

Association Responses to PREA

American Correctional Association:

Sexual Assault

The Prison Rape Elimination Act

Prisoner Safety

Jail Standards: Sexual Assault

National Commission on Correctional Health Care:

Health Services Standards

American Correctional Association
Public Correctional Policy on Offender on Offender Sexual Assault
Jan 12, 2005

Introduction:

Sexual assaults against individuals confined in correctional facilities or on community supervision are wrong.

All offenders, especially adults and juveniles diagnosed with mental illnesses and young, first-time offenders are at an increased risk of sexual victimization. Victims of sexual assault may suffer severe physical and psychological effects that hinder their successful reintegration into their communities.

Policy Statement:

Corrections professionals have a responsibility to those they serve to provide a safe environment within which offenders are supervised. Sexual assault of offenders-on-offenders is inhumane and can contribute to the spread of infectious diseases within correctional facilities and to the community upon release.

ACA recommends the following strategies to correctional agencies:

Establish, publicize and enforce a zero-tolerance policy regarding all forms of sexual assault;

Develop classification and supervision policies and procedures within detention and correctional facilities that minimize the potential for sexual assault to occur and develop policies that serve to protect the victim and prevent repeat occurrences;

Establish investigative policies and procedures that include the processes for reporting and investigating allegations involving sexual assault, including appropriate measures to protect the complainant during an investigation;

Establish mental health and medical protocols for treating the complainant, including initial screening and appropriate follow-up treatment.

Foster an environment in which the reporting of alleged sexual assault is encouraged and reports may be made without fear of reprisal;

Establish relationships and protocols with outside law enforcement and health care agencies to facilitate the prosecution of assailants and reporting of all instances of sexual assault to the proper authorities for investigation and possible criminal action;

Maintain adequate and appropriate levels of staff to protect inmates against sexual assault;

Develop effective correctional strategies, such as meaningful programs that provide constructive activities, and increase staff and inmate safety;

Promote effective facility design that enables direct lines of sight within housing units;

Provide orientation and ongoing in-service training to staff, volunteers and contractors, emphasizing the zero-tolerance policy, explaining state law, case law, administrative policies on the issue, and providing the skills needed to effectively manage offenders;

Provide information to offenders, inmates and detainees on how to avoid sexual assault; and

Establish a systematic process for the collection of data that document the number of sexual assault allegations, the nature of each allegation and the resolution of the allegation.

AMERICAN CORRECTIONAL ASSOCIATION RESOLUTION ON
THE PRISON RAPE PREVENTION ACT OF 2003

AUGUST 4, 2004

WHEREAS, the Prison Rape Elimination Act of 2003, signed into law on Sept. 3, 2003 (Public Law No: 108-79), is designed to systematically study the prevalence of offender-on-offender and staff-on-offender sexual assault and proposes standards to prevent these acts in our nation's criminal justice systems;

THEREFORE BE IT RESOLVED that the American Correctional Association fully supports this research; and

BE IT FURTHER RESOLVED that the American Correctional Association urges correctional agencies to fully participate in these research studies and to offer the U.S. Congress and the Department of Justice assistance in implementing this legislation and in addressing any problems that have been identified.

ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS

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RESOLUTION #13 - PRISONER SAFETY

WHEREAS, the safety and protection of the public, correctional staff, and inmates committed to our custody is the primary mission of corrections;

WHEREAS, correctional administrators are committed to preventing inmates from being abused by other inmates or by staff;

WHEREAS, the Association of State Correctional administrators condemns all forms of inmate violence;

WHEREAS, the Association of State Correctional Administrators believes any form of staff abuse of inmates is wrong;

WHEREAS, the Association of State Correctional Administrators promotes prevention programs that will guard against sexual abuse by inmates or by staff;

WHEREAS, the Association of State Correctional Administrators advocates official sanctions for such acts where supported by the evidence as well as prosecution when appropriate;

WHEREAS, the Association of State Correctional Administrators advocates programs and services to assist inmates who have been the victims of sexual abuse in prisons;

WHEREAS, a National Prison Rape Reduction Commission has been created and charged with developing standards to enhance detection, prevention, reduction, and punishment of prison rape;

WHEREAS, the Association of State Correctional Administrators has participated in the implementation of the Prison Rape Elimination Act's provisions;

WHEREAS, the Association has interest in promoting effective standards and approaches to the prevention of such abuse that take into account the unique challenges of correctional operations;

WHEREAS, there are other associations who have interest in the standards and approaches to the prevention of such abuse, including the American Correctional Association;

WHEREAS, the Association of State Correctional Administrators supports performance measuring and standard setting in corrections;

WHEREAS, the Association of State Correctional Administrators works collaboratively and effectively with regard to the development, implementation and maintenance of correctional standards with the American Correctional Association and other professional associations;

WHEREAS, the Association of State Correctional Administrators has much to offer to the National Prison Rape Reduction Commission in developing relevant, appropriate and workable standards with regard to sexual abuse in corrections agencies;

THEREFORE, BE IT RESOLVED, that the Association of State Correctional Administrators work collaboratively with the American Correctional Association, and other appropriate professional associations in formulating and recommending to the National Prison Rape Reduction Commission, a set of professional standards to enhance prevention, detection, punishment, and overall reduction of prison rape.

Adopted by the Association of State Correctional Administrators - April 15, 2005.

Sexual Assault

4-ALDF-4D-22 (Ref. New)

The facility will ensure that information is provided to offenders about sexual abuse/assault including:

- Prevention/intervention
- Self-protection
- Reporting sexual abuse/assault
- Treatment and counseling

The information is communicated orally and in writing, in a language clearly understood by the offender, upon arrival at the facility.

Comment: None.

Protocols: Written policy and procedure and the inmate handbook.

Process Indicators: Intake logs and inmate sign-in sheets for orientation.

4-ALDF-4D-22-1 (Ref. New)

Detainees are screened within 24 hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Housing assignments are made accordingly.

Comment: None.

Protocols: Written policy and procedure.

Process Indicators: Screening records. Admission logs. Classification records.

4-ALDF-4D-22-2 (Ref. New)

An investigation is conducted and documented whenever a sexual assault or threat is reported.

Comment: The agency should report occurrences/allegations of sexual assault or threat in accordance with the laws of the jurisdiction. The investigation may be limited by what is allowed by the laws of the jurisdiction.

Protocols: Written policy and procedure.

Process Indicators: Referral records. Investigative reports.

4-ALDF-4D-22-3
(Ref. New)

Detainees identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional. Detainees with a history of sexually assaultive behavior are identified, monitored, and counseled.

Comment: None.

Protocols: Written policy and procedure. Mental Health assessment instruments.

Process Indicators: Completed mental health assessments. Case records.

4-ALDF-4D-22-4
(Ref. New)

Detainees identified as at risk for sexual victimization are assessed by a mental health or other qualified professional. Detainees at risk for sexual victimization are identified, monitored, and counseled.

Comment: None.

Protocols: Written policy and procedure. Mental Health assessment instruments.

Process Indicators: Completed mental health assessments. Case records.

4-ALDF-4D-22-5
(Ref. New)

Sexual conduct between staff and detainees, volunteers or contract personnel and detainees, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.

Comment: None.

Protocols: Written policy and procedure.

Process Indicators: Documentation of staff awareness, e.g. annual in-service training curriculum.

4-ALDF-4D-22-6
(Ref. New)

(MANDATORY) Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:

- A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victims consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority.
- Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.
- Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.

- Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
- A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant.

Comment: None.

Protocols: Written policy and procedure. Referral documents.

Process Indicators: Completed referral forms. Medical records. Classification records.

4-ALDF-4D-22-7
(Ref. New)

Detainees who are victims of sexual abuse have the option to report the incident to a designated staff member other than an immediate point-of-contact line officer.

Comment: None.

Protocols: Written policy and procedure.

Process Indicators: Detainee handbook. Record of reports.

4-ALDF-4D-22-8
(Ref. New)

All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained in accordance with an established schedule.

Comment: None.

Protocols: Written policy and procedure. A records retention schedule.

Process Indicators: Copies of case records detailing allegation of abuse. Medical and counseling reports.

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**NCCHC STANDARDS FOR HEALTH SERVICES IN PRISONS AND JAILS,
REVISED STANDARDS FOR P.L. 108-79 (Dumond, 2005)**

The National Commission on Correctional Health Care (NCCHC) has promulgated standards for the care and treatment of sexual assault victims since the mid-1980s in its various *Standards for Health Services in Prisons, Jails, etc.* Several revisions have been added as result of PL 108-79.

- NB: The 2003 Standards as published do not include A-13 Re. Fed. Sex. Assault Reporting Regulations which have been implemented

2003 STANDARDS FOR HEALTH SERVICES IN PRISONS

Section G: Special Needs and Services (Revised in 2003 Standards)

P-G-09 Procedure in the Event of Sexual Assault (Important)	Formerly P-57 The important standard intends that appropriate treatment take place for victims of sexual assault and remains basically the same. The gathering of "evidence" from the alleged victim with his/her consent is acceptable and does not violate P-I-03 Forensic Information. (Name change from "Sexual Assault" to better reflect focus of the standard.)
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The medical and psychological trauma of a sexual assault are minimized as much as possible by prompt and appropriate health intervention.

There are five (5) indicators of compliance to this standard:

- 1) Standard is to be addressed by written policy and defined by procedures.
- 2) Gathering of physical evidence from victims of sexual assault should be performed by community facilities or within the correctional institution in conformity with specifically articulated guidelines.
- 3) Prophylactic treatment and follow-up care for injuries, sexually transmitted or other diseases (e.g., HIV, hepatitis B) should be offered to victims as appropriate.
- 4) Following physical examination, there should be an evaluation by a qualified mental health professional for crisis intervention counseling and long-term follow-up.
- 5) A report should be made to correctional authorities to effect the separation of the victim from his or her assailant in their housing assignment.

Section I: Medical-Legal Issues (Revised in 2003 Standards)

P-I-03 Forensic Information (Important)	Formerly P-68 The intent of this important standard is to ensure that the role of the health services staff in serving the needs of their patients is not compromised by their involvement in the gathering of forensic information. One change has been made to previous versions. In those jurisdictions where DNA testing is required by law, with consent of the inmate, and provided that health staff are not involved in any punitive action taken if the inmate refuses, it is now permissible for facility health staff to do the blood draws.
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At issue here is the potential conflict which may exist if medical and mental health staff engage in collecting forensic evidence and then will provide on-going care and treatment. Subsequent staff credibility, neutrality and caring may be severely compromised. NCCHC suggests, therefore, the use of external agencies to perform such tasks or the use of institutional staff (with the permission of the inmate victim) who will not be involved in a therapeutic relationship with the inmate.

2003 STANDARDS FOR HEALTH STANDARDS FOR HEALTH SERVICES IN JAILS

Section G: Special Needs and Services (Revised in 2003 Standards)

J-G-09 Procedure in the Event of Sexual Assault (Important)	Formerly J-55 The important standard intends that appropriate treatment take place for victims of sexual assault and remains basically the same. The gathering of "evidence" from the alleged victim with his/her consent is acceptable and does not violate J-I-03 Forensic Information.
(Name change from "Sexual Assault" to better reflect focus of the standard.)	

Section I: Medical-Legal Issues (Revised in 2003 Standards)

J-I-03 Forensic Information (Important)	Formerly J-66 The intent of this important standard is to ensure that the role of the health services staff in serving the needs of their patients is not compromised by their involvement in the gathering of forensic information. One change has been made to previous versions. In those jurisdictions where DNA testing is required by law, with consent of the inmate, and provided that health staff are not involved in any punitive action taken if the inmate refuses, it is now permissible for facility health staff to do the blood draws.
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2004 Standards for Health Services in Juvenile Detention and Confinement Facilities

Section A: Governance and Administration (Revised in 2004 Standards)

Y-A-13 Federal Sexual Assault Reporting Regulations (Important)	New This new standard addresses facilities' reported compliance with the Prison Rape Elimination Act of 2003.
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Section G: Special Needs and Services (Revised in 2004 Standards)

Y-G-09 Procedure in the Event of Sexual Assault (Important)	Formerly Y-57 The important standard intends that appropriate treatment take place for victims of sexual assault and remains basically the same. The gathering of "evidence" from the alleged victim with his/her consent is acceptable and does not violate Y-I-03 Forensic Information.
(Name change from Sexual Assault)	

Section I: Medical-Legal Issues (Revised in 2004 Standards)

Y-I-03 Forensic Information (Important)	Formerly Y-70 The intent of this important standard is to ensure that the role of the health services staff in serving the needs of their patients is not compromised by their involvement in the gathering of forensic information. One change has been made to previous versions. In those jurisdictions where DNA testing is required by law, with consent of the juvenile, and provided that health staff are not involved in any punitive action taken if the juvenile refuses, it is now permissible for facility health staff to do the blood draws.
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