

115.64

Staff first responder duties

Standard in Focus

Staff first responder duties

§115.64

- a) Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:
 - a. Separate the alleged victim and abuser;
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Purpose

To ensure that the first security staff member to respond to an allegation or report of sexual abuse will address the victim's immediate safety and maintain security and control over the crime scene so that any physical evidence is preserved until an investigator arrives. Investigators will then have access to evidence that has not been accidentally or negligently compromised or destroyed, which will safeguard the quality of the investigation.

Implementation

- All security staff must be trained on the required duties of a first responder.
- The first security staff person at the scene of any sexual abuse, either because that person

witnessed the abuse or received a report of the abuse, must always:

- Physically separate the alleged victim and abuser.
- Preserve and protect the crime scene by closing or blocking off the area as much as possible, prohibiting unauthorized persons from entering, and not touching or removing anything from the scene.
- Security staff should be trained that evidence should only be collected by a trained investigator in accordance with Standard 115.34.
- If the abuse occurred within a time period that still allows for the collection of physical evidence, the first security staff person at the scene must also take the following steps to ensure that any physical evidence is not destroyed:
 - **Alleged victim:** As appropriate to the abuse that occurred, **request that** the alleged victim not shower/bathe, brush their teeth, change clothes, urinate, defecate, smoke, drink, or eat. Victims may want to engage in these activities after being abused and staff should explain why they are requesting that they not engage in these activities so that evidence may be collected. However, the victim should retain the ability to decide how to proceed.
 - **Alleged abuser:** As appropriate to the abuse that occurred, **ensure** that the alleged abuser does not shower/bathe, brush their teeth, change clothes, urinate, defecate, smoke, drink, or eat.
 - Staff must ensure that an alleged abuser who is a confined person does not have the opportunity to destroy evidence. For example, this can involve placing an alleged abuser in a “dry cell” without access to a sink or a toilet, and not providing food, drink, or extra clothing to ensure that they do not destroy evidence. If this type of restriction is necessary, trained investigators should endeavor to collect any physical evidence promptly to avoid lengthy restrictions.
 - Alleged abusers who are not confined persons must also be prevented from destroying physical evidence. For example, this can mean escorting the person to an appropriate location and supervising them to prevent the destruction of any evidence.
- If the first staff responder is **non-security staff**, the responder must:
 - **Request** that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
 - **Notify** security staff, who will then be required to fulfill the required first responder duties for security staff.

Challenges

- Ensuring that all security staff are prepared to perform the required first responder duties.
- Ensuring that security staff are regularly trained on and understand the time period that allows for the collection of physical evidence, specifically DNA evidence which has a finite time frame of viability in which to collect the evidence.
- Ensuring that staff effectively explain to alleged victims why it is important to refrain from doing activities that they would otherwise want to do, such as washing, urinating, or defecating.

- Ensuring that any physical evidence is collected by trained investigators or other qualified individuals as quickly as possible from both the alleged victim and the alleged abuser.

Best Practices

- Facilities often include additional duties for first responders after they have fulfilled the specified duties. These include requiring first responders to notify a supervisor or request that another staff member notifies a supervisor; and completing an incident report once the scene is secured and steps have been taken to preserve physical evidence.
- Some facilities have provided all staff with laminated pocket cards that list the first responder duties to ensure that all steps are followed in what can often be a stressful or chaotic situation following a sexual assault in the facility. **Such cards should not be relied upon, however, when being interviewed by the PREA auditor; staff should be able to describe to an auditor their first responder duties without referencing cards such as these.**
- Security staff first responders should be provided with regular refresher training regarding their role and duties under Standard 115.64. Mock drills or tabletop exercise scenarios are effective training tools to help ensure that staff can respond quickly and appropriately to abuse situations.

Audit Issues

- The auditor will review any written policies regarding first responders.
- The auditor will rely on staff interviews to ensure that each staff member understands and is prepared to fulfill the duties of a first responder.
- The auditor may interview inmates who have reported sexual abuse about how the first security staff on the scene responded.

Standard Variations

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

- **Lockups:** No differences.
- **Community Confinement:** No differences.
- **Juvenile:** No differences.

Resources

Frequently Asked Questions

→ www.prearesourcecenter.org/frequently-asked-questions

The Department of Justice has issued extensive guidance regarding the use of screening information. Visit the PREA Resource Center's FAQ page and search under standard 115.64 for the many related FAQ responses provided by Department of Justice. The FAQs to date are as follows:

- **August 23, 2014.** Can inmate peer educators be used to deliver the inmate information and education requirements of Standard 115.33? If so, under what circumstances and are there any limitations?

→ <https://www.prearesourcecenter.org/frequently-asked-questions/can-inmate-peer-educators-be-used-deliver-inmate-information-and>

PREA Resource Center Library

- PREA Refresher
 - Prison & jail PREA refresher #9 – first responder duties: *(Also available for community confinement and juvenile facilities)*
- <https://www.prearesourcecenter.org/training-and-technical-assistance/prea-refreshers>
- PREA employee training notification of curriculum utilization
 - Unit 3, part II on response and reporting of sexual abuse and sexual harassment
- https://www.prearesourcecenter.org/sites/default/files/content/unit_3.2_lesson_plan.pdf
- First responder & victim of abuse role play activity facilitator sheet
- [https://www.prearesourcecenter.org/sites/default/files/content/first_responder_role_pla_y_activty_-_facilitator_sheet.pdf](https://www.prearesourcecenter.org/sites/default/files/content/first_responder_role_play_activty_-_facilitator_sheet.pdf)
- Module 6: First response and evidence collection: the foundation for successful investigations curriculum | PREA (prearesourcecenter.org)
- <https://www.prearesourcecenter.org/resource/module-6-first-response-and-evidence-collection-foundation-successful-investigations>
- Providing a coordinated, victim-centered response to reports of corrections based sexual assault | PREA (prearesourcecenter.org)
- <https://www.prearesourcecenter.org/resource/providing-coordinated-victim-centered-response-reports-corrections-based-sexual-assault>

Additional Training Resources:

Always check the following sources for excellent training on PREA.

- National Institute of Corrections
 - nicic.gov/training/prea
- End Silence: The Project on Addressing Prison Rape
 - www.wcl.american.edu/endsilence

Notes and Federal Disclaimer

Note: Standards in Focus (SIFs) are not intended for use by the Department of Justice PREA auditors to evaluate PREA compliance. SIFs are a tool designed to help agencies and facilities implement, educate, and become familiar with the PREA standards and some related best practices, but are not a compliance checklist. They contain guidance about implementation best practices that may not be required and thus it would not be appropriate for auditors to audit against the SIF. SIFs also do not exhaust implementation guidance for every requirement in every standard.

Notice of Federal Funding and Federal Disclaimer – This project was supported by Grant No. 2019-RP-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice or grant-making component.