)
- Health Services Policy Manual (HSPM)
- Facility Operations Manual (FOM)
- Employees' Manual