



PREA: The Prison Rape Elimination Act of 2003

You are about to begin the E-Learning Course
on
PREA: The Prisoner Rape Elimination Act

What is PREA?

The Prison Rape Elimination Act (PREA) was a law passed in 2003 by President George W. Bush that set out to address the problem of sexual abuse and misconduct in correctional facilities.

The purpose of the act the Act is to:

Establish a Zero-Tolerance Policy when it comes to incidents of sexual abuse of inmates

Establish and implement national standards to guide facilities in operations

Standardize definitions of prohibited behaviors

To protect inmates from sexual abuse, assault, or harassment from those they may come in contact with while in custody (corrections staff, civilian staff, volunteers, contractors, etc.)

Who Does This Act Affect?

This legislation applies to all forms of correctional facilities including:

Local Jails

Police Lock-Ups

State Prisons

Federal Detentions Centers **Federal Prisons** **Military Holding Centers**

Immigration Holding Centers

Residential Community Centers

All public and private facilities, adult and juvenile fall under the mandates of this Act.

This Act covers Inmate on Inmate assaults as well as Staff on Inmate assaults.

Source: National Institute of Corrections

Prohibited Behavior Definitions

There are many prohibited behaviors that the Act defines and must be investigated.

Abusive Sexual Contact -- This is contact without the consent of the inmate, or the inmate was unable to consent or refuse the contact. The contact is defined as contact between the penis and vagina, penis and anus including penetration, mouth and penis, vagina and anus, and the penetration of anal or genital opening by another by hand, finger or object.

Rape -- Engages oral/vaginal/anal intercourse with another by force, or the threat of force, without the consent of the other; and employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon; threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping.

Prohibited Behavior Definitions

Sexual Assault -- Forceful or intimidating behavior by one or more inmates that causes another inmate to unwillingly engage in a partial or complete sexual act. This includes pressure, threats, or other actions and communications by one or more inmates to force another inmate to engage in a partial or complete sexual act.

Sexual Misconduct -- Sexual behavior directed toward inmates, including sexual abuse, sexual assault, sexual harassment, physical conduct of a sexual nature, sexual obscenity, invasion of privacy beyond that reasonably necessary for safety and security, and conversations or correspondence of a romantic or intimate nature.

Prohibited Behavior Definitions

Voyeurism -- Includes but is not limited to: peering at an inmate using a toilet in his/her cell to perform bodily functions; requiring an inmate to expose his/her buttocks, genital, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual Harassment -- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory nature or offensive sexual nature by one inmate toward another. Also, repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer. This also includes demeaning references to gender, sexually suggestive or derogatory comments about one's body or clothing, or obscene language or gestures.

Prohibited Behavior Definitions

Sexual Abuse by Staff, Contractor, or Volunteer -- Sexual abuse of an inmate, detainee or resident by a staff member, contractor, or volunteer includes any of the following acts or without the consent of the inmate, detainee, or resident:

Contact between the genitalia, including penetration, however slight

Contact between the mouth and genitalia

Contact between the mouth and any body part where the perpetrator has the intent to abuse, arouse, or gratify sexual desire

Penetration of the anal or genital opening of another by a part of the body or an object that is unrelated to official duties or where the perpetrator has the intent of abuse, arouse or gratify sexual desire.

Prohibited Behavior Definitions

Sexual Abuse by Staff, Contractor, or Volunteer -- continued from previous slide...

Intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person that is unrelated to official duties or where the perpetrator has the intent of abuse, arouse or gratify sexual desire

Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in any act as described above

Any display by a staff member, contractor, or volunteer of his/her uncovered genitalia, buttocks, or breast in the presence of an inmate detainee, or resident.

Who Are Staff?

For the purposes of this training, staff are any person within the correctional facility that has the possibility of coming in contact at any time with inmates for any reason. This includes not just corrections officers but also:

Nurses

Counselors

Volunteers

Contractors

Clerks

Food Service

Commissary

Therefore, this Act and its provisions apply to everyone no matter what capacity they serve within a correctional facility.

Staff and Abuse of Inmates

As staff, you are responsible for safety and security of the inmates in the facility. As a result, this creates a natural imbalance in power. Inmates rely on staff for their day to day needs -- everything from food to bedding to recreation.

As a result, it is our responsibility to maintain professionalism at all times and recognize what is and is not appropriate behavior.

Staff Abuse of Inmates

In truth, the majority of staff will perform their jobs and duties with no issues over the course of their careers.

What this training is about are those that cross the line. Those that cross the line do so by:

- Physical touching of inmates
- Use of sexual language or writings
- Displaying certain sexual behaviors
- Pressuring inmates sexually or engaging in harassment
- Anything that is sexual in nature

***Note -- Most states have passed laws that prohibit staff sexual misconduct with inmates--so this is not only against the Act, it is against the law!!!!

Michigan General Statute

Michigan Penal Code 750.520c(k) states that a person can be criminally charged with Criminal Sexual Conduct in the 2nd degree if sexual abuse occurs and the other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or department of corrections who knows the other person is under the county's jurisdiction. **Based on this statute, there is no such thing as consensual sex between staff and inmates.**

CSC in the 2nd Degree is punishable by up to 15 years in prison.

Staff Abuse of Inmates

There are many reasons that staff give for engaging in misconduct with inmates. The following are some of the most common:

Think they've fallen in love

To exert power over the inmate

Protect or sympathize with the inmate

Isolation from peers/relate to inmates

Stress of job and inmate makes them feel special

Staff must remain professional at all times whenever they are in contact with inmates. If that professionalism is compromised such as in this Act, the consequences can include:

Being criminally prosecuted

Being civilly liable

Putting the safety and security of the facility in jeopardy.

Red Flags

Part of this training is to help you recognize the signs of sexual abuse or the potential for sexual abuse.

Red flags can be anything that you observe or hear that alerts you to the possibility of a problem.

Be aware that most often you will not directly observe the signs sexual abuse, such as the actual act of sex or sexual touching. What you will be witness to are the less obvious signs.

Staff Red Flags with Inmates

There are signs that a staff member might be involved inappropriately with an inmate. Some of these signs might include:

- A particular staff member always volunteering for overtime
- A staff member is always requesting the same trustee to work his/her area
- An inmate knows personal information about a certain staff member
- An inmate is in an area that is prohibited to inmates
- An inmate is getting special privileges than other inmates
- A staff member is using inappropriate language or conversation with an inmate

These are some examples of red flags that COULD indicate a sexual relationship is going on between staff member and inmate. If you observe these types of acts that could indicate that something just isn't right or is out of the ordinary, you have a DUTY to report this to a supervisor immediately.

It could be nothing, but red flags should be reported and checked out for validity.

Red Flags

There are red flags that are somewhat common when identifying sexual abuse between inmates. These include:

An inmate refusing to shower or remove underwear to shower

An inmate "protecting" another inmate from others (indicates a "hands off, s/he's mine" attitude)

An inmate displaying recent physical injuries

An inmate showing sudden change in appearance (either to attract inmates or repel sexual advances)

An inmate asks to be removed from his/her current housing assignment

Reasons Inmate Don't Tell

Inmates are often reluctant to report sexual abuse. There are many barriers that can prevent inmates from coming to a staff member to report that they have been victimized. These barriers include:

- Being called a snitch (biggest fear)
- Fear of retaliation
- Belief that the system won't keep them safe
- Investigation won't be fair
- Code of silence

All this means that it is the responsibility to provide safe reporting places for inmates to ensure that reports of sexual abuse are taken seriously and followed up on with these barriers taken into consideration.

Reasons Staff Don't Tell

While inmates have barriers to not telling of victimization, there are reasons that staff will not divulge when they suspect that an inmate is being sexually abused. While there are no reasons that are acceptable, the following reasons are common when researched as to why staff do not tell about suspected abuse.

- Concern for safety of inmate
- Fear that the investigation will not be done

All staff must keep in mind that to not report suspected sexual abuse of inmates can result in criminal prosecution and more often will allow the continuation of the abuse.

Staff Responsibilities

According to our policy and procedure, it is the responsibility of the Sheriff's Department to investigate any suspected victim of sexual misconduct or assault. It is possible for you to overhear of an inmate being threatened or rumored to have been the victim of sexual misconduct. If you suspect something has occurred you should:

- Take steps to notify correctional staff shift supervisor
- Ensure the victim and abuser are separated

If you become aware of an alleged sexual assault or misconduct you need to document time, date and method of notification.

If the issue is found to be viable, the Shift Lieutenant by policy must be contacted immediately to put the investigation in motion and to determine what actions need to be taken and how to further respond to the situation.

Staff Responsibilities

If you come in contact with an inmate and have reason to believe that he/she might be a victim of sexual assault/abuse, you must remember the following:

Immediately notify a Shift Supervisor

If the abuse has just happened, request that the alleged victim take no action that could destroy physical evidence.

Request that the alleged victim refrain from

washing, brushing teeth, changing clothes, urinating/defecating, drinking, eating.

NOTE: The same rules apply to evidence on alleged abuser.

Staff Responsibilities

If you find that an inmate has been the victim of sexual misconduct such as rape or harassment, you must consider the following:

Advise the inmate that you or other correctional staff can help

If the inmate is afraid of being labeled a "snitch", inform him/her that they do not have to identify the aggressor to get help

Mention the importance of getting help to deal with the sexual offense and that trained staff are available

Assist in obtaining the services agreed upon.

Ok, Now What?

Once you become aware of an inmate assault, either indirectly or directly and you have followed policy explained in the previous slides, remember that it is not your job to investigate the allegation. You as a first responder are to report the victim's appearance, demeanor and other things that you observed when you first spoke with the inmate.

Your contact is limited to basic information and primary information that will be passed off to the investigating person, most likely a command officer or Detective. Inform the inmate that:

- You need to report the assault and that an investigator will come and interview those involved
- Be calm and professional
- Explain that you will do all you can to handle the situation appropriately and keep inmate safe
- Don't forget to follow Policy and Procedure

How to Correctly Document

You will have to document the information you have collected to this point. It is important that you only record the known details you have accumulated to pass off to the investigator of the assault. To assist you with this remember these pointers:

Use the language the victim used -- Exact words go in quotation marks

Document observations including names and what was said

Document if the inmate was seen by medical/mental health staff and give those staff names

Document the date and time the victim notified you and by what means (i.e. verbally, by note, etc.)

Helpful Reminders

Being made aware is a very important responsibility. To assist you in this, here are some helpful reminders when dealing with a possible victim of sexual assault or misconduct.

Remember professional boundaries - Don't do anything to compromise the treatment of the victim. This can be done by being overprotective or confusing respect and compassion with inappropriate emotional involvement with the inmate.

Adhere to Confidentiality -- Anything that the inmate says to you must be kept between you, the inmate and the documentation you provide. It cannot be discussed with anyone outside the investigation.

Helpful Reminders

Be aware of your words!

Avoid institutional jargon when talking to an inmate - however, don't correct the inmate if they use slang. The important thing is you stay professional

Acknowledge that the inmate/victim has endured something traumatic

If the allegation involves staff -- your responsibility is to remain neutral. Do not react with statements that question the validity of the victim's statement

Don't make promises - you are not in a position to ensure anything regarding what a victim can expect.

Final Thoughts

Remember...

There is no typical victim of sexual assault. Therefore, make no assumption of how an inmate should react or the truthfulness of the assault.

Ignore stereotypes that you have come to know regarding the inmate population. This can hinder your ability to be effective as a first responder.

Last, remember your job is not to do the investigation but to document what you were told and pass on to an investigator.