
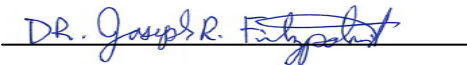


<b>POLICY TITLE: SEXUAL MISCONDUCT (PREA AND MAINE STATUTES), RESPONDING</b>  <b>POLICY NUMBER: 6.11.5</b>  <b>CHAPTER 6: VICTIM SERVICES</b>		<b>PAGE 1 OF 6</b>
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>Approved by Commissioner:</b>  	<b>PROFESSIONAL STANDARDS:</b>
<b>EFFECTIVE DATE:</b> <b>May 19, 2008</b>	<b>LATEST REVISION:</b> <b>February 1, 2016</b>	<b>CHECK ONLY IF</b> <b>APA [ ]</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

Entire Department of Corrections

**III. POLICY**

It is the policy of the Department to respond appropriately to reports of any sexual misconduct or sexual harassment, whether a recent occurrence or a prior incident.

**IV. CONTENTS**

Procedure A: General

Procedure B: Responding to a Report of Recent Sexual Misconduct or Sexual Harassment of a Prisoner or Resident

Procedure C: Medical and Mental Health Care for a Prior Incident Involving a Prisoner or Resident

**V. ATTACHMENTS**

None

**VI. PROCEDURES**

**Procedure A: General**

1. The Chief Administrative Officer, or designee, shall ensure that alleged victims of sexual misconduct receive immediate, unimpeded access to medical and mental health services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

2. The Chief Administrative Officer, or designee, shall ensure that alleged victims of sexual misconduct are provided access to medical and mental health services consistent with the community level of care.
3. The Chief Administrative Officer, or designee, shall ensure that medical and mental health services are provided to alleged victims of sexual misconduct without financial cost and regardless of whether an alleged victim names the perpetrator or cooperates with any investigation arising out of the incident.
4. The Chief Administrative Officer, or designee, shall provide prisoners or residents with access to outside victim advocates for emotional support services related to sexual misconduct, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations.
5. For persons detained solely for civil immigration purposes, the Chief Administrative Officer, or designee, shall enable reasonable communication between prisoners or residents and immigrant services agencies in as confidential a manner as possible.
6. The Chief Administrative Officer, or designee, shall ensure that all facility staff are familiar with their facility's PREA Response Incident Plan.

**Procedure B: Responding to a Report of Recent Sexual Misconduct or Sexual Harassment of a Prisoner or Resident**

1. The first staff person discovering an incident of sexual misconduct involving a sexual act alleged to have occurred within the prior 72 hours shall ensure that the prisoner or resident is advised, if appropriate, that he or she should not shower, bathe, brush his or her teeth, clean his or her nails, or otherwise clean himself or herself, should not use the bathroom, should not eat, drink liquids, or smoke, should not change clothes, and should not take any other action that could damage or destroy evidence before it is collected.
2. The first staff person discovering an incident of sexual misconduct involving a sexual act alleged to have occurred within the prior 72 hours shall ensure that all efforts are made to immediately secure the place where the incident occurred and secure any evidence, including, if appropriate, by arranging for the alleged perpetrator's placement in a dry cell.
3. The first staff person discovering an incident of sexual misconduct involving a sexual act or the Chief Administrative Officer, or designee, to whom the staff person has reported the incident shall ensure that if medical treatment is needed for a physical injury that it is offered immediately by facility medical staff, or, if there is no medical staff at the facility, shall ensure that the prisoner or resident is immediately transported to a hospital.
4. Regardless of whether the prisoner or resident received medical treatment at the facility for a physical injury, the Chief Administrative Officer, or designee, to whom

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the report of sexual misconduct involving a sexual act is made shall ensure that, if the sexual misconduct is alleged to have occurred within the prior 72 hours, the prisoner or resident is immediately transported to a hospital for examination by medical personnel skilled in the collection of sexual forensic evidence and is offered by the hospital the option of being supported by a victim advocate during the examination.

5. If the prisoner or resident has not been offered testing for sexually transmitted diseases at the hospital or has not been transported to the hospital, the facility medical staff shall offer it as soon as possible and shall offer antibiotic and/or anti-viral treatment, as deemed medically appropriate by the facility medical provider.
6. If a female prisoner or resident has not been offered emergency contraception at the hospital or has not been transported to the hospital, the facility medical staff shall offer to have the prisoner transported to the hospital for this purpose as soon as possible, as deemed medically appropriate by the facility medical provider.
7. Pregnancy testing or other pregnancy-related services shall be offered by the facility medical staff, as deemed medically appropriate by the facility medical provider.
8. If a prisoner or resident has been transported to the hospital, upon return to the facility, the facility medical staff shall thoroughly review the discharge instructions, carry out orders as appropriate, and develop treatment plans for alleged victims, which shall include, as appropriate, follow-up services, and when necessary, referrals for continued care following release from custody. Facility medical staff shall document in the prisoner's or resident's health care record.
9. The Chief Administrative Officer, or designee, shall ensure that the alleged victim of sexual misconduct is referred to the facility mental health care staff for assessment, counseling, and/or treatment, as appropriate. Facility mental health care staff shall ensure that a prisoner or resident is informed of the option of referral to a community sexual assault response services agency and shall ensure that a prisoner or resident who requests it is referred to a community sexual assault response services agency for the provision of services in the facility or after release.
10. If the alleged perpetrator of sexual misconduct is a prisoner or resident, the first staff person discovering the incident shall ensure that the alleged perpetrator is immediately separated from the alleged victim.
11. If the alleged perpetrator of sexual misconduct is a prisoner or resident, the Chief Administrative Officer, or designee, shall ensure that the alleged perpetrator and alleged victim remain separated, using special management housing as appropriate, at least until the investigation into the alleged incident is completed.

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12. If the alleged perpetrator of sexual misconduct is a staff person, volunteer or student intern, the Chief Administrative Officer, or designee, shall ensure that the staff person, volunteer or student intern has no contact with the alleged victim at least until the investigation into the alleged incident is completed.
13. If the report is one of sexual harassment, the Chief Administrative Officer, or designee, shall take appropriate steps in response to the report, including but not limited to, ensuring that contact between the alleged perpetrator and alleged victim is restricted, if appropriate.
14. The Chief Administrative Officer, or designee, shall ensure that the alleged victim of sexual misconduct or sexual harassment is offered the option of having a facility mental health care staff member present during any investigatory interview to provide support.

**Procedure C: Medical and Mental Health Care for a Prior Incident Involving a Prisoner or Resident**

1. If a volunteer or student intern receives information that a prisoner or resident has experienced prior sexual misconduct or has previously perpetrated sexual misconduct, whether it occurred in an institutional setting or in the community, the volunteer or intern shall report the information to appropriate staff.
2. If a screening or assessment indicates or a staff person otherwise receives information that a prisoner or resident has experienced prior sexual misconduct or has previously perpetrated sexual misconduct, whether it occurred in an institutional setting or in the community, staff shall ensure that the prisoner or resident is offered a referral to facility mental health staff within seven (7) days. If medical treatment is needed for a physical injury, the staff person shall ensure that it is offered immediately.
3. If pregnancy testing or other pregnancy-related services or testing or treatment for sexually transmitted diseases are deemed medically appropriate by the facility medical provider, medical staff shall ensure that they are offered.
4. Any information related to prior sexual misconduct that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to facilitate treatment plans and security and management decisions, including housing and work, education and other program assignments, unless the victim was under the age of 18 or was a dependent or incapacitated adult at the time of the sexual misconduct.
5. Staff shall obtain informed consent from a prisoner or resident before reporting information about prior sexual misconduct that did not occur in an institutional setting, unless the victim was under the age of 18 or was a dependent or incapacitated adult at the time of the sexual misconduct.
6. Mental health care staff shall offer counseling to the prisoner or resident and shall continue to monitor the mental health needs of the prisoner or resident.

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7. Mental health care staff shall also notify the Unit Manager or Juvenile Program Manager, or designee, as applicable, of the risk of sexual victimization or sexually predatory behavior and the Unit Manager or Juvenile Program Manager, or designee, shall note the prisoner's or resident's risk in CORIS.
8. The Unit Manager or Juvenile Program Manager, or designee, shall ensure that the safety needs of the prisoner or resident continue to be monitored.

## VII. PROFESSIONAL STANDARDS

### ACA:

**4-4281-6** Written policy, procedure, and practice ensure that sexual conduct between staff and prisoners, volunteers, or contract personnel and prisoners, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.

**4-4406** Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence, or if these procedures are performed in-house, the following guidelines are used:

1. A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim's consent, the examination includes the collection of evidence from the victim, using a kit approved by the appropriate authority.
2. Provision is made for testing of sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.
3. Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.
4. Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
5. A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant.

**4-JCF-4C-50** Victims of sexual assault are referred, under appropriate security provisions, to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:

1. A history is taken by a qualified health-care professional who conducts an assessment to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim's consent, the examination includes the collection of evidence from the victim, using a kit approved by the appropriate authority.
2. Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.
3. Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.
4. Following the physical examination, an evaluation by a qualified health-care or mental health-care professional is available to assess the need for crisis intervention counseling, and long-term follow-up.

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5. Following the physical examination, a qualified health-care or mental health-care professional is available to evaluate the need for crisis intervention counseling, and long-term follow-up.
6. A report is made to the facility or program administrator or designee to assure separation of the victim from his or her assailant(s).

**PREA:**

- 115.53 Inmate access to outside confidential support services
- 115.64 Staff first responder duties
- 115.65 Coordinated response
- 115.66 Preservation of ability to protect inmates from contact with abusers
- 115.68 Post-allegation protective custody
- 115.82 Access to emergency medical and mental health services
- 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers

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