

Beaver County Jail Policy and Procedures

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Section: Administration, Organization & Management

Chapter: Management

Subject: Sexual Assault/Rape & Misconduct

- I. **Policy:** The Beaver County Jail shall have a policy that is applicable for every inmate, employee, contractor, and visitor and volunteer; regarding the prevention, detection, response and investigation of sexual assault (rape). This Facility specifically and strictly prohibits sexual misconduct and sexual harassment by prison staff and/or Offenders and shall have zero-tolerance policy.
This includes the establishing personal relations, engaging in intimate contacts and liaisons with inmates. As well as sexual behavior which can include, but is not limited to, indecent, profane or abusive language or gestures and inappropriate visual surveillance of inmates. If found that a Staff member or an Offender has engaged in any type of sexual misconduct they may be subject to disciplinary action, criminal charges or both. Sexual misconduct between a Staff member and an Offender is never consensual and as stated earlier will not be tolerated.

- II. **Procedure:** The Shift Supervisor will be notified by the staff member and/or anyone inside the facility of a sexual assault, as soon as the information has been received. This includes information about an assault that occurred but the subject was afraid to come forward any sooner.
For an assault that has just occurred the Shift Supervisor will notify a member of our PREA trained Medical Staff, and have the victim transported as soon as possible to the Medical Department. Any physical markings found or evidence present in the Area where the assault occurred will be photographed immediately by Staff. Remember to allow the subject to speak and also be medically treated while maintaining their dignity and confidentiality. The Subject will not be allowed to shower, wash, or if assault was oral drink or brush their teeth.
Clothing will only be changed and secured by a Supervisor or designee, if the PREA bag is being used. **(refer to 7.09.1)** If unable to complete usage of PREA bag collection prior to a victim's transport to Hospital, even if blood splattered or torn, all clothing of the victim must be left on and an additional outfit (**change of clothes**), accompany them to the Hospital. The Forensic Nurse will check clothing and then chain of custody these

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clothing as evidence to the County Detective, after the examination of the clothing is complete. **All actions must be taken to make sure that no evidence will be damaged or destroyed.** The Shift Supervisor must also notify, the Warden, PREA Compliance Manager and County Detective PREA Investigation Unit as well as the Hospital to have their Forensic Nurse on standby. **When possible, examinations will be conducted by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs).** The Sheriff Department will be contacted to escort Paramedic transport to Hospital where a Rape kit will be completed. The County Detective will notify a representative of the Women's Center to meet the victim at the Hospital. While maintaining dignity and confidentiality to the victim, this Facility will afford them with all the needed medical treatment and any Mental Health follow-ups, consistent to that provided to the Community. For an assault that is reported and no time period can be established on when the incident took place, the Shift Supervisor will contact the Medical Department and if any physical injuries are present photos will be taken. If this victim had vaginal, oral or anal penetration within the last 72 hours; The Warden, PREA Coordinators and County Detective PREA Investigation Unit will be notified along with a representative from the Women's Center; as the victim will require transport to the Hospital for examination by a Forensic Nurse and a rape kit collected. The County Detective will notify a representative of the Women's Center to meet the victim at the Hospital. Again, while maintaining dignity and confidentiality to the victim, this Facility will afford them with all the needed medical treatment and any Mental Health follow-ups, consistent to that provided to the Community

Regardless of when an allegation of vaginal, oral or anal penetration occurred victims will be tested for sexually transmitted diseases. Female victims will also be given a pregnancy test, Prophylaxis treatment may be given in the form of an antibiotic, that decision will be based on the type and risk of HIV exposure or if the source is known to be positive or negative and has taken anti-viral in the past.

If the source is Hepatitis B positive, the victim will receive Hepatitis B immune globulin within seven days from the exposure; if the subject is unvaccinated they will begin the Hepatitis B vaccine series. **(A subpoena may be needed in order to obtain medical records or needed blood testing of an inmate refusing to cooperate with Authorities)**

- III. **General Information:** Reports will be submitted by all parties involved in the incident in a timely fashion. Any information obtained by an inmate or outside parties must be written on a "Statement of Fact" form.
All information collected will be kept in strict confidence with limited parties knowing the information. There will never be retaliatory action taken against subject's who re-

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port sexual contact or provide information during an investigation.

If the victim is an inmate he/she should be monitored in general population and only be placed in Administrative Segregation if he/she cannot be protected by any other means.

In cases of sexual assault of a non-staff member i.e. (contractor, volunteer, visitor etc.), medical will respond, the subject will be transported to the hospital escorted by another staff member. The Warden and designee will be notified immediately along with the County Detectives. Any visible marking will be photographed along with any visible evidence collected from the scene where the assault occurred. All collected evidence will be inventoried and documented and held for the Detectives.

Upon completion of the investigation all documentation of any sexual assault or allegation of sexual assault or sexual misconduct shall be submitted to the Beaver County Board of Prison, PA DOC and the United States Department of Justice, if applicable. *See attached Appendix for general PREA definitions.* In a case of sexual harassment or allegations of sexual assault during the investigative process the accused Staff member may not be permitted to work the Housing Unit where the accused is housed. In Sexual Assault Cases involving Staff where they were observed having any type of sexual misconduct with an Inmate; along with notification to the County Detectives; the Warden will notify the Prison Board immediately. The Staff member will be removed from the work schedule and await their pending Charges.

In cases of sexual harassment after the investigation depending on the severity as agreed upon by the Warden and Prison Board; the Staff member can face disciplinary action or criminal charges or both if found to have engaged in both.

In a sexual assault and/or sexual misconduct the Staff member faces loss of their job, criminal charges and conviction. Criminal Charges will still be filed against a Staff Member who chooses to resign during an investigation of Sexual Assault or Sexual Misconduct.

Offender found guilty depending on the severity of the sexual harassment could face additional Criminal Charges or additional time in the Facility Restricted Housing Unit. Sexual assault allegation or sexual misconduct that proceeds forward after the initial Investigation will result in new Charges filed against the Offender(s).

False allegation made against a Staff member or Offender could also cause Criminal Charges or be handled by the Facility's Disciplinary Hearing Board.

- IV. **Sources:** PA Title 37 Chapter 95.221(6 & (9) & 246(2), PREA 28 CFR § 115.5 ,115.6 & 115.63 the County of Beaver

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V. **Definitions:** *Refer to attached Glossary*

Warden Schouppe

Refer to Annual Review Page for Revisions & Reviews

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Revised 5/2012

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Revised 9/2008

Revised 1/2013

Revised 10/2010

Revised 6/2014

Revised 4/2011

Revised 10/2015

Appendix

General Definitions for Prison Rape Elimination Act

28 CFR § 115.5

- 1) **Agency:** The unit of a state, local, corporate, or nonprofit authority or the Department of Justice, with direct responsibility for the operation of any facility that confines in-

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mates, detainees or residents, including the implementation of policy as set by governing, corporate, or nonprofit authority.

- 2) **Agency Head:** The principal official of an agency.
- 3) **Community Confinement Facility:** A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs or similar facility-approved programs during nonresidential hours.
- 4) **Contractor:** A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
- 5) **Detainee:** Person detained in a lockup, regardless of adjudication status.
- 6) **Direct Staff:** Security staff is in the same room with and within reasonable hearing distance of, the resident or inmate
- 7) **Employee:** Person who works directly for the agency or facility
- 8) **Exigent Circumstances:** Any set of temporary and foreseen circumstances that requires immediate action in order to combat a threat to the security or institutional order of a facility
- 9) **Facility:** Institution building (or part thereof), set of buildings, structure, or area (whether or not enclosed a building or set of buildings) that is used by an agency for the confinement of individuals.
- 10) **Facility Head:** Principal official of the facility
- 11) **Full Compliance:** Compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.
- 12) **Gender Nonconforming:** A person whose appearance or manner does not conform to traditional societal gender expectations.

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- 13) **Inmate:** Any person incarcerated or detained in a prison or jail
- 14) **Intersex:** A person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
- 15) **Jail:** Confinement facility of a Federal, State or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less or person adjudicated guilty who are awaiting transfer to a correctional facility.
- 16) **Juveniles:** Person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.
- 17) **Juvenile Facility:** Facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.
- 18) **Law Enforcement Staff:** Employees responsible for the supervision and control of detainees in lockups
- 19) **Lockups:** Facility that contains holding cells, cell blocks, or other secure enclosures that are:
- a) Under the control of a law enforcement, court or custodial officer: and
 - b) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from court, jail prison, or another agency.
- 20) **Medical Practitioner:** Health Professional who, by virtue of education, credentials and experience is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims"
- 21) **Mental Health Practitioner:** Mental Health Professional who, by virtue of education, credentials and experience is permitted by law to evaluate and care for patients with-

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in the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims”

- 22)**Pat-down Search:** Running of the hands over the clothed body of an inmate, detainee or resident by an employee to determine whether the individual possesses contraband.
- 23)**Prison:** An institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length or a felony
- 24)**Residents:** Person confined or detained in a juvenile facility or in a community confinement facility
- 25)**Secure Juvenile Facility:** A juvenile facility in which the movements and activities of individual residents may be restricted or subject to controls through the use of physical barriers or intensive staff supervision. *A facility that allow residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.*
- 26)**Security Staff:** Employees primarily responsible for the supervision and control of inmates, detainees or residents in housing units, recreational areas, dining areas, and other program areas of the facility.
- 27)**Staff:** Employees
- 28)**Strip Search:** A search that requires a person to remove or arrange some or all clothing as to permit a visual inspection of the person’s breast, buttock and genitalia.
- 29)**Substantiated Allegations:** An allegation that was investigated and determined to have occurred.
- 30)**Transgender:** Person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.
- 31)**Unfounded Allegations:** An allegation that was investigated and determined not to have occurred.

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- 32)**Unsubstantiated Allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- 33)**Volunteer:** An individual who donates time & effort on a recurring basis to enhance the activities and programs of the agency.
- 34)**Youthful Inmate:** Any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.
- 35)**Youthful Detainee:** Any person under the age of 18 who is under adult court supervision and detained in a lockup.

Definitions related to Sexual Abuse and Sexual Harassment

28 CFR § 115.6

Sexual abuse includes—

- (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

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Sexual abuse by another inmate, detainee, or resident includes—

Any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

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

Sexual abuse by a staff member, contractor, or volunteer includes—

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

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Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident 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.

Sexual harassment includes—

- (1) 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
- (2) 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.

Additional Definitions:

Adjudication: Trial or case is heard by and the outcome is decided by the Judge.

De minimis: Something or a difference that is so little, small minuscule or tiny that the law does not refer to it and will not consider it.

Overt: Open and observable not secret or hidden

Voyeurism: The compulsion to seek gratification secretly looking at sexual objects or acts, *the action of a Peeping Tom*