



# WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

## GUIDANCE DOCUMENT CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections §227.10 and §227.11 of the Wisconsin Statutes.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

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Name of Individual Certifying this Document/Proposed Document

ADMINISTRATOR, DIVISION OF COMMUNITY CORRECTIONS

Title


[Handwritten Signature]

Signature

6/25/19

Date Signed

Department of Corrections – Wisconsin  
Office of the Secretary  
Wis. Stat. § 227.112(6)  
DOC-2910 (6/2019)

 <p style="text-align: center;"><b>WISCONSIN</b>  <b>DEPARTMENT OF CORRECTIONS</b>  <b>Division of Community Corrections</b>          DOC-1356 (Rev. 12/2009)          Administrative Directive # 16-08          Replaces AD 09-08, 11-11</p>	EFFECTIVE DATE November 14, 2016	PAGE NUMBER 1 of 4
	MANUAL REFERENCE ECRM	<input type="checkbox"/> New <input checked="" type="checkbox"/> Revision
	ORIGINATED BY ADMINISTRATOR'S OFFICE Denise Symdon <i>D. Symdon</i>	
DISSEMINATION <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Supervisory Staff Only		PRIORITY <input checked="" type="checkbox"/> Policy/Directive <input type="checkbox"/> Information Discuss at Staff Meeting      Read/Route/Post
<b>SUBJECT: Prison Rape Elimination Act (PREA) Reporting</b>		

**Reference(s):**

Wisconsin Statute 940.225 (2)(h)  
 Wisconsin Statute 940.225 (2)(i)  
 Executive Directive 16A: Staff Sexual Assault of Offenders  
 Executive Directive 72: Federal Prison Rape Elimination Act of 2003  
 28 Code of Federal Regulations, Part 115.6

**Policy Statement:**

The Division of Community Corrections has a zero tolerance standard regarding sexual abuse, sexual harassment, and retaliation against offenders who report PREA incidents. This policy extends to community-based residential services program facilities and contractors of the Wisconsin Department of Corrections who provide services to offenders in a community confinement facility. This policy also addresses false reporting of PREA incidents by offenders.

Refer to Executive Directive 16A for PREA allegations involving DOC employees.

**Definitions, Acronyms, Forms:**

**Community confinement facility** means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential reentry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

**Contractor** means an individual or agency which, under contract with the DOC, provides services to offenders on community supervision.

**Contractor employee** means any individual employed by a contractor of the DOC.

**Employee:** For purposes of this AD, employee means an individual who works for the Wisconsin Department of Corrections including volunteers, interns, or DOC contract employees. This definition does not include employees of a contracted residential services program facility.

**Offender:** For purposes of this AD, offender means any person who is under the supervision of the Wisconsin Department of Corrections, including juveniles, who have been or are confined within a residential services program, jail, or DAI facility.

**OSO: Office of Special Operations,** Special Investigation Section, is part of the Office of the Secretary that reviews all allegations involving supervisory misconduct, serious staff misconduct, and all PREA violations and determines appropriate professional standards investigative action.

**PREA Allegations:**

- A. Unfounded means an allegation that was investigated and determined not to have occurred.
- B. Unsubstantiated means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- C. Substantiated means an allegation that was investigated and determined to have occurred.
- D. Not PREA means an allegation that was investigated and determined not to meet the definition of sexual abuse or sexual harassment.

**Sexual Abuse** as established in 28 CFR 115.6 means

- A. Sexual abuse of an inmate, detainee or resident by another inmate, detainee or resident 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 offender by a contractor employee includes any of the following acts, with or without consent of the offender;
  - 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 contractor 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 contractor 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 contractor employee has the intent to abuse, arouse, or gratify sexual desire;
  - 6. Any attempt, threat, or request by a contractor employee to engage in the activities described in paragraphs (1)-(5) of this section;
  - 7. Any display by a contractor employee of his or her uncovered genitalia, buttocks, or breast in the presence of an offender; and/or
  - 8. Voyeurism by a contractor employee.

**Sexual Harassment** as established in 28 CFR 115.6 means

- 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, detainee or resident directed toward another; and/or

- B. Repeated verbal comments or gestures of a sexual nature to an offender by a contractor employee, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**DOC-1271** – Employee Investigation Reports

**DOC-1959** – DCC Situation Alert

**DOC-2666** – OSO PREA Investigation Tracking and Number Request

**Procedure:**

**DCC regional responsibilities for reporting PREA incidents occurring at contracted community confinement facilities (halfway house, residential services program, community and residential program):**

1. Immediately upon receipt of notification from the contractor, the Contract Administrator/Regional Program and Policy Analyst (PPA) will inform both the Regional/Assistant Chief and Corrections Services Supervisor in Central Office of a PREA-related incident report at a DCC contracted community confinement facility. Staff shall not reveal any information related to a sexual abuse or sexual harassment report to anyone other than the Agent of Record, supervisors, investigators and designated officials.
2. If the situation may receive media attention or is otherwise warranted, a situation alert (DOC-1959) shall be completed by the Agent of Record if the alleged perpetrator is an offender or by the Contract Administrator/Regional PPA if the alleged perpetrator is a contractor employee.
3. The Regional PPA shall confirm that the contracted community confinement facility has contacted law enforcement and reported the alleged PREA incident in all incidents that involve potential criminal behavior.
4. The Contract Administrator/Regional PPA shall confirm that if the alleged perpetrator is a contractor employee, they are removed from any position that has offender contact within DCC funded programs pending the investigation. If the alleged perpetrator is an offender, confirm that the offender has been removed from the program and placed in custody pending investigation or other appropriate action. The Agent of Record and the Contract Administrator/Regional PPA shall coordinate the taking of offender statements.
5. The outcome of the PREA investigation by the contractor shall be forwarded to the Regional/Assistant Chief and Corrections Services Supervisor upon receipt by the Contract Administrator/Regional PPA. The Contract Administrator/Regional PPA, Regional/Assistant Chief, Corrections Services Supervisor, along with the Agent of Record as appropriate, will determine any further action needed. The Regional/Assistant Chief may assign a DCC PREA investigator if necessary.
6. The Contract Administrator/Regional PPA or Regional/Assistant Chief shall notify the contractor of any further action needed.
7. DCC staff shall ensure access to local emergency medical and mental health services for victims.

#### **Other PREA related allegations reported to DCC staff:**

- Allegation involving a DCC offender that occur in a jail setting: Agent shall complete a situation alert (DOC-1959) and submit to their supervisor. The supervisor will review and forward to Regional/Assistant Chief. The Regional/Assistant Chief will notify the jail where the alleged incident occurred and forward the situation alert to the Director of the Office of Detention Facilities and to the DOC PREA office at: DOCPREData@wisconsin.gov
- Allegations that are reported to DCC staff that may have occurred in a DAI institution/center: Staff shall begin the DOC-2666 and forward to their supervisor. The supervisor will forward the DOC-2666 to the Regional/Assistant Chief who will review and send to OSO.
- Although not considered PREA, should a DCC staff member receive a report that another staff member may have a relationship/interaction with an offender that could violate DOC's Fraternization Policy/Work Rules, they should immediately report to their direct supervisor. The supervisor will initiate a DOC-1271 and forward to the Regional/Assistant Chief.

#### **PREA False Reporting by Offenders:**

When there is a finding that an offender provided false information such that a PREA allegation is determined to be unfounded, the offender shall be subject to disciplinary action within the Department's guidelines. Regardless of the action taken by the Department, an offender may also be subject to criminal charges. This policy is in accordance with Executive Directive 16A which states, "No disciplinary action shall be taken against the offender unless, as a result of an investigation, it is determined that the allegations were false or that the offender violated the administrative code or conditions of probation, parole, or extended supervision."