

PREA

Fact Bulletin

Inmate Reporting



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PREA* Fact Bulletin

**The National Prison Rape Elimination Act was passed unanimously by Congress and signed into law by President George W. Bush in September 2003, to prevent, detect and respond to sexual abuse of inmates in confinement facilities. The National PREA standards to prevent, detect and respond to sexual abuse became effective August 20, 2012.*

The PREA Fact Bulletin series is an American Jail Association project funded by the National PREA Resource Center (PRC). Each Bulletin covers a specific topic relative to meeting PREA compliance. The intent of the Bulletins is to be a quick and general guide, and not an all inclusive and comprehensive coverage of the topic. The topics for the Bulletins were selected based on input from the field about the issues that present unique challenges for jails as they work toward PREA compliance, and to clarify issues that present the most questions. More information on these topics can be obtained by using the resources noted at the end of each bulletin.

INMATE¹ REPORTING

1. What do the PREA standards require regarding inmate reporting?

§ 115.51 Inmate reporting; 115.151 (Lockups); 115.251 (Community Confinement Facilities)

- (a) *The agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.*
- (b) *The agency shall also provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.*
- (c) *Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.*
- (d) *The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.*

115.351 (Juvenile Facilities)

In addition to the sections contained in the above, juvenile standards include this additional requirement.

- (d) *The facility shall provide residents with access to tools necessary to make a written report.*

2. What should we use as internal methods for reporting by inmates?

It is up to the agency to decide which methods are available for inmates to report sexual abuse and sexual harassment. Remember, multiple options must be made available. The following are examples of the methods that are being used in facilities:

- Tell any staff person at any time – verbally or in writing
- Internal hotlines or telephone reporting systems
- Grievance forms

¹ For the purposes of this document, the term “inmate” includes adults in prisons, jails and lockups, and residents in community confinement and juvenile facilities.

- Inmate email systems
- Other methods may include the use of a grievance form, other written reporting method, inmate e-mail systems, or kiosks

The key is to have multiple internal methods of reporting to allow an inmate to report privately. An inmate may be more comfortable with one method over another, and should not be prevented from reporting because of potential obstacles to a given reporting option.

3. *What should we use as external methods for reporting by inmates?*

The jail need only establish an avenue for inmates to make contact with an outside entity, whether public or private, which can receive and forward reports of sexual abuse or sexual harassment to the agency [Standard §115.51(b)]. There is no requirement that this be in the form of a hotline. For example, the agency can choose to provide access to an external reporting hotline or provide a method for inmates to send confidential correspondence to an external entity. The standard thus allows a facility to choose and develop the best reporting mechanism to fit its needs, and to provide the most effective and efficient way for inmates to report. It is important to establish a written agreement or a memorandum of understanding with the outside entity to be sure that each party is meeting their responsibilities.

An internal reporting system would not qualify as a public or private outside entity, even if it is independent from facility administration. Having an external reporting method provides the inmates with the ability to immediately report sexual abuse and sexual harassment without having to proceed through internal channels.

The standard also requires the outside reporting entity to allow the victim to remain anonymous upon request. Anonymity protects the inmate's identity while providing basic information about the allegation to be reported back to the agency for investigation purposes. Anonymous reports, however, should be investigated to the extent possible with the information provided.

When a telephone number is used and a voice message system is utilized to collect the reports, the calls need to be checked frequently, on a regular basis. Inmates and staff need to be educated on when calls are checked and the agency should regularly check the effectiveness of the system. A simple answering service, like those used by doctors, is not sufficient to meet this requirement. The following FAQs provide guidance on external reporting:

- What methods of communication may satisfy the external reporting mechanisms required by standards 115.51, 115.251, and 115.351 (b)? What are the required parameters of anonymity set forth by the standards for inmates who wish to make such reports anonymously? (See link for the full FAQ answer) <http://www.prearesourcecenter.org/node/3285>
- Can an answering service be used to satisfy the requirement in § 115.51 (b) that the agency provide an outside reporting mechanism? (See link for the full FAQ answer) <http://www.prearesourcecenter.org/node/3286>

For inmates detained solely for civil immigration purposes, the facility must provide information on how to contact consular and Department of Homeland Security officials. This can be provided in writing and in the initial orientation. It is important to consider the inmate's language and best method of educating him/her on how to contact these officials.

The external entity is not required to investigate the allegations of sexual abuse or sexual harassment, only to receive and immediately forward inmate reports to jail officials, keeping the name of the inmate anonymous upon request.

Some examples of external entities being used by agencies for this purpose include, but are not limited to:

- State Ombudsman offices
- State inspector general offices
- Local police departments (external to the agency)
- Public defender office
- State attorney victim's assistance office
- State coalition of victims of crime
- Neighboring county jails
- State Department of Corrections

4. What is the benefit of having both internal and external reporting methods?

It is important that inmates trust that their reports will be taken seriously and addressed immediately, regardless of the method of reporting.

Most facilities inform inmates that they should report sexual abuse and sexual harassment to any staff member. In some cases, inmates might not feel comfortable reporting directly to staff for various reasons. They may fear retaliation, be embarrassed to report, or not have complete trust in a certain staff person.

Inmates may be hesitant to report if their only option is reporting to an individual or agency-monitored method connected in any way with the sexual abuse or sexual harassment. An external reporting system expands an inmate's reporting options and further establishes a culture of reporting for sexual abuse and sexual harassment

5. How can we determine the effectiveness of reporting methods?

Creating a culture of reporting is critical to preventing and responding to sexual abuse and sexual harassment. This culture is supported by having reporting methods that work as intended and that inmates trust. On a regular basis, the PREA Coordinator and/or facility PREA Compliance Manager should check the effectiveness of all reporting methods, both internal and external. Below are a few examples of how effectiveness might be evaluated:

- Test all available reporting methods to see what happens once the report is made.
- Review reports made and determine the method used to report. Determine the length of time between when the report was made to when the investigation was initiated.
- Review all inmate information about reporting methods to ensure they are clear and accessible to all inmates, including inmates with disabilities and those who are Limited English Proficient.
- Review all reports to determine if any one available method is not being utilized, and determine why it is not being used. This would include checking to see that the actual method is working (such as telephone lines), that the receiving entity is forwarding the reports, and whether privacy for the person reporting is being compromised. (See next bullet)
- Conduct anonymous surveys with both inmates and staff to gain information about trust and success of the available reporting methods.

If your agency uses telephone hotlines, also consider the following:

- Will inmates be given only certain times to use the phone?

- Will other inmates be within earshot?
- Do the inmates have easy access to the phone?
- Is the hotline being used for more than one purpose? For example, if the line is also the method by which inmates can contact confidential support services, there should be specific guidance in the form of an MOU between the agency/facility and the service to delineate between these two services. Inmates should also be clear about the multiple uses for this line and how confidentiality will be maintained, and how the two separate services will be handled. Limits to confidentiality should be explained each time someone calls the hotline.

If you responded “yes” to any of these questions, it is imperative that you re-evaluate the telephone hotlines and explore ways to ensure greater accessibility and confidentiality.

6. Resources

To achieve compliance with the PREA standards, it is extremely helpful to use all of the tools available. This Fact Bulletin is a quick guide, but does not contain the complete language of the PREA standards. It is recommended that agencies and facilities use the following additional resources and websites:

PREA Essentials	http://www.prearesourcecenter.org/training-technical-assistance/prea-essentials
Toolkit for Jails	https://s3.amazonaws.com/static.nicic.gov/Library/026880.pdf
Audit Instruments	http://www.prearesourcecenter.org/node/1754
Archived webinars	http://www.prearesourcecenter.org/training-and-technical-assistance/archived-webinars

Latest interpretive guidance and information in the FAQ section of the PREA Resource Center website: <http://www.prearesourcecenter.org/frequently-asked-questions>

For more information and assistance please visit

www.prearesourcecenter.org
www.aja.org