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**Human Resources and Administrative Investigations
Notification of Curriculum Use
April 2014***

The enclosed Human Resources and Administrative Investigations curriculum was developed by the Project on Addressing Prison Rape at American University, Washington College of Law as part of contract deliverables for the National PREA Resource Center (PRC), a cooperative agreement between the National Council on Crime and Delinquency and the Bureau of Justice Assistance (BJA). The Prison Rape Elimination Act (PREA) standards served as the basis for the curriculum's content and development, with the goal of the Human Resources and Administrative Investigations curriculum to satisfy specific PREA standards requirements.

It is recommended that the Human Resources and Administrative Investigations curriculum be reviewed in its entirety before choosing which modules to use. Any alterations to the original materials require either acknowledgement during their presentation or removal of the PRC and Project on Addressing Prison Rape logos.

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*All materials and information provided in this publication (e.g., state laws, civil case law examples, BJA statistics) are accurately represented as of October 2013.

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**Training Curriculum:
Human Resources and Administrative Investigations**

**MODULE 4:
PREA GUIDED POLICIES**

**The Project on Addressing Prison Rape
January 2014**

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Objectives

- Identify policies needed to respond to sexual abuse in custody
- Identify and describe policy considerations and decisions
- Identify elements of effective policies



Policies Needed to Address Sexual Abuse in Custody

Policies relevant to Staff

- Sexual abuse and harassment (of inmates/residents and other staff)
- Ethics and Codes of Conduct
- Anti-fraternization
- Human Resources– pre and post employment
- Investigations
- Reporting

Policies relevant to Inmates, Residents and Detainees

- Classification
 - Security level, housing units, who you work with
- Medical and mental health
- Sexual behavior
- Sexual Assault Response Teams (SART)
- Investigations
- Grievance
- Gender non-conforming



What Makes a Good Policy: General

- Clear and inclusive definitions
- Clear and inclusive responsibilities for staff
- Clear and inclusive procedures
- Reporting points for others (volunteers, family members, etc.)
- Clear sanctions for not following policy
- Periodic review of policies by interdisciplinary group



What Makes a Good Policy: Specific to Administrative Investigations and Human Resources

- Multiple reporting points for staff and inmates/ residents
- Strong investigative protocols
- Staff training and skills
 - Development
 - Refinement
 - Application
 - Monitoring
- Effective inmate/ resident orientation
 - Reception/ intake
 - Existing populations



Policy Considerations

- Gender differences
- Thread issue through policies
- Periodic review and update policies
 - Case law (federal, state)
 - State law (State statutes and administrative rules)
 - Attorney General opinions
 - Association standards
 - PREA standards
- Agency culture
- Integration of external MOUs
 - e.g., inclusion of prosecution office, rape crisis center, SANE, SART, etc.



Policy Decisions

- Actions to include
- Responsibility assignments and timeframes
- Reporting structures
- Safety v. confidentiality
- Discipline
- After action report and review
- Data collection



Challenges and Dilemmas

- Leadership
 - Role modeling behaviors and commitment
- Culture and history
 - Unions and employee groups
 - External partners
 - External interest groups
 - Past attempts to address sensitive issues
- Actual practices being “in synch” with policy



Challenges and Dilemmas

- How to address **ongoing mental health care** of various populations
 - Gender responsive strategies (women/girls, men/boys and gender non-conforming inmates/residents)
 - Equality and parity
- **Attitudes and beliefs of staff** (personal, religious, biases)
 - Gender non-conforming residents
 - Men and boys as sexual victims of female staff
- **Investigative protocols/practices**
 - Not automatically accepting the “consensual” response for incidents between inmates or residents (consensual is **never** appropriate between staff and an inmate/ resident)
 - Defining internal and external roles
 - Ability to conduct thorough investigations



Elements of Effective PREA Policies

- Zero tolerance statement
- Definitions
- Applicability
- Data Collection
- Division responsibilities
- Standard operating procedures
- Staff and inmate/ resident training
- Prevention and detection efforts
- Signage, brochures, info
- Interagency cooperation
- Monitoring culture
- SART (Sexual Assault Response Team)
- Safety of vulnerable populations
- Victim safety and support
- Medical and mental health
- Timelines for responses
- Investigative responsibility and procedure
- Reporting
- Training



Elements of Effective Classification Policies

- Risk and vulnerability screening and assessment tools
- Who is responsible for classification
- Housing and work placements
- Separation
- Frequency of classification



Elements of Effective Sexual Abuse Policies

Prevention

- classification, training for staff and inmates/residents, administrative processes

Identification and monitoring

- screening, housing, work assignments, separation

Response and follow up

- investigations, preservation of evidence, victim centered care, safety, reporting, monitoring and data collection



Elements of Effective Medical/ Mental Health Policies

- Reporting and Confidentiality
 - incident reports, reporting up the chain of command
- Procedures
 - evidence collection, off-site medical care, referral for mental health services
- Providing emergency care
- Consent of victim for services
- Notification of parents/guardians (for minors)
- Follow up



Elements of Effective Sexual Behavior Policies

- Visitation
- What if any sexual behavior is allowed
 - Masturbation, touching, fondling, kissing
- What type of publications are allowed?
- What does your policy say about consensual or non-coercive sex between residents or between inmates?



Elements of Effective SART Policies

Sexual **A**ssault **R**esponse **T**eams

- SARTs respond to sexual abuse as a collaborative team.
- SARTs are composed of:
 - Medical and Mental Health
 - Agency Investigators and/or Law Enforcement
 - Agency and Facility Representatives
 - Prosecution Representatives
 - Advocacy Organizations (such as Rape Crisis Centers)



Elements of Effective Reporting Policies

- Avenues for reporting– including receiving third-party reports
- Procedure for reporting for staff and inmates/ residents
- Methods for reporting
 - writing, anonymous, 800 lines, verbal report to staff, community reporting
- Reporting requirements
- Inclusions in report
- Record keeping



Elements of Effective Grievance Policies

- **Authority and responsibility**
- Contents of grievance
- Procedure for filing a grievance
- Procedural requirements
- Responding to a grievance
 - Timeframes
- **Confidentiality** provisions
- Emergency procedures
- Appeal procedures
- Record-keeping
- Periodic **formal review** of grievance process and dispositions by administrators



Elements of Effective Gender Non-Conforming (LGBTI) Policies

- Screening
- Classification
 - Housing, work assignments, program assignments
- Medical health care
 - Hormone therapy
- Mental health care
- Clothing and hygiene products
- Searches, supervision and elements of privacy
- Training for staff and other inmates

****Respect is central to all these elements**



General Elements of Effective Investigative Policies

- Reporting and notification
- Evidence collection
- Medical and mental health services responsibilities
- Separation of victim
- Reassignment of alleged perpetrator
- Procedures
 - Recent v. non-recent sexual abuse
- Administrative v. criminal cases
- Timeframes



Additional Elements of Effective Administrative Investigation Policies

- Use of Garrity warning
- Union representation
- Information sharing with criminal investigators
- Timing
- Investigations of staff actions that may have contributed to abuse but that may not rise to criminal actions
- Evidentiary standards
- Termination of an investigation
- Discipline
- Incident reviews



Elements of Effective Human Resource Policies

- Pre-employment checks
 - Reference, background, applicable databases, licensing bureaus
- Employee waivers
- Staff development and training
- Process governing applicability for promotions
- Periodic background checks for current employees
- Review process for current employees
- Labor relations
- Affirmative duty to disclose misconduct
- Preservation of employee rights
- Discipline



How do Employees Know the Policy?

Informal v. formal “education”

Leadership by example

Practice v. policies and procedures

Enforcement



Measuring Effectiveness

- Policies/procedures **modeled** by supervisors, managers, and leaders
 - Accountability and compliance
- **Realistic** and understandable language
- Common sense practice
- Integrated into operations
- Aligns with **state law**
- Reporting and responding
- **Leadership** understands and acknowledges the aftermath of allegations and investigations



Measuring Effectiveness

- Human resource policies and practices are leveled consistently
- Investigations are thorough, timely and professional
 - Conclusions reached
 - Staff cooperate
 - Disciplinary sanctions consistent
- Are outcomes sustained/overtaken on appeal?
- Increased number of reports in the short term does not necessarily mean increased sexual abuse in the facility, could just mean the culture of silence has changed and inmates are reporting more frequently.



Activity: Identifying Elements of Your Policies

Each team has been assigned a PREA standard.

As a team, you are asked to:

- Assess your current relevant department policy(ies) and determine if the requirements of the standard are addressed in your department's policy instrument.
- Identify gaps in your policy and places for improvement
- Assess whether your agency has any promising practices
- Identify what key decisions need to be made at the agency level
- Identify any barriers you may have in your policy development process



Activity: Assignments

Limits to cross-gender viewing and searches

- 115.15, 115.115, 115.215, 115.315

Hiring and promotion decisions

- 115.17, 115.117, 115.217, 115.317

Evidence protocol and forensic medical examinations

- 115.21, 115.221, 115.321

Policies to ensure referrals of allegations for investigations

- 115.22, 115.122, 115.222, 115.322

Specialized training: Investigations

- 115.34, 115.134, 115.234, 115.334

Inmate Reporting

- 115.51, 115.151, 115.251, 115.351

Criminal and administrative agency investigations

- 115.71, 115.171, 115.271, 115.371



Summary

- 1) What policies are necessary to address sexual abuse in custody?
- 2) What are key elements of effective policies?
- 3) How does an agency measure the effectiveness of policies?

