



Department of State Police

General Order

Effective Date:

January 29, 2021

Number:

DET-07

Subject:

Detainee Sexual Abuse and Sexual Harassment

Policy

In accordance with the *Prison Rape Elimination Act (PREA) of 2003*, the Department shall:

- Establish a zero tolerance policy toward all forms of sexual abuse and sexual harassment towards any detainee;
- Ensure that all detainees have the right to be free from sexual abuse and sexual harassment; and
- Establish a zero tolerance policy toward all forms of retaliation against anyone who reports sexual abuse and sexual harassment or who cooperates in a sexual abuse investigation.

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

Definitions

Detainee: Any person detained in a lockup, regardless of adjudication status.

Employee: A sworn member or civilian who works directly for the Department.

Holding Cell: Any secure enclosure that is under the control of law enforcement and is primarily used for the temporary confinement of suspects who have recently been arrested.

Intersex Individual: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Lockup: A facility that contains holding cells, cell blocks, or other secure enclosures that are:

- Under the control of a law enforcement, court, or custodial officer; and
- Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

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**Definitions,
continued**

Prison Rape Elimination Act (PREA): Signed into law on September 4, 2003. The Prison Rape Elimination Act establishes a standard of zero tolerance for rape and sexual assault or sexual harassment in any prison, jail, police lockup, or juvenile facility.

PREA Coordinator: A management level employee who oversees, develops, and implements Department efforts to comply with the PREA standards.

Sexual Abuse: Any sexual contact or the intentional touching of the victim's or suspect's genital, anal or other intimate area for sexual arousal or gratification, or for the abuse of either party; in this directive, includes in-custody sex offenses, voyeurism, or rape or attempts; harassment, sexual harassment, neglect, discrimination and similar terms. This policy applies to sexual abuse and/or harassment of a detainee by another detainee and/or sexual abuse of a detainee by a staff member, contractor, or volunteer.

Sexual harassment includes:

- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures

Transgender Individual: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Voyeurism: When a staff member, contractor, or volunteer invades a detainee's privacy for reasons unrelated to official duties, such as peering at a detainee who is using a toilet in their cell to perform bodily functions; requiring the detainee to expose their buttocks, genitals, or breasts; or taking images of all or part of a detainee's naked body or of a detainee performing bodily functions.

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**Department
Responsibilities**

The Department shall ensure that:

- An administrative or criminal investigation is completed for all allegations of detainee sexual abuse and/or sexual harassment pursuant to DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection;
 - Alleged detainee sexual abuse and/or sexual harassment incidents, including third-party and anonymous reports, are reported to designated investigators;
 - Detainees are informed of at least one way to report sexual abuse and/or sexual harassment to a public or private entity or office that is not part of the Department, allowing the detainee to remain anonymous if so requested;
 - Investigators have received special training in sexual abuse investigations pursuant to Code of Federal Regulations (CFR) 28 § 115.34;
 - Develop an internal protocol appropriate for juvenile detainees where applicable; and
 - Take appropriate measures to prevent retaliation against individuals who report and/or cooperate with an investigation.
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**Screening for
Risk of
Victimization
and
Abusiveness**

In accordance with training, when booking detainees, members shall screen all detainees to assess their risk of being sexually abused by other detainees or sexually abusive toward other detainees. Members shall also advise detainees of the Department's zero tolerance policy toward all forms of sexual abuse and sexual harassment towards any detainee. The screening and the advisement of the Department's zero-tolerance policy shall both be documented in RAMS/Department Records Management System.

If after screening, the member determines that the detainee may be at risk, the detainee shall be housed alone in a holding cell for the duration of his/her detainment at a State Police facility. This includes post-screening transportation in a Department vehicle to/from court, jail, prison, or other agency.

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Staffing Plans

Station Commanders for each barracks containing cells shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring to protect detainees against abuse.

Station Commanders shall consider the following factors when determining adequate staffing plans:

- The physical layout of the lock-up;
- The composition of the detainee population;
- The prevalence of sexual abuse incidents; and
- Any other relevant factor(s).

Each time the staffing plan is not complied with, the Station Commander shall document and justify all deviations from the staffing plan and shall forward the document with justifications to the PREA Coordinator.

Disabled Detainees

Detainees with disabilities include detainees who are deaf, hard of hearing, blind or have low vision, and those who have intellectual, psychiatric, or speech disabilities.

Members shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to benefit from all aspects of the Department's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include providing access to interpreters who can interpret effectively, accurately, and impartially when necessary to ensure effective communication with detainees who are deaf or hard of hearing. In addition, members shall ensure that written materials are provided in formats and through methods that ensure effective communication with detainees with disabilities.

Detainees with Limited English Proficiency

Members shall take reasonable steps to ensure that detainees with limited English proficiency have meaningful access to information regarding the Department's policies and efforts to prevent, detect, and respond to sexual abuse and sexual harassment including by providing interpreters who can interpret effectively, accurately, and impartially.

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**Detainee
Interpreters**

No member shall use detainees as interpreters or readers or otherwise request assistance from another detainee except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's safety, the performance of first-responder duties, or the investigation of the detainee's sexual abuse/harassment allegations.

**First
Responder
Responsibilities**

The first law enforcement member to respond to a report of a sexual assault or sexual harassment shall:

- Immediately separate the alleged victim and abuser;
- Take immediate action to protect the detainee from substantial risk of imminent sexual abuse;
- Keep the detainee either with the officer or in the cell and under surveillance until a supervisor can investigate and determine any further actions to take to protect the detainee;
- Follow uniform evidence protocol that maximizes the potential for obtaining usable physical evidence including preserving and protecting any crime scene until appropriate steps can be taken to collect any evidence;
- If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any action(s) that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
- Offer all victims access to forensic medical examinations performed by a Sexual Assault Forensic Examiner (SAFE), Sexual Assault Nurse Examiners (SANEs) or qualified medical practitioner without financial cost to the victim, if evidentiary or medically appropriate;
- If the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, ensure that the detainee be permitted to use such services to the extent available, consistent with security needs;
- Document all efforts to provide a SAFE or medical practitioner;
- Attempt to make a victim advocate from a rape crisis center or other facility available to the detainee if transported to a hospital or other medical facility consistent with security needs; and
- Accompany the victim through the forensic medical examination process and interviews.

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**First
Responder
Responsibilities,**
continued

If the first staff responder is not a law enforcement staff member, that responder shall:

- Request that the alleged victim not take any actions that could destroy physical evidence; and
- Immediately notify law enforcement staff.

Note: See also Policy and Procedure DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection.

**PREA
Coordinated
Response Plan**

If a detainee reports that they were sexually harassed while in a Department facility, the following actions shall be taken:

Position	Duties
First Responder	<ul style="list-style-type: none">• Immediately separate the alleged victim and abuser;• Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;• Request that the alleged victim not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;• Take immediate action pursuant to this General Order; and• Immediately contact the desk officer.

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**PREA
Coordinated
Response Plan,
continued**

Position	Duties
Desk Officer	<ul style="list-style-type: none"> • Take immediate actions as a first responder pursuant to this General Order; • Notify, if necessary, local EMS and a local medical facility for an assessment of alleged victim's acute medical needs and to make an assessment of necessary treatment; • Immediately notify the State Police Detective Unit (SPDU)/Specialized PREA investigator(s) of jurisdiction; • Explain to the alleged victim the need for a forensic medical exam and offer the victim the option of undergoing one without any financial costs; • Make best efforts to ensure that examinations are conducted by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), or ensure that a qualified medical practitioner performs forensic medical examinations; • Offer alleged victim services by providing the victim with list of local sexual abuse advocates and/or crisis centers found in the Department's PREA brochure in DocuShare/PREA; • Ensure that the appropriate Daily Administrative Journal (DAJ) entries are made; • Immediately notify the Troop Duty Officer and the Station Commander; and • If the victim is transferred from the lockup to a jail, prison, or medical facility, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

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**PREA
Coordinated
Response Plan,**
continued

Position	Duties
Troop Duty Officer	<ul style="list-style-type: none"> • Immediately notify the Troop Commander and PREA Coordinator; • Ensure proper compliance with this General Order and PRI-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection; • Provide for any special needs the victim may have; and • In the event that the victim is transferred from the lockup to a jail, prison, or medical facility, ensure that the receiving facility is informed of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.
State Police PREA Specialized Investigator(s)	<ul style="list-style-type: none"> • Respond to the scene and take command of the investigation; • Take all actions pursuant to PRI-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection; • Inform the victim of his or her rights under relevant policies, federal and state laws; • Safeguard the custody of evidence; • Explain to the alleged victim the need for a forensic medical exam and offer the victim the option of undergoing one at no cost; • Offer the presence of a victim advocate or other staff member during the exam; • Interview the victim and any witnesses; • Submit report(s) of investigation pursuant to PRI-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection; and • Document all referrals of allegations of sexual abuse or sexual harassment for criminal investigation.

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**PREA
Coordinated
Response Plan,**
continued

Position	Duties
Station Commander	<ul style="list-style-type: none"> • Submit, within four (4) days, a report of the incident to the Troop Commander, along with all other related reports.
Troop Commander	<ul style="list-style-type: none"> • Immediately notify the Division Commander; • Assign the PREA Coordinator to immediately assist the SPDU investigation and to conduct an Administrative Review of the incident; • Forward copies of the reports to the PREA Coordinator within seven (7) of their completion; and • Review and submit reports and recommendations to the Division Commander.
Reviewing Commissioned Officer	<ul style="list-style-type: none"> • Assist the SPDU; • Conduct an Administrative Review of the incident; and • Prepare a report for the Troop Commander within four (4) days. <p><u>Note:</u> The Administrative Review is to ensure that members followed Department procedures during the incident.</p>
Field Services Division Commander	<ul style="list-style-type: none"> • Review reports and take actions to prevent reoccurrences; • Submit reports to the Colonel/Superintendent for review and action; and • Maintain a file for PREA incident review pursuant to DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection.

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Reporting

All employees shall immediately report to their immediate supervisor:

- Any knowledge, suspicion, or information regarding an incident of detainee sexual abuse and/or sexual harassment that occurred within a Department lockup;
- Any retaliation against detainees or Department employees who reported such an incident; and
- Employee neglect or violation of responsibilities that may have contributed to an incident or retaliation.

All allegations of sexual abuse, including third party and anonymous reports, shall be reported to a designated sexual abuse investigator who shall investigate the allegation pursuant to DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection.

Staff shall not reveal any information related to a sexual assault to anyone other than to the extent necessary to make treatment and investigatory decisions.

All verbal reports of sexual abuse and/or sexual harassment shall be documented by the immediate supervisor who receives a report of sexual abuse or sexual harassment pursuant to this policy.

Department employees may privately report sexual abuse and/or sexual harassment by contacting the PREA Coordinator, filing a complaint with the Office of Professional Integrity and Accountability, or utilizing the PREA third party contact number posted on the Department's website and on the PREA informational brochure.

Methods of reporting shall include: in-person, phone, mail, email, fax or any means by which the staff person feels comfortable in reporting to supervisory level staff and/or the PREA Coordinator. Employees are expected to report any knowledge or suspicion of abuse. The methods of reporting are expected to vary based on the situation and the individual involved. Should there be any question as to the most appropriate method, the PREA Coordinator or Supervisor should be contacted.

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Abuse Reports from Outside Facilities/Agencies

A member or employee who receives an allegation that a detainee was sexually abused and/or sexually harassed while confined at a non-Department facility, shall notify through channels:

- The Colonel/Superintendent; and
- The Department PREA Coordinator.

Colonel/Superintendent shall:

- Notify the head of the facility or appropriate office of the agency where the alleged abuse occurred;
- Make notification, as soon as possible, but no later than seventy-two (72) hours after receiving the allegation; and
- Document such notification.

Training

All employees and members who may have contact with lockup detainees shall receive training regarding:

- The Department's zero-tolerance policy and detainees' right to be free from sexual abuse and sexual harassment;
- How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment;
- The right of detainees and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- The dynamics of sexual abuse and sexual harassment in confinement;
- The common reactions of sexual abuse and sexual harassment victims;
- How to detect and respond to signs of threatened and actual sexual abuse;
- How to avoid inappropriate relationships with detainees;
- How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; and
- Compliance with relevant laws related to mandatory reporting of sexual abuse.

All members shall annually review the PREA Standards Bulletin posted to DocuShare.

The Department shall provide each employee with refresher training annually to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures.

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**Training,
continued**

In years in which an employee does not receive refresher training, the Department shall provide refresher information on current sexual abuse and sexual harassment policies.

Every member or employee who may have contact with detainees shall acknowledge either in written or electronic format that they understands the Department's PREA policies and protocols and the PREA training they have received.

The Department shall maintain documentation confirming that employees, volunteers and contractors understand the training they have received.

**PREA
Coordinator**

The Colonel/Superintendent shall:

- Designate a Detective Captain within Division of Investigative Services as the PREA Coordinator; and
- Ensure the PREA Coordinator has the authority to develop, implement, and oversee the Department's effort to comply with the PREA standards in all Department lockups.

The PREA Coordinator shall:

- Annually submit a status report of PREA compliance standards, investigative training requirements and reported/investigated incidents to the Colonel/Superintendent;
- Detail any corrective action required to ensure compliance with the PREA standard;
- Keep a current list of members who receive special training in sexual abuse investigations pursuant to Code of Federal Regulations (CFR) 28 § 115.34; and
- Take necessary action to ensure Department compliance with the PREA standards subject to the Colonel's approval.

**Hiring and
Promoting
Practices**

The Department shall not hire or promote anyone who may have contact with detainees and shall not enlist the services of any contractor who may have contact with detainees who:

- Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
- Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

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Hiring and Promoting Practices,
continued

- Has been civilly or administratively adjudicated to have engaged in the activity described in the paragraphs above.

The Department shall consider any incidents of sexual abuse and/or harassment in determining whether to hire or promote an employee, or to retain the services of any contractor, who may have contact with detainees.

Before hiring new employees who may have contact with detainees, the Department shall:

- Perform a criminal background records check on all applicants; and
- Make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse, or any resignation during a pending investigation of an allegation of sexual abuse.

The Department shall ask all applicants and employees who may have direct contact with detainees about previous misconduct described in this section, in:

- Written applications and/or interviews for hiring or promotion; and
- Interviews or written self-evaluations conducted as part of reviews of current employees.

All employees shall disclose any of the misconduct described in this section. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Any member or employee determined to have engaged in sexual abuse or sexual harassment of detainees as defined by policy shall be subject to discipline. The presumptive sanction for having engaged in prohibited behavior under this policy is termination.

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**Contractors
and Volunteers**

The Department shall perform a criminal background records check before retaining the services of any contractor or volunteer who may have contact with detainees and document the same. *See Vendor Acknowledgment PREA form.*

In the event that a contractor or volunteer has engaged in sexual abuse or has been convicted or adjudicated of having engaged in sexual abuse, they shall have no access or contact with detainees in Department custody.

The Department shall ensure that all volunteers and contractors who enter Department facilities and who may have contact with detainees have been trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures including the Department's zero-tolerance policy regarding prohibited behavior.

The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with detainees, but all volunteers and contractors who have contact with detainees, shall be notified of the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents. All volunteers and contractors who enter the Barracks and who may have contact with detainees shall sign an acknowledgement that they understand the Department's zero-tolerance policy and reporting requirements.

The Department shall maintain documentation confirming that volunteers and contractors understand the Department's PREA policy and information received.

Retaliation

The Department shall ensure that all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other detainees or staff, and shall designate which staff members or departments are charged with monitoring retaliation.

A member or employee who has knowledge, suspicion, or information regarding an incident of retaliation against detainees or staff who reported such an incident and any staff neglect that may have contributed to such retaliation, shall immediately report such incident or retaliation to their immediate supervisor.

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Retaliation,
continued

Supervisors who receive reports of retaliation shall employ multiple protection measures, which may include:

- Cell changes or transfers for detainee victims or abusers;
- Removal of alleged staff or detainee abusers from contact with victims;
- Providing emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations; and/or
- Closely monitoring detainees or staff who fear retaliation.

Each Barracks Station Commander shall monitor all employee(s) who report sexual abuse or harassment to ensure that the employee(s) are not subject to retaliatory actions by other employees and shall document same.

**Upgrades to
Facilities and
Technologies**

When designing or updating holding cells, the Department will consider the effect of the design upon the ability to protect detainees from sexual contact.

When installing or updating video monitoring systems, the Department will consider how the technology may enhance the ability to protect detainees from sexual contact.

References

Prison Rape Elimination Act (PREA)
 Code of Federal Regulations (CFR) 28 § 115
 U.S. Department of Justice's Office on Violence Against Women publication, *A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents*
 TRN-01 Training Administration
 DET-07A Detainee Sexual Abuse or Sexual Harassment Investigations, Review and Data Collection
 Department of State Police Bulletin on PREA Standards
 Vendor Acknowledgement PREA Form

Promulgated By: **Christopher S. Mason, Colonel/Superintendent**