

Beaver County Jail Policy and Procedures

Document #: 1.12

revised 1/2025

Section: Administration, Organization & Management

Chapter: Organization

Subject: Prison Rape Elimination Act

- I. **Policy:** PREA defines Sexual Abuse or Sexual Harassment perpetrated by inmates differently than Sexual Abuse or Sexual Harassment perpetrated by staff, contractors, or volunteers. The Beaver County Jail specifically and strictly prohibits sexual misconduct and sexual harassment by prison staff and shall have zero-tolerance policy. This directive, along with the referenced companion policy directives, describes BCJ's approach to preventing, detecting, and responding to such conduct. In furtherance of BCJ's commitment to promoting sexual safety, The Warden shall designate a PREA Coordinator with sufficient time and authority to develop, implement, and oversee its efforts to comply with the PREA standards. [DOJ § 115.11(a)]

- II. **Procedure: Hiring and Promotion of Staff:** This facility shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of a staff member or contractor, who may have contact with inmates. It shall not hire or promote anyone who may have contact with inmates, or retain the services of any contractor who may have contact with inmates, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; or has been convicted of, or civilly or administratively adjudicated for, engaging or attempting to engage in sexual activity in the community facilitated by force, threats of force, or coercion, or if the victim did not consent or was unable to consent.
Before hiring new employees, who may have contact with inmates, assigned staff shall; ask applicants about any previous misconduct described in this section. Attempt 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. **Upon receiving a request from an institutional employer for whom such former employee has applied to work; our Warden shall also provide information on substantiated allegations of sexual abuse or sexual harassment of inmates, involving that employee.**
Current employees have a continuing affirmative duty to disclose any of the misconduct described in this section and will be asked to disclose any related issues. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. [DOJ § 115.17] BCJ or any governmental entity responsible for collective bargaining on BCJ's behalf shall not enter into or renew any collective bargaining agreement or other agreement that limits BCJ's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of

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an investigation or a determination of whether and to what extent discipline is warranted. [DOJ § 115.66]

Training of Staff, Contractors, and Specialized Functions Newly hired employees who have previously received training in other jurisdictions or jails shall be retrained on BCJ's local PREA policy. As a county jail BCJ holds detainees regardless of gender and therefore the training shall address all subsets.

Security staff employees shall be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

All employees shall receive refresher training on PREA every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, BCJ shall provide refresher information on current sexual abuse and sexual harassment policies. BCJ shall document, through employee signature or electronic verification, that employees have received and understand the training. In the case of investigators who investigate sexual abuse in the facility, it shall maintain documentation they have completed the required specialized training in sexual abuse investigations. In the case of medical and mental health practitioners, it shall maintain documentation that they have received the specialized training described in this section.

All BCJ employees who have contact with inmates shall be trained in the following areas [DOJ § 115.31]

- a. BCJ's zero-tolerance policy for sexual abuse, sexual harassment and retaliation
- b. How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment
- c. Inmates' right to be free from sexual abuse and sexual harassment
- d. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment
- e. The dynamics of sexual abuse and sexual harassment in confinement
- f. The common reactions of sexual abuse and sexual harassment victims
- g. How to detect and respond to signs of threatened and actual sexual abuse
- h. How to avoid inappropriate relationships with inmates
- i. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates
- j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

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Current employees shall have criminal background records checks completed at least every five years.

Specialized Training Investigators: In addition to the general training provided to all employees, BCJ shall ensure that, to the extent it conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. Specialized training shall include techniques for interviewing sexual abuse 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. [DOJ § 115.34]

Allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The BCJ PREA Coordinator is responsible for documenting all such referrals. This policy and the associated PREA-related directives, describing the responsibilities of criminal and administrative investigators, as well as annual reports and data, will be posted on the facility website for public viewing and general reference. The website will also include the contact information for persons responsible for the coordination of criminal and administrative investigations into allegations of sexual abuse or sexual harassment

Medical and Mental Health Professionals: BCJ shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facility; have been trained in how to detect and assess signs of sexual abuse and sexual harassment, preserve physical evidence of sexual abuse, respond effectively and professionally to victims of sexual abuse and sexual harassment. **And** how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. [DOJ § 115.35]

Volunteer and Contractor Training: All volunteers and contractors, who have contact with inmates, shall be trained on their responsibilities under BCJ's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. [DOJ § 115.35,115.32] The level and type of training provided shall be based on the services they provide and the level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of this facility's zero tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents. [DOJ § 115.31]

Documentation shall be maintained confirming that volunteers and contractors understand the training they have received and perform Criminal Background Checks yearly.

Inmate Orientation and Education: During the intake process, inmates shall receive information explaining BCJ's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Within 30 days of intake, BCJ comprehensive education shall be provided to inmates either in person or through video in formats accessible to all inmates. This training covers their rights to be free from sexual abuse, sexual harassment retaliation for reporting such incidents, as well as BCJ's policies and procedures for responding to such incidents. Documentation of inmate participation in these education sessions shall be maintained. [DOJ § 115.33]

In addition to providing such education, this Facility shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats. **Written materials are provided in formats and through methods that ensure effective communication with inmates with disabilities.** including

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those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. [DOJ § 115.33]

Staff shall ensure that inmates with disabilities are appropriately accommodated so they have an equal opportunity to benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. to ensure disabled inmates are informed of varied protocols intended to protect them from sexual abuse or sexual harassment varied mechanisms are provided for inmates who are deaf or hard of hearing, blind or have low vision, those who have intellectual, psychiatric, or speech disabilities [DOJ § 115.15]

When necessary, staff will ensure effective communication with inmates who are deaf or hard of hearing or limited English proficiency by providing access to interpreters who can interpret effectively, accurately, and impartially. [DOJ § 115.16(b)] But Staff shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining a non-inmate interpreter could compromise an inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegations [DOJ § 115.16(c)]

Staffing, Design, and Video Technology: The PREA Coordinator in concert with the Warden shall review their staffing plan, video monitoring capabilities, and other technologies based on PA Title 37 Chapter 95 & DOJ §115.13; to protect inmates against sexual abuse **no less than annually**. When doing so the involved the Coordinator and Warden will consider: [DOJ § 115.35]

- a. Generally accepted detention and correctional practices.
- b. Any judicial findings of inadequacy.
- c. Any findings of inadequacy from investigative agencies.
- d. Any findings of inadequacy from internal or external oversight bodies.
- e. All components of the facility's physical plant.
- f. The composition of the inmate population.
- g. The number and placement of supervisory staff.
- h. Programs occurring on a particular shift.
- i. Any applicable State or local laws, regulations, or standards.
- j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
- k. Any other relevant factors.

When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, Facility officials shall consider how such technology may enhance its ability to protect inmates from sexual abuse. When designing and planning any substantial expansion or modification of existing facilities, consider the effect of the design, acquisition, expansion, or modification on its ability to protect inmates from sexual abuse. [DOJ § 115.18]] And make its best efforts to comply with our established staffing and video monitoring plan on a regular basis and, in circumstances where it is not complied with, shall document and justify all deviations.

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Intermediate level or high-level supervisors (...) shall conduct and document unannounced rounds on all shifts, and in all areas of the facility where inmates are housed and work, to identify and deter staff sexual abuse or harassment. Staff members who are aware of these rounds are prohibited from alerting other staff as to when or where these rounds take place, unless the notification is otherwise related to the legitimate operational needs of the facility. [DOJ § 115.35] The performance of unannounced rounds and opposite gender viewing protection as described more fully in the overarching PREA policy.

Youthful inmates shall not be housed with adult inmates. Sight, sound, and physical separation of youthful inmates are required for housing. To the greatest degree possible staff will avoid placing youthful inmates in isolation to comply with this provision.

Absent exigent circumstances, the agency shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

In areas outside of a youthful inmate's assigned housing unit, where sight and sound separation is not possible, custody staff remain within a reasonable distance of the youthful inmate, to ensure that he/she is directly monitored and supervised. [DOJ § 115.14]

Inmates are permitted to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their exposed breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. **Staff members of the opposite gender shall announce their presence when entering an inmate housing unit.**

Staff are required to immediately report any knowledge, suspicion, or information regarding an incident of inmate sexual abuse or sexual harassment; retaliation against inmates, staff, volunteers or contractors, who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation. Apart from reporting to designated supervisors or officials (shift supervisors, the PREA Coordinator, Deputy Warden, Warden) staff, volunteers or contractors, shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, to make treatment, investigation, and other security and management decisions.

This facility shall protect all inmates, staff, contractors, and volunteers, who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations, from retaliation by other inmates, staff, contractors, or volunteers. The PREA Coordinator is responsible for the monitoring of potential retaliation.

Searches: Staff shall not conduct cross-gender strip searches except in exigent circumstances or when performed by medical practitioners. The authorizing supervisor shall document all such exigent circumstances. Male corrections officers are not permitted to perform pat-down searches of female inmates, absent exigent circumstances. Female inmates' access to regularly available programming or other out-of-cell opportunities shall not be restricted in order to comply with this provision.

The authorizing supervisor shall document all such exigent circumstances which resulted in cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches of female. Copies of said reports shall be forwarded

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to the PREA Coordinator, who will maintain a log of such incidents for audit purposes. Cross-gender pat-down searches, and searches of transgender and intersex inmates shall be conducted in a professional manner and in the least intrusive manner possible, consistent with security needs. In keeping with this expectation, in some cases the involved staff should consider asking the subject which gender they would be the most comfortable with for the performance of the search and respond accordingly. [DOJ § 115.15]

III. **General Information: PREA defines Sexual Abuse or Sexual Harassment perpetrated by inmates differently than Sexual Abuse or Sexual Harassment perpetrated by staff, contractors, or volunteers. The four distinct definitions as detailed in the PREA standards are detailed below.**

1. **Sexual abuse of an inmate by another inmate** includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- b. Contact between the mouth and the penis, vulva, or anus.
- c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

2. **Sexual harassment of an inmate by another inmate** includes - Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an inmate directed toward another.

3. **Sexual abuse of an inmate by a staff member, contractor, or volunteer** includes any of the following acts, with or without consent of the inmate:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- b. Contact between the mouth and the penis, vulva, or anus.
- c. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
- d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.

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- e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
- f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a) through (e) of this section.
- g. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate; and
- h. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

4. Sexual harassment of an inmate by a staff member, contractor, or volunteer includes - Repeated verbal comments or gestures of a sexual nature to an inmate 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.

- IV. **Source:** PA Title 37 Chapter 95.221(6) & (9) Federal PREA Standard 28 CFR § 115.11(b), 115.13, 115.13d, 115.14, 115.15(d), 115.16 (a)(b)(c), 115.17, 115.18, 115.22(b)(c), 115.31, 115.33, 115.34, 15.35, 115.61(a)(b), 115.66, 115.67(a) The County of Beaver

Companion Directives: There are three associated sub-components of this directive, which describe in greater detail BCJ's efforts to operate in accordance with PREA standards. The associated sub-components to this directive are titled:

- PREA Preemptive Preventative Steps and Operational Protocols to Mitigate Risk
- PREA Reporting Requirements and Response Protocols
- PREA Incident Review Process and Reporting

- V. **Definitions:** The following terminology is expressly defined in Part 115 of Title 28 of the Code of Federal Regulations, Prison Rape Elimination Act (PREA) National

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Standards for adult prisons and jails. These promulgated definitions are applicable to all PREA-related policy directives.

General Terms

Consent - refers to cooperation in act or attitude pursuant to an exercise of free will and with full understanding of the nature of the act. Inmates cannot consent to sexual contact with staff members, volunteers or contractors.

Contractor - a person who provides services on a recurring basis pursuant to a contractual agreement with the agency. "Inmate" means any person incarcerated or detained in BCJ, regardless of adjudication status.

Exigent Circumstances - any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Gender nonconforming - a person whose appearance or manner does not conform to traditional societal gender expectations.

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

Pat-down search - a running of the hands over the clothed body of an inmate by an employee to determine whether the individual possesses contraband.

Staff - employees who work directly for the facility.

Strip search - a search that requires a person to remove or arrange some or all clothing to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender - a person whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation - an allegation that was investigated and determined to have occurred.

Unfounded allegation - an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation - an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

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

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Warden Schouppe

Refer to Annual Review Page for Revisions & Reviews

Effective: 6/2013

Revised 7/2015

Revised 10/2015