POLICY STATEMENT

The Prison Rape Elimination Act (PREA) Standards were enacted into law in 2003 to study and address prison sexual violence. Sexual abuse is against the law. The concept of “zero tolerance” is the foundation of the PREA Standards. Every provision of the standards is rooted in the notion that even one incident of sexual abuse or sexual harassment in prison settings is too many. Zero tolerance means that no sexual abuse or sexual harassment is tolerated, including abuse by inmates and by staff. **(28 C.F.R. §115.32[b])**

* Anyone who engages in, fails to report, or knowingly condones sexual abuse or sexual harassment of an inmate shall be subject to disciplinary action and may be subject to criminal prosecution.
* An inmate, employee, contract service provider, volunteer, and/or any individual who has business with or uses the resources of the Department is subject to disciplinary action and/or sanctions, including possible dismissal and termination of contracts and/or services, if he/she is found to have engaged in sexual harassment or sexual contact with an inmate.
* A claim of consent will not be accepted as an affirmative defense for engaging in sexual abuse or sexual harassment of an inmate.

DEFINITIONS

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

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 paragraph (1) through (5) of this definition;
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. Voyeurism 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:**

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 directed toward another.
2. 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.

PROHIBITIONS

Contractors or Volunteers who provide services to the Pennsylvania Department of Corrections, can be criminally charged for violating Pennsylvania State Law 18 PA**.** CONS**.** STAT**.** §3124.2 defines Institutional Sexual Assault as a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse, or indecent contact with an inmate, detainee, patient, or resident.

REPORTING REQUIREMENTS

Staff members, contract service providers, and volunteers are required to report incidents or suspicions of sexual abuse or sexual harassment. Private reports can also be submitted to the Sexual Abuse Reporting Address established by the Pennsylvania State Police; the address is **BCI/PREA Coordinator, 1800 Elmerton Ave., Harrisburg, PA 17110**. **(28 C.F.R. §115.32[b])**