

 <p style="text-align: center;"><b>DIVISION OF ADULT INSTITUTIONS</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURES</b></p>	<b>DAI Policy #:</b> 410.30.01	<b>Page</b> 1 of 6
	<b>Original Effective Date:</b> 11/01/17	<b>New Effective Date:</b> 04/20/18
	<b>Supersedes:</b> 306.00.72	<b>Dated:</b> 11/01/17
	<b>Administrator's Approval:</b> Jim Schwochert, Administrator	
<b>Required Posting or Restricted:</b>		
<input checked="" type="checkbox"/> <b>Inmate</b> <input checked="" type="checkbox"/> <b>All Staff</b> <input type="checkbox"/> <b>Restricted</b>		
<b>Chapter:</b> 410 Prison Rape Elimination Act		
<b>Subject:</b> Screening for Risk of Sexual Abusiveness and Sexual Victimization		

**POLICY**

The Division of Adult Institutions shall screen all inmates upon admission to each facility, and thereafter as needed, for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

**REFERENCES**

42 U.S.C.A. §15601. Prison Rape Elimination Act of 2003.

28 C.F.R § Part 115, *et seq.* National Standards to Prevent, Detect and Respond to Prison Rape

Executive Directive 72 – Sexual Abuse and Sexual Harassment in Confinement (PREA)

DAI Policy 500.70.27 – Transgender Inmates

**DEFINITIONS, ACRONYMS, AND FORMS**

Confinement Setting - includes jail, prison, community confinement or juvenile detention.

DOC-1163A - Authorization for Use and Disclosure of Protected Health Information (PHI)

DOC-2466 - Incident Report

DOC-2781A - PREA Screening Tool – Adult Female Facility

DOC-2781B - PREA Screening Tool – Adult Male Facility

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

PHI - Protected Health Information

PREA - Prison Rape Elimination Act

PSU – Psychological Services Unit

ROA - Risk of Abusiveness

ROV - Risk of Victimization

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Sexual Abuse - As established in 28 CFR 115.6,

- A. Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
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. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
  4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation.
- B. Sexual abuse of an inmate by an employee includes any of the following acts, with or without 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 employee 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 employee 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 buttock, that is unrelated to official duties or where the employee has the intent to abuse, arouse or gratify sexual desire;
  6. Any attempt, threat or request by an employee to engage in the activities described in paragraphs (1)-(5) of this section;
  7. Any display by an employee of his or her uncovered genitalia, buttocks or breast in the presence of an inmate; and/or
  8. Voyeurism by an employee.

Transgender - A person whose transient or permanent gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth. A transgender individual may or may not qualify for a clinical diagnosis of Gender Dysphoria depending on the level of distress or impairment this causes.

Voyeurism - An invasion of privacy of an inmate by an employee 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.

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## **PROCEDURE**

### **I. Screening**

- A. Inmates shall be screened within 72 hours of admission to any DAI facility for risk of being sexually abused by other inmates or sexually abusive towards other inmates.
- B. Within 30 days of admission, inmates shall be rescreened to determine if additional, relevant risk factors are present.
- C. Thereafter, an inmate may be referred for a follow-up rescreening by any staff member if and when:
  1. The inmate is the alleged victim or suspect of sexual abuse;
  2. The inmate discloses identification as lesbian, gay, bisexual, transgender or intersex and their identification was not revealed during the last screening;
  3. The inmate discloses a past unwanted or abusive sexual experience(s) while confined and the experience(s) was not revealed during the last screening;
  4. The inmate requests a rescreening;
  5. The inmate is referred for a rescreening by facility staff; or
  6. Additional information is received that bears on an inmate's risk of sexual victimization or abusiveness.
- D. All screening shall be documented in WICS.
  1. DOC-2781 A or B shall be used when WICS is not immediately available.
  2. Responses shall be transferred to WICS as soon as possible.
- E. Screening shall be administered to inmates in a private location.
- F. Reviewing PHI may be necessary to determine an inmate's risk. Staff shall review and record the minimum necessary to complete the task.
- G. Inmates may not be disciplined for refusing to answer or for failing to disclose responses to the screening questions.

### **II. Use of Screening Information**

- A. Screening information shall be used to inform staff making housing and bed assignments. The expectation is to keep inmates who score as a high risk of being sexually victimized separate from those scoring as a high risk for being sexually abusive.
- B. Screening information shall be used to inform staff making work, education and program assignments. The expectation is to supervise or separate inmates who score as a high risk of being sexually victimized from those scoring as a high risk for being sexually abusive.

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- C. Depending upon each inmate's responses and history, the screening tool categorizes each as being designated a ROV, ROA, or None. ROV and ROA categorizations shall be recorded as a security special handling type and security housing recommendation in WICS.
- D. Individualized determinations about how to ensure the safety of each inmate shall be made.
- E. If an inmate identifies as transgender or discloses an intersex condition, the screener shall notify the facility's PSU Supervisor or designated staff member to, in consultation with classification, security and/or healthcare staff, ensure:
  - 1. An inmate is not placed in a dedicated facility, unit or wing solely on the basis of such identification or status.
  - 2. Housing and programming assignments are made on a case-by-case basis. Such placement decisions shall ensure the inmate's health and safety, which includes giving serious consideration to the inmate's own view of safety and any management or security problems.
  - 3. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates who are not transgender or intersex.
  - 4. In accordance with DAI policy 500.70.27, placement and programming assignments for each transgender or intersex inmate shall be reviewed at a reclassification hearing a minimum of every six months to review any threats to safety experienced by the inmate.
- F. If an inmate discloses sexual abuse which has previously not been documented while confined at another facility, the Warden/designee shall notify the head of the confinement facility where the abuse allegedly occurred.
  - 1. Notification shall be provided as soon as possible, but no later than 72 hours after receiving the disclosure.
  - 2. Notification shall be documented on a DOC-2466.
- G. If the screening indicates an inmate has experienced prior sexual victimization and/or previously perpetrated sexual abuse, whether it occurred in a confinement setting or in the community, the inmate shall be offered a follow-up meeting with a medical or mental health practitioner which shall be held within 14 days of the intake screening.
- H. Medical and mental health practitioners shall obtain informed consent from inmates and document such consent on a DOC-1163A before reporting information about prior sexual victimization that did not occur in a confinement setting, unless the inmate is under the age of 18.
- I. Inmates at high risk for sexual victimization shall not be separated from the general population unless an assessment of all available alternatives has been made and a determination has been made there are no available alternative means of separation from likely abusers.

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- J. If an assessment cannot be conducted immediately, the facility may separate the inmate involuntarily from the general population for less than 24 hours while completing the assessment.
1. If an inmate is involuntarily separated from the general population the facility shall document the basis for the facility's concern for the inmate's safety and the reason an alternate placement cannot be arranged.
  2. Involuntary separation from the general population shall only be until alternative means of separation from likely abusers can be arranged and shall not ordinarily exceed 30 calendar days.
  3. Every 30 days, the facility shall review the inmate's circumstances to determine whether there is a continuing need for separation from the general population and document accordingly.
  4. Inmates separated from the general population for this purpose shall have access to programs, privileges, education or work opportunities to the extent possible.
  5. If the facility restricts access to programs, privileges, education or work opportunities the facility shall document the opportunities limited, the reason for such limitations and the duration of the limitation.
- K. Appropriate controls shall be placed on the dissemination of information gathered from the risk screening to ensure sensitive information is not exploited to the inmate's detriment by employees or other inmates.
- L. Information related to sexual victimization or abusiveness occurring in a confinement setting shall be confidential and strictly limited to medical and mental health clinicians and other employees, as necessary, to inform treatment plans and security and management decisions, including, but not limited to: housing, bed, work, education and program assignments.

**Administrator's Approval:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Jim Schwochert, Administrator

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Name		
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<b>Will Implement</b> <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
<b>Warden's/Center Superintendent's Approval:</b>		

**REFERENCES**

**DEFINITIONS, ACRONYMS, AND FORMS**

**FACILITY PROCEDURE**

- I.
  - A.
  - B.
    - 1.
    - 2.
      - a.
      - b.
      - c.
    - 3.
  - C.

II.

III.

**RESPONSIBILITY**

I. Staff

II. Inmate

III. Other