



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
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From: Commander, Navy Personnel Command (PERS-00D)
To: Distribution

Subj: PRISON RAPE ELIMINATION ACT (PREA); GUIDANCE LETTER # 3

Ref: (a) OUSD Memorandum of 2 Mar 15 (Subj: Reporting Options for
Prisoners in Military Correctional Facilities Under the
Prison Rape Elimination Act)
(b) DoDI 1325.07
(c) 28 C.F.R. Part 115 (DoJ PREA Prisons and Jail Standards)
(d) BUPERSINST 1640.23

Encl: (1) PREA Reporting Steps

1. Purpose. Implement the provisions of reference (a) within all Navy shore briggs located within Continental United States (CONUS), including Hawaii.

2. Applicability. Guidance contained within this letter is applicable to all Navy shore pre-trial and post-trial confinement facilities (Levels I / II/III) located within the CONUS, including Hawaii. Pre-trial confinement facilities, for the purpose of this letter, are considered Level I confinement facilities.

3. Background

a. The Department of Defense (DoD) is committed to the prevention, detection, and response to sexual abuse and sexual harassment in military correctional facilities (MCFs) per the Prisoner Rape Elimination Act (PREA). The Military Services and the DoD Sexual Assault Prevention and Response Office (DoD SAPRO), collaborating through the DoD Corrections Council PREA Working Group and the Department of Justice (DoJ), have developed rules and procedures to satisfy the requirements of PREA with strict enforcement measures and standardized requirements.

b. DoD is in the process of publishing a substantive change to reference (b) which will reflect adherence to reference (c) procedures and standards. Guidance contained within reference (a) continues to set a baseline for Service PREA programs, including standards for incident reporting, notification, investigation, and victim access to medical, counseling, special victims' counsel/victims' legal counsel, and advocacy services for both reporting options outlined below. Pending the final publication of reference (c) and future revision to reference (d), this guidance letter serves to articulate and implement

Subj: PRISON RAPE ELIMINATION ACT (PREA); GUIDANCE LETTER # 3

these standards, in support of consistent and robust Service policies across the Navy corrections system.

4. Policy

a. Reporting Options

(1) Based on the framework adopted by the DoD PREA Working Group, all MCF commanders will implement and employ policies and procedures consistent with the provisions contained within reference (c), as mandated within reference (d). PREA requires the military Services to fully investigate all allegations of sexual abuse and sexual harassment involving a prisoner. Sexual abuse and sexual harassment, as defined in reference (c), includes both reports of: (1) sexual assault of a prisoner by another prisoner; and (2) sexual abuse and/or sexual assault of a prisoner by a staff member, contractor, or volunteer. Please note the definition of sexual harassment under PREA is distinct from the definition used in DoD Directive 1350.2, "Department of Defense Military Equal Opportunity Program."

(2) Per reference (a), all prisoners will have two reporting options: (1) an Unrestricted Report to disclose to law enforcement and command officials, without requesting confidentiality, that he or she is the victim of sexual abuse; and (2) an Anonymous Report, for victims of sexual abuse who desire to disclose the allegation privately to Sexual Assault Response Coordinator (SARC) and not have their identity disclosed to the MCF or investigators. Prisoners who are victims of sexual harassment (not including an allegation of sexual abuse), will also be able to file an Anonymous Report through the applicable [Echelon II] command Inspector General.

(3) Prisoners who are victims of sexual abuse are eligible to receive the services of SARCs and SAPR Victim Advocates (VA), and other support and advocacy services. Prisoners, however, do not have a Restricted Reporting option since PREA requires a criminal investigation for every incident of sexual abuse, including anonymous and third-party reports. Consequently, reporting options from prisoners are controlled by PREA and reference (b), not by the DoD Sexual Assault Prevention policies contained in DoD Directive 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," and DoD Instruction 6495.02, "Sexual Assault Prevention and Response (SAPR) Program Procedures."

(4) All victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Medical treatment services, counseling, and advocacy services shall be provided to the victim

Subj: PRISON RAPE ELIMINATION ACT (PREA); GUIDANCE LETTER # 3

regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

(5) Per reference (c), MCF staff shall accept reports made verbally, in writing, anonymously, reports from third parties, and allegations forwarded by SARCs to the MCF Commander (or designee). The MCF Commander shall forward all reports to the Naval Criminal Investigative Service (NCIS), and SARCs, in cases of sexual abuse, or to the designated MCF investigator in cases of sexual harassment, where referred back to the MCF by the NCIS.

b. Access to Confidential Support Services. All prisoners are currently able to receive confidential crisis intervention services through the DoD Safe Helpline. The DoD Safe Helpline will directly connect a prisoner with an appropriate SARC and Sexual Assault Prevention and Response Victim Advocate, where the prisoner will then elect to make an Unrestricted Report or Anonymous Report. MCFs shall continue to make accessible the DoD Safe Helpline to prisoners and publicize the DoD Safe Helpline for crisis intervention support. In continuation of current practice in MCFs, calls from prisoners to the DoD Safe Helpline number shall not be monitored or recorded. SARCs and DoD Safe Helpline personnel will receive additional training to ensure understanding of these referral procedures.

c. Notification. The SARC will notify the MCF commander or designee where the alleged incident occurred, within 24 hours of receiving a call from a prisoner. The SARC shall also forward any information provided voluntarily by the prisoner through the Anonymous Reporting process. If the prisoner has elected to make an Anonymous Report, the prisoner's name, registration number, and social security number shall not be identified by the SARC or any other personnel.

d. Investigation

(1) PREA requires that an investigation be completed for all allegations of sexual abuse and sexual harassment. In cases of sexual abuse, after being notified of an incident, the MCF commander or designee must immediately contact the responsible NCIS field office, which will conduct a criminal investigation based on the available information per DoD Instruction 5505.18, "Investigation of Adult Sexual Assault in the Department of Defense." If NCIS determines that the specific allegations are not within its purview to investigate (such as an allegation of sexual harassment), the MCF commander or designee will provide the available information to the responsible facility investigator to conduct an investigation.

(2) In cases of sexual harassment, where referred back to the MCF by NCIS, the MCF commander or designee must ensure a qualified local investigator conducts an investigation based on the available information.

Subj: PRISON RAPE ELIMINATION ACT (PREA); GUIDANCE LETTER # 3

e. PREA reporting steps are included within enclosure (1).

5. Action

a. Facility Heads. Update local PREA Standard Operating Procedures (SOP) to implement guidance contained within this letter.

b. NAVPERSCOM (PERS-00D). Update reference (d) upon revision of reference (b).

6. Point of Contact. Mr. Timothy Purcell, Deputy Director, NAVPERSCOM (PERS-00DB), (901) 874-4452, DSN 882-, email: timothy.purcell@navy.mil.



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PREA Reporting Steps

- Step 1. Prisoner contacts the DoD Safe Helpline to receive confidential crisis intervention and referral services.
- Step 2. The DoD Safe Helpline will connect the prisoner with a Sexual Assault Response Coordinator (SARC) or Sexual Assault Prevention and Response (SAPR) Victim Advocate to understand the available options and make an informed decision.
- Step 3. Based on discussion with the SARC or SAPR, the prisoner decides to file an Unrestricted Report or Anonymous Report in accordance with the Prison Rape Elimination Act. If the prisoner has elected to make an Anonymous Report, the prisoner's name, registration number, and social security number shall not be identified by the SARC or any other personnel. The SARC shall forward any information the prisoner voluntarily wishes to disclose through the Anonymous Reporting process (e.g., name of alleged subject, whether alleged subject was prisoner or staff member, how future incident could be prevented).
- a. Prisoner has the right to not answer any questions, or cooperate with the investigation, but prisoners do not have the right to a Restricted Report;
 - b. Under PREA, applicable information will be provided to an investigator. The prisoner name will be provided unless an Anonymous Report is requested. In all cases an investigation will be conducted.
 - c. Appropriate medical services will be provided as required and determined by medical personnel for victims who are not reporting anonymously. All prisoners will have access to confidential crisis intervention services through the DoD Safe Helpline

The SARC or SAPR should not advise the prisoner what to answer or not answer.

- Step 4. The SARC or SAPR immediately notifies the MCF Commander or designee and provides any voluntary, anonymous information provided by the prisoner. If prisoner requests medical services, go to step 7. If not, assist the prisoner as one would provide assistance to a Service member within the security requirements of the facility. Facilities will not log or blotter who the SARC or SAPR talked to. All information provided with an Anonymous Report will be securely maintained IAW facility policy.

Enclosure (1)

PREA Reporting Steps

- Step 5. MCF Commander or designee provides information immediately to responsible investigative agency (e.g., Naval Criminal Investigative Service (NCIS) for Navy).
- Step 6. Investigative agency begins investigation. All allegations of sexual abuse must be reported to the NCIS. If an allegation does not meet the NCIS's criteria to investigate (such as sexual harassment) they will forward the allegation to the designated facility investigator to conduct an investigation.
- Step 7. SARC/SAPR and prisoner (if not anonymous) is taken to a designated area for medical staff to provide immediate emergency medical care and determine if prisoner should be transported to a designated medical facility for a forensic exam, and coordinate the transportation.
- Step 8. Monitoring of and reporting results for the prisoner as required by PREA will be done by the designated monitor unless it is an anonymous report. The SARC/SAPR within the scope of their duties and facility security will provide assistance to the prisoner.
- Step 9. Per PREA standards, an incident review may be conducted by the MCF, as an anonymous case. All anonymous PREA reports will be annotated as anonymous.