



Department of State Police

General Order

Effective Date:

January 22, 2021

Number:

DET-07A

Subject:

Detainee Sexual Abuse and Sexual Harassment Investigations, Review, and Data Collection

Policy

As the investigative agency for alleged sexual crimes committed on adults and juveniles held in a confinement setting by either the Department of Correction or Department of Youth Services, the Department of State Police shall ensure full compliance with the standards found within federal laws and mandates regarding the *Prison Rape Elimination Act* (2003).

This policy shall be made available through the Department's website and upon request.

Response

The Department shall adhere to the following requirements in regards to detainee allegations of sexual abuse and/or sexual harassment:

- Investigate allegations of sexual abuse and/or sexual harassment from the Department of Correction or Department of Youth Services;
- Investigate allegations of sexual abuse and sexual harassment from within the Department of State Police;
- Investigate allegations of sexual abuse and sexual harassment alleged by a detainee while detained at another facility;
- Follow uniform evidence protocol that maximizes the potential for obtaining usable physical evidence;
- Development of an internal protocol appropriate for juveniles where applicable;
- Offer all victims access without financial cost to forensic medical examinations performed by a Sexual Assault Forensic Examiner or qualified medical practitioner;
- Attempt to make a victim advocate from a rape crisis center available to the detainee;
- Accompany the victim through the forensic medical examination process and interviews; and
- Take appropriate measures to prevent retaliation against individuals who report and/or cooperate with an investigation.

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**Special
Training**

Department Investigators shall receive special training in detainee sexual abuse and sexual harassment investigations according to Code of Federal Regulations (CFR) 28 § 115.34, which shall include:

- Techniques for interviewing sexually abused or sexually harassed victims;
- Proper use of Miranda and Garrity warnings;
- Sexual abuse evidence collection in confinement settings; and
- The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

Investigations

Department investigators when conducting an investigation into allegations of detainee sexual assault and/or sexual harassment, shall:

- Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
- Interview alleged victims, suspected perpetrators, and witnesses;
- Review prior complaints and reports of sexual abuse and/or sexual harassment involving the suspected perpetrator;
- Notify their Division Commander through channels of the possible outcome when the evidence appears to support criminal prosecution; and
- Make relevant information regarding the status of the investigation available to the Department and/or requesting agency so that the detainee may be kept apprised of the investigation.

When there is probable cause to believe that a detainee had sexual contact with another detainee in a holding cell, or a Department employee had sexual contact with a detainee in a holding cell, the Department will make a criminal referral to the District Attorney's Office of jurisdiction or to the Attorney General's Office.

A criminal investigation will not be terminated because the alleged perpetrator separates from employment with the Department.

If an outside agency investigates allegations of sexual contact, the Department will cooperate with the investigators and remain informed about the progress of the investigation.

Note: See also Policy and Procedure DET-07 Detainee Sexual Abuse and Sexual Harassment for internal allegations.

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Status Reports Department Investigators who have conducted an investigation of a detainee's allegations of sexual abuse and/or sexual harassment shall:

- Make available to the requesting agency relevant information regarding the status of an investigation;
 - Document that the detainee will be informed of the investigation status by the requesting agency; and
 - Retain all written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment in accordance with the Commonwealth's retention schedule or for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, whichever is longer.
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Sexual Abuse Incident Reviews

The PREA Coordinator in consultation with the Incident Review Team, which shall include the Station Commander, PREA Coordinator, and other pertinent individuals, shall conduct a sexual abuse incident review at the conclusion of every investigation into allegation of sexual abuse/harassment of a detainee in Department custody. Such review shall ordinarily occur within 30 days of the conclusion of the investigation. Such review will be conducted even when the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

The review shall:

- Include input from supervisors and investigators as necessary;
- Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual contact/abuse/harassment;
- Consider whether the incident or allegation was motivated by bias or gang affiliation;
- Examine the area where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts; and
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The PREA coordinator shall submit a written report to the Colonel/Superintendent with findings and any recommendations for improvement.

The Department shall implement any recommendations for improvement or document its reasons for not doing so.

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**Data Collection
and Review**

The PREA coordinator shall annually collect accurate, uniform data for every allegation of sexual abuse/harassment from each Barracks.

The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the *Local Jail Jurisdiction Survey of Sexual Violence* or other instrument developed by the Department of Justice and designated lockups.

The Department shall annually review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including: identifying problem areas; taking corrective action on an on-going basis; and preparing an annual report of its findings from its data review and any corrective actions for each lockup, as well as the agency as a whole.

The PREA coordinator's annual report shall include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse. Upon approval of the Colonel, said report shall be made publically available upon request subject to redaction if appropriate.

The Department shall securely retain all incident based and aggregate data collected in accordance with all applicable data security policies and procedures.

All data collected shall be retained at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.

Upon request, the Department shall provide the Department of Justice data from the previous calendar.

References

Prison Rape Elimination Act of 2003, 42 U.S.C. c. 147 § 15601 et seq. (PREA)
Code of Federal Regulations (CFR) 28 § 115
TRN-01 Training Administration
DET-07 Detainee Sexual Abuse and Sexual Harassment
Local Jail Jurisdiction Survey of Sexual Violence

Promulgated By:

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