

# Prison Rape Elimination Act (PREA)



PREA law mandates a **ZERO** tolerance for sexual abuse and misconduct.

# Learning Goals

You will become familiar with:

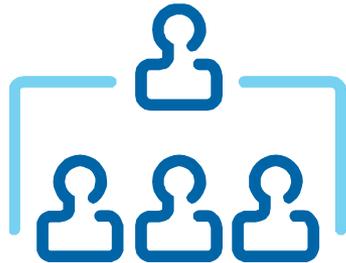
- Why PREA is important for offenders, staff and OYA.
- What steps must be taken to prevent sexual abuse.
- How staff must respond to incidents of sexual abuse.
- How staff may detect sexual abuse.

# Why PREA is Important

# PREA – The Law

The law says agencies must take steps to reduce the likelihood of sexual abuse and meet set **standards**:

June 2009



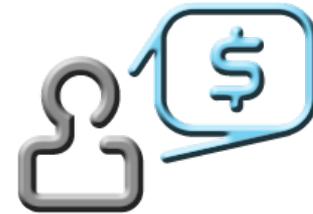
PREA Commission recommended standards.

Currently



Federal AG reviewing standards.

When standards set...



Agencies have 1 year to meet standards or risk **losing 5%** of federal funding.

# Why PREA?: Offenders Rights



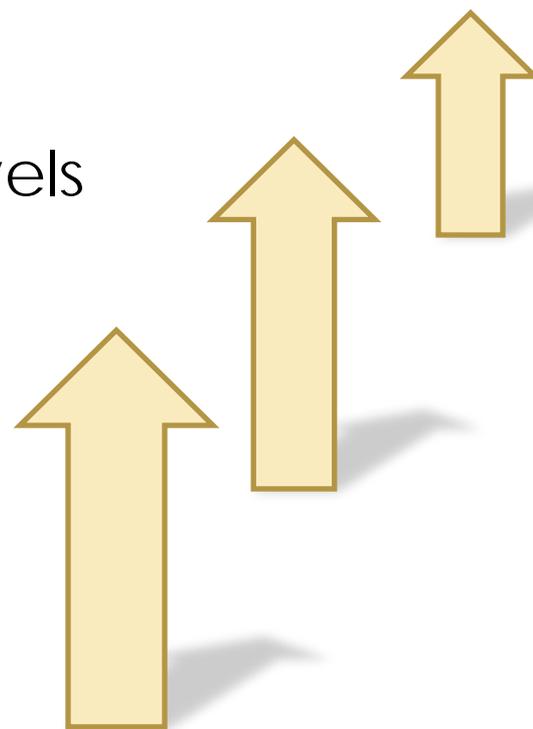
- Potential violation of Eighth Amendment – cruel and unusual punishment.
- Juvenile offenders, due to age and life experience, are less able to protect themselves.
- Protecting offenders from sexual abuse is part of our job.

Why PREA?

# Effects of Sexual Abuse

Sexual abuse results in increased:

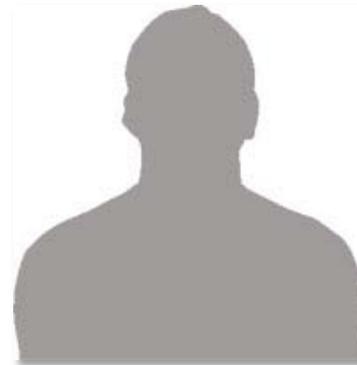
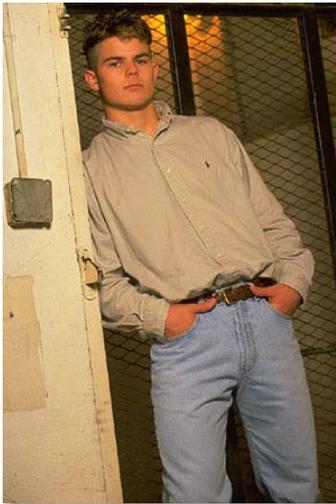
- Offender and staff violence levels
- Mental health care costs
- Health care costs
- Recidivism
- Facility costs



# Why PREA?

# Who is Impacted?

Sexual abuse impacts:



# January BJS\* Report (2010)



- 12.1% of youth reported having been sexually victimized by **staff or offenders** while in a facility within the last year.
- Staff-involved incidents: 10.3%
- Youth-on-youth incidents: 2.6%

\*Federal Bureau of Justice Statistics

# Can you guess?

In the BJS report, 10.3% of youth reported sexual victimization from staff.

The gender of the staff was:

- a) 34% female, 66% male
- b) 95% female, 5% male
- c) 63% male, 37% female
- d) 98 % male, 2% female

# Reporting Requirements

Individual OYA staff must report any and ALL of these behaviors to appropriate OYA personnel.

OYA must report these behaviors to BJS:

## Offender on Offender

- non consensual sexual acts
- abusive sexual contact

## Staff on offender

- staff sexual misconduct
- staff sexual harassment

## Offender on offender

- harassment
- indecent exposure

# What did OYA Report to BJS for 2009?\*



Behavior	Allegations	Substantiated	Unsubstantiated	Unfounded
Youth on Youth Nonconsensual Sexual Acts	9	0	8	1
Youth on Youth Abusive Sexual Contacts	31	2	28	1
Staff Sexual Misconduct	8	0	8	0
Staff Sexual Harassment	7	1	5	1

\*Within our close custody facilities

# Steps to Prevent Sexual Abuse

# Sexual Abuse Prevention:

## Identify the Vulnerable

Offenders with these characteristics  
are at the highest risk for sexual abuse:



- First time offenders
- Small in stature
- Self identify as non-heterosexual (five times as likely per BJS)
- Speech or visually impaired
- Intellectual/Developmental disabilities

# Sexual Abuse

## Prevention: **Identify the Vulnerable** (cont.)

Offenders with these characteristics are at the highest risk for sexual abuse:



- Prior sexual victimization (twice as likely)
- Have effeminate characteristics (speech, walk)
- Physical disabilities
- Limited English
- Offense history (sexual)

## Sexual Abuse Prevention:

# Common Myths & Perceptions



- ❖ Victimization is a sign of weakness.
- ❖ Victims of same-sex violence are homosexual.
- ❖ Female to female is not as serious male to male sexual abuse.
- ❖ Male to female is less serious than male to male abuse.
- ❖ A male offender abused by a female staff is a hero.

# Sexual Abuse Prevention: Dynamics of Sexual Abuse

**Reasons** why offenders may engage in sexual activity include pleasure, love, to trade or barter, expression of self, the thrill of breaking the rules, social dominance and control, procreation, the promise of protection, or because they are forced.



## Dynamics Basics:

- Male-on-Male
- Female-on-Female
- See handout on Dynamics of Sexual Abuse

# Sexual Abuse Staff Risk Factors that may Prevention: contribute to poor decision-making



Relationship difficulties



Death of loved one



Personal values vs. professional expectations



Emotional/physical fatigue



Substance abuse



Co-worker conflict

# Sexual Abuse Prevention:

# Strategies

Promote a non-sexualized work environment

Appropriately  
address offenders  
who use sexual  
terms and gestures

Be aware of the  
"Contagion  
Effect"

Avoid discussions,  
innuendo, sexual  
gesturing not  
related to work

Avoid comments  
about co-workers'  
private lives or  
personal attributes

Avoid comments  
about your  
private sexual life  
and relationships

Confront  
glamorization of  
prison culture and  
sexual violence

# Sexual Abuse Prevention:

## Strategies (cont.)

Staff actively support preventive measures and a culture of reporting:



- ⋮ Recommend improvements to visibility.
- ⋮ Report “red flag” behaviors.
- ⋮ Take all sexual abuse disclosures seriously.
- ⋮ Handle information professionally and confidentially. Avoid gossip.
- ⋮ Do not give offenders authority over others.
- ⋮ Practice constant offender supervision.

# Sexual Abuse Prevention:

## Strategies (cont.)

For everyone's protection, follow OYA policy and procedure. Ignorance of these is not an accepted excuse.

If you deviate  
from policy and  
procedure



You and the agency  
may be in a position  
of criminal and civil  
liability

If you realize  
you made a  
mistake



Self-report



All staff should be able to justify why  
and what they do at all times, true  
transparency.

# Responding to Sexual Abuse

# Response to Sexual Abuse:

## Safety

Ensure the safety of the offenders and staff:

1. Separate victims, perpetrators, and witnesses.
2. Ask if they are injured or need medical attention.
3. Notify supervisor and law enforcement/  
child welfare

# Response to Sexual Abuse: **Securing the Scene**

Less than 96 hours since the incident?

Minimize evidence tampering:

1. Secure potential crime scenes:
  - a) Incident location and access paths.
  - b) Clothing, bedding, and personal objects.
  - c) No washing, brushing teeth, restroom use, eating, drinking, or laundry.
2. Do not attempt clean-up.
3. Note appearance and demeanor of victim – be objective.



# Response to Sexual Abuse:

## Victim Contact

Staff must limit contact with the victim to obtaining only basic information:



- What happened.
- Who was involved.
- Where the incident took place.
- At what time the incident occurred.
- Tell victim you will report basic information and an investigator will ask detailed questions.
- Reassure and calm victim. Advise they will be kept safe.
- Document objectively asap.

Note: Services will NOT be denied to victim due to missing information.

# Response to Sexual Abuse:

## Staff Limits

Staff responsibilities are limited. Exceeding responsibilities may make staff liable to criminal or civil charges.



Your role as staff:

- Secure the scene until law enforcement arrives.
- Get only the basic facts from all involved. Do not launch your own investigation.
- Respect professional boundaries. Avoid inappropriate emotional involvement.

# Response to Sexual Abuse:

## Duty to Report

Staff members' duty to report:

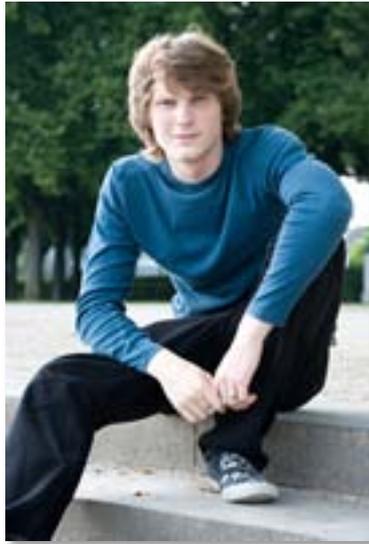


- Offenders under 18: Follow Mandatory Child Abuse Reporting policy (0-2.3).
- Offenders over 18: Report to law enforcement (follow Policy II. B-4.0 Prison Rape Elimination Act).
- All offenders: notify supervisor/manager.
- Failure to report: possible \$1,000 fine, civil prosecution, and disciplinary action.

Response to  
Sexual Abuse:

# Offender Reporting

Different ways offenders can report sexual abuse:



- Notify staff. We are all mandatory reporters.
- Contact the OYA Hotline.
- File a grievance.
- Note: There is no wrong way to report sexual abuse.

# Response to Sexual Abuse: **Services for Offenders**

Services available to offenders who are victims:



- Forensic medical exam within 96 hours of incident.
- Access to mental health and medical treatment.
- Right to report misconduct without fear of retaliation.
- Victims' Rights: These include information about legal proceedings, HIV testing, and compensation for expenses.

Response to  
Sexual Abuse:

## Services for Staff

OYA staff have access to confidential Employee Assistance Programs (EAP):



- *Marital & Family Issues*
- *Personal & Emotional Concerns*
- *Alcohol & Substance Abuse*
- *Problems at Work*

*For Free, Confidential Service, Call Today  
Toll Free 1-800-433-2320*



*Making Connections, Creating Solutions*  
— In Oregon —

Portland 503-639-3009 --- Salem/Keizer 503-588-0777

# Detecting Sexual Abuse

Detecting  
Sexual Abuse:

## Be Alert for Changes

Be alert for changes that indicate the possibility of sexual abuse:



- ⋮ Changes in physical appearance.
- ⋮ Changes in behavior.
- ⋮ Environmental changes.

# Detecting Sexual Abuse: Sanctions for Sexual Abuse

## Offenders

Additional criminal charges.

Revocation of Parole/Probation

Other sanctions (non-judicial)

## Staff

Custodial Sexual  
Misconduct

Class C felony – 5 yrs and/or  
\$125,000 fine per act.

Class A misdemeanor – 1 yr  
and/or \$6,250 per act.

Administrative discipline

## Zero Consent:

- No such thing as consent to sexual activity with staff.
- Consent between offenders is treated as suspect.

# Detecting Sexual Abuse:

# False Allegations

## By Offenders

Non-judicial sanctions  
Examples:

- Drop in level
- Time in segregation
- Community service

Initiating a False Report:

**Class C  
misdemeanor –  
30 days  
jail/\$1250**

## By Staff

Progressive discipline  
Examples:

- Letters of reprimand
- Economic sanctions
- Dismissal

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We've talked about:

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- How staff may detect sexual abuse.