



PREA Standards In Focus

Standard in Focus

Reporting

§ 115.51, 115.151, 115.251, 115.351 Inmate Reporting

- (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.

Purpose

- To ensure that inmates and staff can report sexual abuse—regardless of who the perpetrator is and regardless of what other dangers they may face for doing so—by providing them with multiple avenues to report, including an avenue outside the facility, so that even if the abuser is someone directly supervising that inmate or higher up in the authority chain, or a staff person or inmate who might retaliate against that inmate, the victim still has a safe way to report. Thus, sexual abuse is always reported, which in turn is a deterrent of future abuse.

Implementation

- The agency must provide multiple internal ways for inmates to privately report sexual abuse, sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violations of responsibilities that may have contributed to the sexual abuse.
- Inmates must have access to at least one way to report sexual abuse and sexual harassment to an outside public or private entity that is not part of the agency. The entity must be totally independent from the agency (i.e., not a part of and in no way answering to anyone in the corrections agency) and must be able to take the reports and immediately forward the reports to agency officials. Additionally, the inmate must be able to remain anonymous upon request. Agencies must take great care to avoid reporting mechanisms that would necessarily expose the identity of the reporting inmate to facility staff and administrators.

Implementation Cont'd...

- This standard provides agencies with a degree of flexibility with respect to choosing methods of reporting. The agency must provide all inmates with the ability to report sexual abuse and sexual harassment to an independent entity in a manner that allows those inmates to communicate about such an incident without revealing the substance of the report or even the reporting inmate's identity to the agency or facility officials. That is, the external reporting mechanism must safeguard the substance of the communications as well as the fact that the inmate utilized such a mechanism. This external reporting mechanism is necessary to address situations in which victims do not feel safe reporting to anyone inside the correctional system.
- Some examples of acceptable reporting avenues are by an unmonitored telephone hotline that is free of charge, inmate correspondence via legal mail that is not opened, and unmonitored email. Agencies should use caution with whichever reporting mechanism is utilized to ensure inmates are not identified as making reports of sexual abuse. For example, if the phone is the reporting mechanism to the outside entity, the facility should make sure the phone can be used for other purposes in addition to reporting sexual abuse so it is not obvious that an inmate may be reporting sexual abuse. An example that would not be compliant is to use an external answering service that takes calls and reports back to the agency. An answering service in this example is essentially no more than an agent of or a contractor to the agency and thus, is not compliant with this standard.
- The outside entity should have some discretion to report specific incidents at different administrative levels within a facility; however, the report to the facility must be appropriate and sure to trigger an investigation, so the reporting structure should be established in advance in an agreement between the agency and the outside entity. If, for example, the facility investigator is the subject of an inmate report, the outside entity should forward that report to the facility superintendent or other agency administrator, instead of to the investigator. The autonomy of the outside agency is critical to ensure that inmates will feel a sense of security in reporting to the entity. This fact is key to convey to inmates so that the inmates have a clear understanding of who they are reporting to and the fact that the entity is autonomous and independent from the facility/agency and that the inmate can remain anonymous (or any limits to that anonymity).
- Facility staff must accept reports that are verbal, in writing, anonymous and from third parties. If the report is verbal, it must be promptly documented by staff. Use of reporting forms designed for this purpose and that capture all relevant information are an efficient and appropriate method to document the reports.
- The agency must provide a method for staff to privately report sexual abuse and sexual harassment of inmates. This means that the agency must enable staff to report abuse or harassment directly to an investigator, administrator, or other agency entity without the knowledge of the staff member's direct colleagues or immediate supervisor. A private reporting mechanism, such as the ability to write privately and directly to an investigator or high-level administrator, may provide a level of comfort to staff who are concerned about retaliation, especially where the staff member reports misconduct committed by a colleague.
- Individuals detained solely for civil immigration purposes must be provided with information on how to contact relevant consular officials as well as relevant Department of Homeland Security (DHS) officials.
- Meaningful, detailed inmate education must be provided to inform inmates of the variety of reporting methods, how the methods function and how to access them, and the confidentiality parameters of the reporting. Inmates must understand the use of the external entity and the facility must take care to provide clear explanations for inmates to understand.

Challenges

- Finding an appropriate external entity that is totally independent from the agency that has the ability and willingness to accept inmate reports of sexual abuse and sexual harassment; the entity must have the capability to immediately forward the inmate reports to agency officials, respecting the inmates' privacy if requested. There may be legal barriers that prevent a rape crisis hotline from receiving reports of this nature and then notifying the appropriate authorities at the facility because of their professional duty to maintain confidentiality.
- It is important not to conflate the requirements under this standard and the requirements in standard 115.53 that the agency provide confidential emotional support outside of the facility to *all* inmates, regardless of whether they have reported an incident or not.
- Ensuring inmates have a full and complete understanding of the reporting mechanisms and how to access them. Comprehensive inmate education on reporting methods is essential. Facilities must ensure that all inmate populations benefit from the PREA educational materials on reporting methods (e.g., LEP, visually impaired, learning disabled, hearing impaired, etc.). Special and separate education materials and methods of delivery are necessary to serve special populations and ensure reporting procedures are fully understood.

Best Practices

- Agencies should have a detailed agreement (e.g., Memorandum of Understanding, contract, etc.) with the external reporting entity to ensure the mechanics of the reporting are such that will meet the requirements of this standard. The system of reporting should be tested periodically through mock drills or test scenarios to ensure the process is seamless and results in accurate reporting back to the agency.
- Routinely test all reporting mechanisms to ensure they are working; test phones periodically, test the timeliness of reports being forwarded to the agency, etc. If reporting is via mail, ensure that staff are following all confidentiality requirements for mail that is going to the external entity.
- Develop quality inmate education that provides comprehensive learning opportunities regarding reporting methods. Quality educational materials are those that are:
 - developed specifically for the particular audience (e.g., regular inmates, LEP, visually impaired, learning disabilities, etc.),
 - age appropriate,
 - accurate, well written and easy to understand;
 - readily available to inmates; and
 - presented in a way that allow inmates to ask questions to ensure understanding.
- Spot check the quality of inmate education on reporting methods by interviewing inmates to ensure they have understood the training and can demonstrate their understanding is correct; do quality control/inspection of any posters, brochures and other visible educational information in the facility regarding reporting to check for accuracy and to be sure the information is readily available to inmates.

Audit Issues

- Determining if the external reporting method is appropriate and functional (both that there is a current agreement and that the reporting mechanism works); the auditor must determine if the outside entity is totally independent from the agency or facility to comply with this standard.

- To the extent possible, the auditor will check the reporting methods (e.g., test to see if phones in housing or program areas are working; test hotline numbers; determine that the entity taking the calls has a process that ensures calls are processed appropriately; review reports from hotline, etc.). The auditor will interview inmates to check their understanding of the reporting mechanisms.
- The auditor will review all inmate education materials to determine if they are sufficient and appropriate (that is, they meet the requirements above for “quality” and PREA compliant inmate education); the auditor may sit in on an inmate education session if feasible and will review any curriculum, training materials and video training aids utilized.
- The auditor will check to ensure that inmates in all areas of the facility have access to multiple avenues to report, including the ability to report to the independent external entity, including inmates in special housing or segregation.
- Determining whether staff have functional reporting methods that truly are private. Interviews with administration and staff and review of policy and training materials will help the auditor determine if the facility is compliant with the requirements of this standard. The auditor can take the opportunity of the staff interview to ask if staff have ever used the reporting methods.

Standard Variations

The following variations in standards are noted for Lockups, Community Confinement Facilities and Juvenile Facilities. The variations are discussed in summary fashion below and the reader should consult the full text of the specific set of standards to ensure complete understanding of the differences.

- **Lockups:** The following differences are noted:
 - Lockups must inform detainees of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency, but they are not required to affirmatively provide detainees with access as must prisons, jails and juvenile facilities.
 - No requirement to provide those detained solely for civil immigration purposes with information on how to contact relevant consular official and relevant officials at DHS.
- **Community Confinement:** The following differences are noted:
 - Community Confinement facilities must inform residents of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency, but they are not required to affirmatively provide detainees with access as must prisons, jails and juvenile facilities.
 - No requirement to provide those detained solely for civil immigration purposes with information on how to contact relevant consular official and relevant officials at DHS.
- **Juvenile:** The following differences are noted:
 - Agencies must provide residents with access to tools necessary to make a written report (e.g., pen, paper, envelope, postage if using regular mail, lock box for depositing report, etc.)

Resources

Frequently Asked Questions (FAQs) on the PREA Resource Center (PRC) Website:

<https://www.prearesourcecenter.org/frequently-asked-questions>

- The Department of Justice has issued extensive guidance that describes which arrangements between public agencies and private entities amount to a contractual agreement under this standard and which do not. Visit the

PRC FAQ page and search for guidance under the standard 115.51 for the many related FAQ responses provided by DOJ. The FAQs to date are as follows:

- January 14, 2015. *Communication methods satisfying external reporting mechanisms*
<https://www.prearesourcecenter.org/node/3285>
- June 11, 2014.. *Use of external answering service*
<https://www.prearesourcecenter.org/node/3286>

➤ **PREA Essentials on the National PREA Resource Center Webpage**
www.prearesourcecenter.org/training-technical-assistance/PREA-essentials

➤ **Articles on the PREA Resource Center Webpage**

- April 15, 2015. *Untangling the PREA Standards: Outside Reporting, Confidential Support, and Third-Party Reporting Fact Sheet*, Just Detention International
<https://www.prearesourcecenter.org/library/search?keys=115.51&cat=All>
- 2014. *Third Party Reporting Fact Sheet*
<https://www.prearesourcecenter.org/sites/default/files/library/third-partyreportingfactsheet.pdf>

➤ **Archived Webinars on the PREA Resource Center Webpage**

- April 16, 2015. *Untangling the PREA Standards: Outside Reporting, Confidential Support, and Third-Party Reporting.*

➤ **Additional Training Resources:** Always check the following sources for excellent training on PREA.

- National Institute of Corrections (NIC) - <http://nicic.gov/training/prea>
- End Silence: The Project on Addressing Prison Rape - <https://www.wcl.american.edu/endsilence/>

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