

<b>Department of Corrections</b> <i>DOC</i> <b>Policies and Procedures</b>	POLICY NO. <b>3.3.4</b>	EFFECTIVE DATE:	PAGE 1 OF 14
	SUPERSEDES		
APPROVED BY:  D. Berry Superintendent	TITLE  <b>PRISON RAPE ELIMINATION ACT</b>		

**I. Purpose:**

To establish guidelines for the Sullivan County Department of Corrections Safe Custody and Supervision Program

**II. Definition:**

The Prison Rape Elimination Act of 2003 (PREA) is a federal initiative to establish a nationwide standard of zero tolerance for the incidence of inmate and offender sexual assault and rape. Further, the legislation makes the prevention of inmate and offender sexual assault a top priority in penal institutions and under community supervision. The legislation also sets data collection and reporting standards that will be mandated once they are developed.

**III. Applicability:**

To all staff, volunteers and contract personnel working with inmates/offenders under departmental control or supervision.

**IV. Policy:**

It is the policy of the Sullivan County Department of Corrections that:

- A. A safe environment for staff and inmates at all secure correctional facilities, community correction centers and offenders assigned to supervision in the community is established and maintained. The department takes a proactive approach to preventing sexual abuse and/or sexual misconduct of inmates/offenders and addresses the needs of inmates/offenders who have been sexually assaulted. Violators shall be subject to disciplinary action and potential criminal prosecution, if appropriate.
- B. **IF THE ASSAULT HAS JUST OCCURRED, REFER TO ATTACHMENT 1 NOW.**
- C. Staff will be provided information regarding PREA and will receive training on this policy at new hire orientation, during the Corrections Academy and during annual in-service training in order to keep staff current with any updates to the Prison Rape Elimination Act, their responsibilities and how to proceed. **Per PREA standard 115.17 (e)-1 a criminal background record check will be conducted at least every five years for current employees and contractors who may have contact with inmates, or that a system is in place for otherwise capturing such information for current employees.**

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- D. All inmates/offenders will be provided a copy of “the Overview of Sexual Misconduct” document that discusses this policy (attachment 2) regarding this policy. For inmates, the notice will be included in the inmate handbook as well as become part of inmate orientation.
- E. All inmate/offender files, transfer packets and criminal history information will be reviewed at intake to identify inmates/offenders for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. When information of this type is discovered, it must be referred to mental health in order that an assessment is done prior to a housing assignment being made.
- F. The majority of sexual assault/inappropriate conduct issues are not immediately reported but are detected through observation, reports by others, etc. Sections IV A, B & C and attachment 1 provide guidance for an incident that has been reported immediately after it has occurred. Action must be taken immediately upon discovery of an incident of this nature to protect the victim(s). In this event, the Superintendent or his/her designee must be notified immediately with all investigative and protective steps to be followed as outlined.

## **V. Procedures:**

### **Procedure A: Institutional/Community Corrections Investigation Procedures:**

1. Upon receipt of a complaint or information regarding an inmate sexual assault:
  - A. IF THE ASSAULT JUST OCCURRED REFER TO ATTACHMENT 1 NOW.**
  - B. Render emergency first aid as appropriate
  - C. The Shift Supervisor will be notified in order to properly secure the crime scene and protect the victim.
  - D. The inmate will be transported to the local emergency room for evidence collection (rape kit), treatment and collection of the inmate’s clothing. Replacement clothing must be provided. (rape kit not effective if the assault is more than 5 days old see section V.B of this policy)
  - E. Appropriate staff notifications will be made
    - 1) Shift Supervisor
    - 2) Superintendent/Captain/Program Director
    - 3) Sullivan County Sheriff’s Department
    - 4) County Attorney
    - 5) Mental Health
    - 6) Chaplain

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- F. Appropriate staff notifications will be made
  - 1) Shift Supervisor
  - 2) Superintendent/Captain/Program Director
  - 3) Sullivan County Sheriff's Department
  - 4) County Attorney
  - 5) Mental Health
  - 6) Chaplain
- F. Once returned to the institution, the inmate will be segregated in observation until a mental health assessment can be conducted. This will also allow time for proper housing decisions to be made to ensure the safety of the victim and to address the proximity of the perpetrator(s).
- G. Alleged inmate assailant(s) will be escorted to an appropriate area within the institution and his/her clothing will be confiscated for evidentiary purposes. Assailant(s) must be housed on separate tiers on single movement for the duration of the investigation. If an alleged assault takes place, the assailants will remain housed in the unit 3, East tier or as determined by Classifications and/or the Superintendent/Captain until the investigation is complete and it is decided they no longer pose a threat to others in general population. If the assault takes place in the Community Corrections Center, then the assailant(s) will be sent to the jail and the procedures outlined above will remain the same.
- H. The crime scene will be investigated, photographed and/or videotaped.
- I. Every staff member having contact with the accused and/or victim must complete an incident report.
- J. The County Attorney and Sheriff's Department will, in consultation with the Superintendent and/or his/her designee, interview the victim and accused and will have responsibility for the investigation of the incident and prosecution of any offense determined to have been committed.
- K. The County Attorney will complete the Offender Protection Investigation Form (attachment 3) as part of the investigative report in all cases.
- L. A protective custody review will be conducted for the safety of the inmate.
- 2. Upon receipt of a complaint or information regarding an inmate assault on a staff member, volunteer or person under contract with the department:
  - A. **IF THE ASSAULT JUST OCCURRED REFER TO ATTACHMENT 1 NOW.**
  - B. Health services will render emergency first aid as appropriate.
  - C. Secure the scene and notify the shift supervisor.
  - D. Encourage the victim to seek medical attention at the local emergency department for health concerns and evidence preservation. (rape kit not effective/necessary if the assault is more than 5 days old see section V.B of this policy) A staff member must be assigned to accompany the victim to provide transportation, make notifications at the victim's request and to provide support.

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- E. Obtain the victim's clothing for evidence. Arrangements will be made for replacement clothing.
- F. Appropriate staff notifications will be made:
  - 1) Shift Supervisor
  - 2) Superintendent and/or his/her designee
  - 3) Sullivan County Sheriff's Department
  - 4) County Attorney
  - 5) Mental Health
  - 6) Chaplain
- G. Ensure that the victim is offered any services and support available up to and including the Employee Assistance Program (EAP).
- 3. If information is obtained alleging that an inmate is the victim of an assault by a staff member:
  - A. **IF THE ASSAULT HAS JUST OCCURRED REFER TO ATTACHMENT 1 NOW.**
  - B. Health services will render emergency first aid as appropriate.
  - C. The Shift Supervisor will be notified in order to properly secure the crime scene and protect the victim.
  - D. The inmate will be transported to the local emergency room for evidence collection (rape kit), treatment and collection of the inmate's clothing. Replacement clothing must be provided. (rape kit not effective/necessary if the assault is more than 5 days old see section V.B of this policy)
  - E. The appropriate staff notifications will be made:
    - 1) Shift Supervisor
    - 2) Superintendent and/or his/her designee
    - 3) Sullivan County Sheriff's Department
    - 4) County Attorney
    - 5) Mental Health
    - 6) Chaplain
  - F. Once returned to the institution, the inmate will be segregated in observation until a mental health assessment can be conducted. This will allow for proper housing decisions to be made to ensure the safety of the victim and address the proximity of the perpetrator(s).
  - G. The crime scene will be investigated, photographed and/or videotaped.
  - H. Every staff member having contact with the accused and/or victim must complete an incident report.
  - I. The County Attorney/Sheriff's Department will, in consultation with the Superintendent and/or his/her designee, interview the victim and accused and will have responsibility for the investigation of the incident and prosecution of any offense determined to have been committed.

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- J. The County Attorney/Sheriff's Department will, in consultation with the Superintendent and/or his/her designee, interview the victim and accused and will have responsibility for the investigation of the incident and prosecution of any offense determined to have been committed.
- K. The County Attorney will complete the Offender Protection Investigation Form (attachment 3) as part of their investigative reports in all cases.
- L. The staff member will be notified that he/she is under investigation.
- L. Additional steps will be taken to reassign or remove the person from the worksite if appropriate.

**Procedure B: Evidence Collection**

1. The Attorney General's 4<sup>th</sup> edition Sexual Assault Manual lists the following protocol for collecting and packaging evidence:
  - A. The examiner should always wear powder-free gloves when collecting and packaging evidence.
  - B. The examiner should always change gloves between specimen collections.
  - C. Clothing and other evidence specimens must be sealed in paper or cardboard containers.
  - D. All wet evidence should be dried prior to packaging whenever possible.
  - E. In the event that the evidence is wet, the items may be first placed in paper bags, then into plastic bags, provided that holes for ventilation are made in the plastic bag.
  - F. Urine specimens obtained should be sealed in a bio-hazard bag, then in a paper bag and never placed inside the evidence kit.
  - G. All hospital Occupational Health and Safety regulations should be followed, per institutional policy.
  - H. Envelopes containing evidence should never be sealed with the examiner's saliva. Self-adhesive envelopes or tape should be used.
  - I. Paper bags should be sealed with tape, never staples.
  - J. Always maintain a chain of custody with each piece of evidence collected.
2. The Attorney General's 4<sup>th</sup> edition of Sexual Assault protocol further states that "if the assault occurred within 5 days of the examination, then it should be considered acute and an evidence collection kit should be used. If it is determined that the assault took place more than 5 days before the examination the use of an evidence collection kit is generally not necessary".

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3. Data collection and reporting:

- A. Data on investigations of this type will be collected through the incident report system to be used internally and to be filed with the U.S. Department of Justice, in accordance with federal PREA guidelines.
- B. Copies of all investigative reports and exhibits, upon completion, will be forwarded to the County Attorney's Office, who will be responsible for reporting to the U.S. Department of Justice.

REFERENCES:

**Attorney General's 4<sup>th</sup> Edition Sexual Assault Manual**

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**SPECIFIC EMERGENCY CHECKLIST  
SEXUAL ASSAULT**

**ACTIONS**

	<b>TIME</b>	<b>INIT</b>	<b>N/A</b>
Secure the scene of the assault as possible crime scene			
Render emergency first aid as appropriate			
Notify Superintendent and/or designee			
Designate at least one staff member at crime scene entry with an in/out log (crime scene security)			
Notify medical unit, inmate to be treated for injuries but mindful of evidence preservation			
All victims clothing taken and preserved as evidence (must provide replacements)			
Victim transported to the local emergency room for Examination and evidence collection			
Secure all inmates at scene, preferably away from Crime scene			
Gather ID cards			
Identify all possible suspects, without interviewing			
Secure each separately, without running water			
Document relevant comments by witnesses and suspects			
Identify all non-inmates at scene for debriefing and Questioning			
Notify the following individuals Sheriff's Department County Attorney Mental Health Chaplain			
Obtain receipt from Police or any other agency Seeking to remove any item, to be removed as Evidence.			

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## OVERVIEW OF SEXUAL MISCONDUCT

### **I. Definition of Sexual Misconduct:**

Sexual misconduct (as it relates to the Sullivan County Department of Corrections) is conduct of a sexual nature that is directed by staff toward offenders, by offenders toward other offenders or by offenders toward staff. An “offender” is anyone under the care, custody and supervision of the Department of Corrections. “Staff” or “staff member” is anyone employed by, contracted by or volunteering for the Department of Corrections. Sexual misconduct includes, but is not limited to the following acts or attempted acts:

1. Sexual contact and/or intercourse
2. Requiring or allowing an offender to engage in sexual contact, sexual intercourse or other sexual conduct for any reason (e.g., the sexual gratification of a staff member).
3. Any action designed for sexual gratification of an offender or staff member, such as masturbating in front of another person
4. Making or encouraging obscene or sexual advances, gestures or comments or exposing genitalia, buttocks or female breasts
5. Touching of self in a sexually provocative way
6. Initiating any form or type of communication of a sexual nature
7. Influencing or making promises regarding safety, custody, parole status, privacy, housing, privileges, work assignments, program status, etc., in exchange for sexual favors. This includes an exchange of anything of value between staff and offender or offender and offender.
8. Threats, intimidation or retaliation

No one has the right to pressure anyone to engage in sexual acts. Under NH laws, one cannot legally consent to sexual activity with anyone else while incarcerated.

Therefore, it is never appropriate for a staff member to make sexual advances or comments or to engage in sexual contact with an offender. A staff member would be committing a criminal offense by participating in any sexual activity with an offender. It is not appropriate for an offender to approach a staff member in a sexual manner; this type of behavior is prohibited and corrective action will be taken to stop such behavior from occurring.

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**II. Steps offenders can take to reduce the possibility of sexual assaults:**

- Choose your associates wisely. Look for people who are involved in positive groups and activities
- Avoid being alone
- Do not accept gifts or favors from others. Most gifts come with a string attached
- Do not accept an offer from another offender to be a protector
- Avoid borrowing and becoming indebted to someone
- Find a staff person with whom you feel comfortable discussing your concerns about sexual misconduct
- Be alert! Contraband substances such as drugs and alcohol weaken your ability to stay alert and make good judgments
- Be direct and firm if others ask you to do something you do not want to do
- Trust your instincts. If you sense a situation is dangerous, it probably is

**III. What to do if you are assaulted:**

**Report sexual misconduct:**

Sexual misconduct (by staff or offenders) is prohibited, but it must be reported before action can be taken. Do not rely on anyone else to report misconduct. When it is experienced or seen, report it immediately.

To make sure that sexual misconduct is reported, the Sullivan County Department of Corrections has several ways to do so with confidentiality. Offenders may use the reporting method with which they are most comfortable.

- Find a staff member (e.g. corrections officer, medical personnel, chaplain, etc.) with whom you are comfortable and tell them what happened. As part of their job, staff is required to report any allegations, ensure offender safety and maintain confidentiality.
- Send a confidential Inmate Request Slip to the Superintendent or designee.

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**Seek medical attention:**

If the sexual incident was recent, you will be asked to consent to a sexual assault exam by a qualified health care professional. Your consent is needed for this type of exam. Even though you may want to clean up after the assault, it is important that you advise staff immediately or as soon as practical and be seen by medical staff before you shower, wash, drink or change clothing or use the bathroom. Medical staff will examine you for injuries that may or may not be obvious to you. They may also perform further examinations to gather physical evidence of the assault and to check for sexually transmitted diseases. You have the right to refuse any examination however, if you have been the victim of sexual misconduct, it is critical you allow staff or medical professionals to collect as much evidence as possible.

You can receive pregnancy testing and medical attention for any injuries without submitting to a sexual assault examination. The medical care is for the purpose of treating injuries and keeping you healthy. Medical information gathered during treatment is confidential. You must sign a medical release in order for the medical information to be used as evidence in sexual misconduct. You have the right to refuse to sign the medical release. You also have the right to receive support services.

Any form of sexual misconduct is degrading and may result in psychological distress. Victims should seek appropriate treatment. Mental health staff within the institution is available to help offenders recover from the emotional impact of sexual assault.

**IV. What happens to reports of sexual misconduct?**

**Investigation:**

All allegations of sexual misconduct, sexual harassment, over-familiarity and retaliation will be investigated.

Retaliation is intimidation to prevent an offender from filing a complaint or participating in an investigation of sexual misconduct. The Department of Corrections prohibits anyone from interfering with an investigation, including by intimidation or retaliation against witnesses or victims. Any form of retaliation should be reported to the Superintendent or the investigator.

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**Possible outcomes of an investigation:**

A thorough investigation takes time. The investigation must clearly support or refute any allegations with evidence, information gathered from witnesses and documentation.

After the investigation is completed, one of the following decisions will be reached:

- There is sufficient evidence to conclude the allegation is true
- There is insufficient evidence to conclude the allegation is true
- The allegation is unfounded. This means that the evidence shows that the person reporting the sexual misconduct made a false allegation. If the investigation proves that the allegation is false, the person who made the allegation is subject to corrective action, including discipline.
- There is not enough evidence to prove that the allegation is true, but there is evidence to prove that another law, policy or rule was violated.

Anyone who sexually abuses or assaults an offender or staff member will be disciplined and may be criminally prosecuted. Discipline and criminal prosecution are more likely to be successful if the abuse is reported immediately; but regardless of when the assault occurred, it should be reported.

I have read and received a copy of this document.

\_\_\_\_\_  
Offender Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Staff Signature

\_\_\_\_\_  
Date

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Case # \_\_\_\_\_

Sullivan County Department of Corrections

**OFFENDER PROTECTION INVESTIGATION FORM: INVESTIGATION DETAILS**

Offender Name: \_\_\_\_\_ Inmate # \_\_\_\_\_

Current housing location: \_\_\_\_\_ Current work assignment: \_\_\_\_\_

Age: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Custody: \_\_\_\_\_

Date investigation began: \_\_\_\_\_ Time investigation began: \_\_\_\_\_

Where did the incident occur? \_\_\_\_\_

When did it occur? Date: \_\_\_\_\_ Time: \_\_\_\_\_

When did staff become aware of a possible endangerment situation? Date: \_\_\_\_\_ Time: \_\_\_\_\_

How was it reported? (check one)

IRS from offender  Verbally by offender  By staff  Other (explain) \_\_\_\_\_

Name of offender reporting the situation (if other than offender being threatened) \_\_\_\_\_

Was situation reported to Sheriff's Department  No  Yes (if yes, date and time of report): \_\_\_\_\_

Have there been similar incidents before  No  Yes When? \_\_\_\_\_

Has offender previously been assigned to Safekeeping or Admin. Seg. Protective Custody? \_\_\_\_\_

Prior keep away request  No  Yes (If yes, date of most recent request) \_\_\_\_\_

To whom was prior reported? \_\_\_\_\_ Results: \_\_\_\_\_

Was any physical or written evidence presented?  No  Yes

Please describe

\_\_\_\_\_  
 \_\_\_\_\_

Were any staff members interviewed?  No  Yes (If no, explain why not)

List staff witnesses, statements or reports of interviews (attach as applicable): \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_



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OFFENDER WAIVER STATEMENT

I AM REQUESTING THAT NO FURTHER ACTION BE TAKEN BY THE CLASSIFICATION UNIT REGARDING MY REQUEST FOR SAFEKEEPING, ADMINISTRATIVE SEGREGATION, PROTECTIVE CUSTODY, TRANSFER OR OTHER \_\_\_\_\_(CIRCLE ONE). THE SITUATION HAS BEEN RESOLVED AND I NO LONGER REQUIRE PROTECTION/TRANSFER. I UNDERSTAND THAT THE ALLEGATIONS I MADE WHICH RESULTED IN THIS INVESTIGATION WILL NOT BE INVESTIGATED AGAIN UNLESS THERE IS NEW EVIDENCE THAT SHOULD WARRANT ANOTHER INVESTIGATION. BY MY SIGNATURE BELOW, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE ABOVE STATEMENT AND I AM SIGNING THIS STATEMENT OF MY OWN FREE WILL.

\_\_\_\_\_  
OFFENDER SIGNATURE                      INMATE #                      DATE

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INVESTIGATOR'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

DATE REVIEWED BY SUPERINTENDENT/DESIGNEE \_\_\_\_\_

REVIEWER'S INITIALS \_\_\_\_\_

CC: OFFENDER FILE