


# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

<b>VOLUME: 15</b>	<b>DSOP: 15-008</b>	<b>YEAR: 2012</b>	<b>VERSION: 1</b>
<b>SUBJECT:</b>	<b>INMATE SEXUAL ASSAULT/ABUSE PREVENTION</b>		

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### **I. POLICY**

It is the policy of the Miami-Dade Corrections and Rehabilitation Department (MDCR) to comply with the provisions set forth in the Prison Rape Elimination Act (PREA). MDCR has established a "Zero Tolerance" policy for sexual misconduct for incidents involving inmate-on-inmate sexual violence and staff sexual misconduct/harassment towards inmates, regardless of consensual status. MDCR considers any form of sexual misconduct by staff an abuse of power. This Departmental Standard Operating Procedure (DSOP) addresses the prevention, intervention, treatment, investigation, tracking and reporting of inmate-on-inmate sexual assault/battery and staff sexual misconduct/harassment.

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MDCR shall make every effort to provide all inmates with a safe, humane and secure environment, free from the threat of sexual assault/abuse and staff sexual misconduct/harassment. As part of the intake and orientation process, inmates shall be provided information regarding MDCR Zero Tolerance policy regarding sexual assault/abuse and staff sexual misconduct/harassment. In addition, all persons having access to inmates in MDCR custody shall receive training and education as required by PREA standards to include staff, inmates Inmate Medical Provider (IMP)/IMP mental health staff, investigators, contractors, vendors and volunteers. MDCR shall adopt any future PREA regulations as they become mandated.

## II. DEFINITIONS

### **Inmate-on-Inmate Sexual Violence**

Under the Prison Rape Elimination Act of 2003, sexual assault is separated into two categories including:

#### A. Abusive Sexual Contacts

Contact of any person without his/her consent, is coerced into such act by overt or implied threats of violence, or of a person who is unable to consent or refuse;

#### **AND**

Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit.

#### B. Non-Consensual Sexual Acts

Contact of any person without his/her consent, is coerced into such act by overt or implied threats of violence, or of a person who is unable to consent or refuse;

#### **AND**

Contact between the penis and vagina, the vagina and vagina, or the penis and anus including penetration, however slight;

#### **OR**

Contact between the mouth and penis, vagina, or anus;

#### **OR**

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Penetration of the anal or genital opening of another person by a hand, finger, or other object.

## **Prison Rape Elimination Act (PREA)**

Enacted by Congress in 2003 to address the problem of sexual abuse of persons in the custody of United States correctional agencies. PREA applies to all public and private institutions that house adult or juvenile inmates and is also relevant to community based agencies. The major provisions of PREA include:

- A. Development of standards for detection, prevention, reduction, and punishment of prison rape;
- B. Collection and dissemination of information on incidents of prison rape;
- C. Award of grant funds to help state and local governments implement the purpose of the Act.

## **PREA Compliance Manager**

Each facility will designate a PREA Compliance Manager assigned to serve as a point person for PREA related matters within the respective facility.

## **PREA Coordinator**

A staff member assigned to the Accreditation and Inspections Bureau shall serve as MDCR's PREA Coordinator to develop, implement, and oversee MDCR efforts to comply with the PREA standards in all facilities.

## **Sexual Abuse**

For the purposes of this DSOP relating to inmate on inmate sexual violence and staff sexual misconduct/harassment, sexual abuse is defined as:

- A. Any of the acts defined under inmate-on-inmate sexual violence; and
- B. Any of the acts defined under staff sexual misconduct.

## **Sexual Assault**

Sexual intercourse, oral or anal sex, or sex with instruments, whether consensual or not. Sexually offensive comments or gestures or any physical conduct which is of a sexual

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nature or sexually suggestive and the act of observing or interfering in an inmate's personal, intimate routines.

## **Sexual Battery**

Nonconsensual oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object as stipulated in Florida Statute 794. However, sexual battery does not include an act done for a bona fide medical purpose.

## **Sexual Harassment**

Includes any of the following;

- A. 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 towards another; and
- B. Any of the acts as defined under staff sexual harassment.

## **Staff Sexual Harassment**

Repeated verbal statements, comments, or retaliatory behavior of a sexual nature to an inmate by staff, volunteer, contractual staff, official visitor, or agency representative, examples include:

- A. Demeaning references to gender;
- B. Derogatory comments about body or clothing;
- C. Repeated, profane/obscene language or gestures.

## **Staff Sexual Misconduct**

Any behavior or act of a sexual nature directed toward an inmate by staff, volunteers, contractual staff, official visitor, or agency representative. Consensual or non-consensual behavior or sexual acts include:

- A. Verbal conduct of a sexual nature including threats for refusing sexual advances;
- B. Intentional touching of genitalia, vagina, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire;
- C. Completed, attempted, threatened, or requested sexual acts;

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- D. Occurrences of indecent exposure, invasion of privacy beyond what is reasonably necessary for safety and security, or staff voyeurism for sexual gratification. However, sexual misconduct does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of duty by staff;
- E. Romantic relationships between staff and inmates.

## **Voyeurism: By Staff, Contractors, or Volunteers**

Invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate performing 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.

## **Youthful Offender**

Anyone under the age of 18 placed within MDCR facilities as outlined in DSOP 12-001 Juvenile Intake, Classification, Housing and Programs.”

## **Zero Tolerance**

An operational and philosophical standard that focuses on establishing a culture of intolerance of sexual misconduct against inmates by inmates or staff.

### **III. PREVENTION/INTERVENTION**

#### **A. TRAINING**

MDCR staff, contractors or volunteers, who have access to inmates, shall be provided training and/or education information on inmate-on-inmate sexual violence and staff sexual misconduct/harassment awareness through classroom training, brochures, handouts, inmate handbooks, videos, online forums or in educational workbooks upon hiring and on an annual basis. All training shall be provided in a format based upon the level of contact and training requirements stipulated by PREA. Copies of the sign-off sheet(s) or electronic verification used to document staff training shall be forwarded to the Training Bureau. The training shall include, but not be limited to:

- 1. Staff Training Requirements
  - a. MDCR Zero Tolerance policy;

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- b. Staff's responsibilities to prevent, detect, report, and respond to sexual violence and staff sexual misconduct/ harassment;
  - c. The inmates right to be free from sexual violence, staff sexual misconduct/ harassment;
  - d. The dynamics of sexual violence in a confinement setting;
  - e. Recognizing and responding to the physical, behavioral and emotional signs of sexual abuse, sexual assault/battery;
  - f. How to avoid inappropriate relationships with inmates;
  - g. How to communicate effectively and appropriately with inmates, including lesbian, gay, bi-sexual, transgender, and intersex inmates (LGBTI);
  - h. MDCR frisk/strip search procedures for cross gender, LGBTI, and identified victims of sexual violence;
  - i. Disciplinary sanctions/criminal prosecution;
  - j. Staff ethics;
  - k. Applicable federal, state and local laws.
2. Investigator Training Requirements
- a. Techniques for interviewing victims of sexual violence;
  - b. Proper use of Miranda and Garrity warnings;
  - c. Evidence collection in confinement settings;
  - d. Criteria and evidence required to substantiate administrative action; and
  - e. Criteria and evidence required to refer criminal behavior for prosecution.
3. Medical and Mental Health Staff Training Requirements
- a. How to assess signs of sexual violence;
  - b. How to preserve physical evidence of sexual violence;
  - c. How to respond to victims of sexual violence; and

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- d. How to report allegations and suspicions of sexual violence.
4. Volunteer and Contractors Training Requirements
  - a. MDCR zero tolerance policy and procedures for prevention, detection, and response to sexual violence and staff sexual misconduct/harassment;
  - b. The responsibilities of volunteers and contractors under MDCR policies and procedures; and
  - c. How to report incidents of suspicion of sexual violence or staff sexual misconduct/ harassment.
5. Inmates Training Requirements

MDCR Zero Tolerance policy regarding their right to be free from all forms of sexual violence and sexual harassment.

## B. INITIAL INMATE ASSESSMENT

An initial assessment shall be conducted as part of the intake process to determine if the newly arrested inmate is a victim or potential victim of sexual assault/battery or at risk of committing sexual assault/battery. The assessment shall include the following:

1. Completion of an initial medical/mental health screening by intake staff;
2. Completion of the [Addendum to Inmate Profile Data](#) form by intake staff. If the inmate provides "a yes response" to any question on the form, the Inmate Medical Provider (IMP) shall be immediately notified for further assessment, treatment and/or counseling;
3. Completion of a medical/mental health screening interview by IMP;
4. A review of available information indicating the potential for vulnerabilities or tendencies of acting out in a sexually aggressive manner, to include:
  - a. First time in custody;
  - b. Size;
  - c. Gang Affiliation;
  - d. Age (including Youthful Offenders);

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- e. Demeanor (openly showing fear versus aggressiveness).

If it is determined that the inmate is at risk, the interviewing staff shall complete a [MDCR Incident Report](#) and ensure the inmate is under direct supervision for his/her safety and security as well as the safety and security of others. In addition, the Facility/Bureau Supervisor and the PREA Compliance Manager shall be notified via the chain of command if the inmate was a victim of, or committed sexual abuse in a confined setting.

## C. CLASSIFICATION ASSESSMENT

During the classification interview process, the following criteria shall be used to identify an inmate who has a history of sexual assault/abuse behavior and/or of being sexually victimized:

1. Inmate's current charges which may reflect sexual assault/abuse behavior;
2. Inmate Profile System (IPS) history which may reflect that the inmate has a history of sexual assault/abuse behavior and/or has been a sexual assault/abuse victim;
3. Self-reporting by the inmate that he/she is a victim of sexual assault/abuse.

If an inmate is identified as being "at risk," based on the aforementioned criteria, the IMP shall be immediately notified for further assessment, treatment and/or counseling. A MDCR Incident Report shall be generated and the Facility/Bureau Supervisor and the PREA Compliance Manager shall be notified via the chain of command.

Inmate(s) identified as sexual offender(s) while in custody shall be placed in administrative segregation, in accordance with DSOP 12-002 "Inmate Administrative and Disciplinary Confinement," pending classification and administrative review by the respective Facility/Bureau Supervisor or designee.

The alleged victim(s) and offender(s) may be reclassified into protective custody from the general population or placed into direct supervision housing in accordance with DSOP 19-005 "Objective Jail Classification Procedures."

## D. INMATE ORIENTATION

Upon intake, all inmates will be educated on MDCR Zero Tolerance policy. The MDCR Inmate Handbook and MDCR Sexual Assault Awareness pamphlet contain information regarding sexual assault/battery and staff sexual misconduct/harassment. This information shall be provided during the inmate classification



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interview process. Inmates that participate in community based programs, e.g., Monitored Release and Pretrial Release Programs, shall be provided the Sexual Assault Awareness pamphlet during the initial intake process. The MDCR Inmate Handbook and Sexual Assault Awareness pamphlet shall include, but not be limited to:

1. Methods, self protection and prevention techniques to reduce the likelihood of being victimized by sexual offenders;
2. Procedures for reporting attempted sexual assault/battery or sexual assault/battery by another inmate or staff sexual misconduct/harassment by staff to include;
  - a. Reporting the attack to MDCR or IMP staff immediately;
  - b. Requesting to see the Facility/Bureau Supervisor or designee via an Inmate Request Form;
  - c. Calling the Rape Crisis Hotline phone number that is posted in all holding and housing areas. Inmates can contact the hotline toll free from any inmate telephone.
3. Sanctions for the inmate who commits sexual assault/battery against another inmate(s);
4. Available support services, e.g., counseling, medical/mental services, etc;
5. MDCR Disciplinary rules of conduct for all inmates.

## IV. **RESPONSE TO SEXUAL ASSAULT/BATTERY ALLEGATIONS**

When MDCR staff, volunteers, or contractual staff become aware of a possible incident involving sexual assault/battery, discover a sexual assault/battery in progress, or observe physical evidence, he/she shall immediately notify the respective Shift Supervisor/Commander or designee. All incidents of sexual assault/abuse shall be reported immediately and investigated thoroughly. The Shift Supervisor/Commander shall ensure that the following protocols are adhered to and a [MDCR Sexual Assault/Battery Allegations Checklist](#) is completed:

- A. The alleged victim(s) shall be immediately separated from the alleged offender(s);
- B. The alleged victim(s) shall be immediately escorted to a secure and non-hostile environment. To ensure the preservation of evidence, the victim(s) shall be

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advised not to eat, drink, change clothes, shower or use the restroom until he/she has been examined by qualified medical staff;

- C. MDPD and designated MDCR staff shall be notified in accordance with DSOP 10-003 "Major Incident Reporting Procedures";
- D. The alleged offender(s) shall be immediately escorted to a holding area that does not have bathroom facilities. He/she shall remain in the holding area until trace evidence can be collected or clearance has been given by the responding Miami-Dade Police Department (MDPD) investigator(s);
- E. The alleged victim(s) and inmate(s) shall be separately escorted to the IMP for medical assessment/treatment. IMP staff shall complete a [Health Services Incident Addendum](#) to document that the alleged victim(s) and offender(s) were examined;
- F. Upon completion of the IMP medical assessment, the alleged victim(s) shall be escorted to the Rape Treatment Center, if applicable;
- G. IMP staff shall refer the alleged victim(s) and offender(s) for mental health follow-up. This action shall be documented on a supplemental incident report, utilizing the same control number of the original MDCR Incident Report;
- H. The crime scene shall be secured and preserved until given clearance by responding MDPD investigators in accordance with DSOP 11-028 "Preservation of a Crime Scene," if applicable;
- I. The Security and Internal Affairs Bureau (SIAB) shall be notified if the allegations involve inmate sexual assault/battery by staff. The SIAB shall refer such incidents to the State Attorney's Office (SAO), if appropriate;
- J. The PREA Coordinator shall be notified;
- K. A log of events and chain of custody involving suspected evidence shall be maintained, if applicable;
- L. A MDCR Incident Report shall be generated and the following attached:
  - 1. A copy of the Daily Inmate Population Report of the area where the alleged incident occurred;
  - 2. A copy of the jail card(s) for the victim(s) and alleged offender(s);
  - 3. Investigative statement(s) of the inmate(s) present when the alleged incident occurred;

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4. Witness statement(s) from staff, e.g., supplemental incident report;
5. [Physical Sight Check Sheet](#) and/or the Pre-Trial Detention Center [Hourly Walk Check Sheet](#);
6. Copy of the relevant page(s) from the area log book covering the time period of the alleged incident;
7. Digital video recording disc (if available).

MDCR staff is prohibited from any form of retaliation against an individual(s) because of involvement in the reporting or investigating of sexual assault/battery or sexual misconduct/harassment. Staff shall refrain from talking openly about such issues.

The PREA Coordinator shall insure an incident review is conducted within 30 days of the conclusion of every sexual abuse investigation, unless the allegation was unfounded.

## **V. INMATE SANCTIONS**

Any inmate who commits a sexual assault/battery while in MDCR custody shall be criminally prosecuted to the fullest extent of the law. He/she shall also be subject to MDCR disciplinary actions, if applicable. Any inmate(s) who commits a violation of MDCR rules of inmate conduct shall face disciplinary action as outlined in DSOP 16-001 Inmate Disciplinary Procedures.

### **A. CRIMINAL PROSECUTION**

An inmate who commits a criminal act of sexual assault/battery shall be subject to criminal prosecution as governed by federal, state and local laws.

All inmates who have been designated as sexual predators by the court's written findings shall be registered as a sexual predator prior to their release from departmental custody.

### **B. DISCIPLINARY ACTIONS**

Disciplinary actions may include, but not be limited to:

1. Disciplinary confinement;
2. Loss of gain time;
3. Loss of privileges;

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4. Change in classification and custody level.

## **VI. STAFF SEXUAL MISCONDUCT/HARASSMENT**

Sexual acts or sexual contact between staff and an inmate, even if the inmate consents, initiates, or pursues is always prohibited and illegal. There is no consensual sex in a custodial or supervisory relationship.

Any staff member who commits sexual assault/battery against an inmate supervised by MDCR is subject to criminal prosecution and/or disciplinary action up to and including termination. Further, those who engage in staff sexual misconduct/harassment, with an inmate without committing the crime of sexual assault/battery or subject may be subject to criminal prosecution. Failure to report an incident of staff sexual misconduct/harassment shall result in corrective and/or disciplinary action up to and including termination and criminal prosecution. Intimidation of a witness or retaliation against an inmate who refuses to submit to sexual activity is prohibited.

All incidents of MDCR staff sexual misconduct/harassment shall be referred to the SIAB and if appropriate, the SIAB shall refer such incidents to the SAO. All sustained incidents of staff sexual misconduct/harassment shall result in corrective and/or disciplinary action, up to and including termination and criminal prosecution. Sustained allegations shall be forwarded to the Florida Department of Law Enforcement (FDLE).

## **VII. DOCUMENTATION**

All case records associated with sexual assault/battery allegations, e.g., MDCR Incident Reports, investigative reports, case dispositions, offender/victim information, medical/mental health findings, counseling evaluation findings, and recommendations for post release treatment, etc., shall be retained in accordance with the HIPAA of 1996 and legal requirements of the jurisdiction. In addition, MDCR staff with access to an inmate's medical records and information shall adhere to the confidentiality requirements in order to maintain the privacy of the inmate.

In order to comply with the United States Department of Justice, Bureau of Justice Statistics (USDOJ/BJJS), reporting requirements, MDCR shall collect and maintain sexual assault/battery and sexual misconduct/harassment data. On a monthly basis, the PREA Coordinator shall be responsible for data collection and reporting the findings to the Research, Evaluation and Data Unit to populate monthly and annual reports. BJS criteria shall be used to collect and report data for all incidents of inmate sexual assault/battery and sexual misconduct/harassment towards inmates. The Facility/Bureau Supervisor shall review all cases of alleged inmate sexual assault/battery and staff sexual misconduct/harassment for his/her respective entity on a quarterly basis to

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ensure that incidents are accurately tracked in accordance with the definitions set forth by PREA and mandated by the USDOJ/BJA. The Facility PREA Manager will forward statistical data to the PREA Coordinator on a monthly basis for the data required to comply with the USDOJ/BJA.

Each February, the PREA Coordinator will prepare an annual status report of the previous year for submission to the Director. The report will consist of information gathered from the various entities within MDCR.

## **A. BUREAU OF JUSTICE STATISTICS REPORTING CRITERIA**

The investigative findings of all inmate-on-inmate sexual violence or staff sexual misconduct/harassment towards inmates shall be reported to the BJS as follows:

1. Substantiated - the incident was investigated and determined to have occurred;
2. Unsubstantiated - evidence was insufficient to make a final determination that the incident occurred;
3. Unfounded - the incident was determined not to have occurred;
4. On-going - a final determination has not yet been made as to whether the incident occurred.

The PREA Coordinator shall review data collected/aggregated in order to assess and improve reporting processes and data dissemination.

## **B. AUDITS**

The USDOJ requires audits to verify compliance every three years. Only individuals certified under guidelines established by the USDOJ can conduct an audit for PREA Compliance.

The Accreditation and Inspections Bureau shall conduct periodic spot inspections to ensure compliance with PREA standards at all MDCR facilities/entities. In Addition, MDCR shall adopt any future PREA regulations as they become mandated.

## **VIII. CROSS REFERENCES**

DSOP 10-003 "Major Incident Reporting Procedures"

DSOP 11-015 "Association With Inmates, Ex-Inmates and Criminal Element"

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DSOP 11-028 "Preservation of a Crime Scene"

DSOP 12-002 "Inmate Administrative and Disciplinary Confinement"

DSOP 16-001 "Inmate Disciplinary Procedures"

DSOP 19-005 "Objective Jail Classification"

## **IX. RELATED REFERENCES**

Florida Model Jail Standards 3.02 (d) and 13.06

Florida Statutes 794.011 and 951.221

Prison Rape Elimination Act of 2003 (Public Law 108-79)

## **X. ACCREDITATION STANDARDS**

ACA 2010 & 2010 Supplement	4-ALDF-2A-29, 4-ALDF-4D-22 thru 4-ALDF-4D-22-8, 4-ALDF-7B-08, 4-ALDF-7B-10, and 4-ALDF-7E-01
2012 FCAC	5.02 M, 5.10 M, 6.21 M, 9.15, 9.16

## **XI. REVOCATIONS**

Any language in a DSOP, Procedural Directive, Standard Operating Procedure, Post Order, and/or written correspondence that conflicts with this policy is hereby revoked.

## **FORMS/SUPPORTING DOCUMENTS**

[Addendum to Inmate Profile Data](#)

[Health Services Incident Addendum](#)

[Inmate Request Form](#)

[MDCR Incident Report](#)

[Sexual Assault/Battery Allegations Checklist](#)

[Physical Sight Check Sheet](#)

[Pre-Trial Detention Center Hourly Walk Check Sheet \(Sample\)](#)