



Prison Rape Elimination Act

Frequently Asked Questions for Advocates

As correctional facilities in Maine work toward becoming fully compliant with the Prison Rape Elimination Act (PREA) Standards, MECASA is committed to providing tools, resources, and information to advocates serving incarcerated victims and survivors. Below you will find a list of Frequently Asked Questions to help guide your work.

Accessing Clients in Correctional Facilities

Who do we contact to schedule appointments or follow-up appointments with an inmate?

This will differ facility-by-facility, but the PREA Monitor is a great place to start. If your client was referred to your services through a caseworker, mental health worker, or healthcare provider, the person who refers them should be able to help you navigate the system.

Should I bring anything with me when I go to the facility?

Yes. Advocates should bring identification, PREA rights and victims' services information, PREA Monitor contact information, Department of Corrections PREA Coordinator contact information, and first responder staff contact information.

Confidentiality

What if there is another inmate who committed the sexual assault? Do the correctional facilities have some kind of "mandatory reporting" procedures that we would need to follow if they haven't disclosed to someone at the prison?

If another inmate – or if a correctional facility staff member – commits an assault, the correctional facility will want to ensure the safety and security for all of their inmates. PREA & Department of Corrections policy require that correctional facility staff and volunteers report any violence they learn about or witness within the jail or prison. However, your confidentiality obligations do not change when serving inmates. The only reporting procedures you have to follow are the same ones you'd follow with a survivor in the community. If you think your client may harm themselves or someone else, you should report this information to the facility's PREA Monitor, social worker, or a caseworker. This may be difficult for correctional facility staff to understand, but your job is the same no matter who you are serving and it's okay to respectfully tell them that.

What do I say if a correctional facility staff member requests that I provide information I've learned from a survivor with whom I'm working?

Corrections staff may not understand why an advocate would learn about a sexual assault perpetrated in a facility and not report the assault to facility staff.

However, just as you would with law enforcement outside of the facility, you can only share information if your client has signed a release for you to do so.

You might say something along the lines of, “I know our approach may be different, but we have the same goal, which is to maintain the safety and security of those in this facility. We know that a survivor working with an advocate is more likely to make a formal report to law enforcement because they feel supported and have an idea of what will happen with their report. So whereas a meeting between an advocate and a victim is confidential, these meetings may be the best chance the facility has to receive a report.”¹ You may also emphasize that inmates have a right to an advocate regardless of when sexual violence was perpetrated against them, which could mean that you aren’t meeting with an inmate to discuss a PREA incident.

How will the correctional staff maintain confidentiality and how can a client contact us with as few people as possible knowing in an effort to maintain confidentiality?

Because correctional facility staff are required by PREA and DOC policy to report violence they learn about or witness within the jail or prison, they are not be able to maintain confidentiality. If the request for an advocate came through correctional staff, you can assume a report has been made within the facility and there will probably be an investigation.

However, even if correctional facility staff know about the sexual assault perpetrated against your client and have made a report to the PREA Monitor or other person who will cause an investigation, they can choose whether or not to cooperate with the investigation.

The most confidential services possible would include a direct request from a person who is incarcerated and you can request – through the PREA Monitor or another contact at the facility – to meet with a survivor where inmates meet with their attorneys, which is often in a confidential place. If you are working with a correctional facility staff member who referred your client to sexual assault support services, you may be able to use their office.

Medical Care & Forensic Exams

What does an advocate do if there has been a recent assault, the advocate is the first person who learns of the assault, and the inmate wants a medical intervention? How do we access that? Who do we contact at the prison?

We know that a survivor working with an advocate is more likely to make a formal report to law enforcement because they feel supported and have an idea of what will happen with their report.

Inmates have a right to an advocate regardless of when sexual violence was perpetrated against them, which could mean that you aren’t meeting with an inmate to discuss a PREA incident.

¹ Campbell, R. (2006). Rape survivors’ experiences with the legal and medical systems: Do rape victim advocates make a difference? *2 Violence Against Women, 12*, 30-45.

This will differ facility-by-facility, but the PREA Monitor would be a great person to ask. They would be the person you contact during business hours, and should be able to provide you with a contact for non-business hours. Standards state that an inmate must be offered a forensic exam (most likely in a local community hospital), medical care if they refuse a forensic exam, and information related to sexually transmitted infections prophylaxis, as well as access to emergency contraception.² Some facilities do not offer on-site emergency contraception, but will refer the inmate to additional medical care. Check with your local facility.

If a person doesn't want to go to the hospital for a forensic exam, will they see a medical provider promptly?

Regardless of whether an inmate chooses to have a forensic exam done, or whether they decide to cooperate with an investigation, PREA requires that they be allowed to see a medical provider promptly within the facility. If the assault is perpetrated after hours and there are no qualified medical providers available onsite, PREA requires that first responder staff take steps to immediately protect the victim and immediately notify the appropriate providers.³

What kind of mental health/trauma services are available to inmates while they're incarcerated? Is there a therapist or counselor we can refer clients to?

PREA standards require that each facility offer free medical and mental health services, "regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident"⁴ and that the access must be "timely (and) unimpeded."⁵ The facility's medical and mental health services are your best option in terms of referrals for inmates while they're incarcerated.

Will inmates be charged for medication?

No, they should not be. PREA standards state that inmates should not be charged for any medical care they receive in connection with a sexual assault.⁶

During a hospital accompaniment with an inmate, how should an advocate communicate with a corrections officer if they are present? What rights regarding the medical exam does the patient have, and are they different from non-inmates?

We are in the process of working with the Department of Corrections and the SAFE Program to define policies and protocols related to forensic exams for inmates. You should assume that a corrections officer will be present in the room during the forensic exam. Advocates may want to talk with corrections staff before an exam begins to both discuss your roles and any security concerns the corrections staff may have. You may even want to talk about where everyone in the room will stand to best ensure the privacy and well-being of the survivor.

“One of our advocates met with someone in a jail and the client was ‘beaming’ having seen the advocacy posters and feeling ‘finally someone would listen’ because she never knew advocacy services existed.”

-Southern Maine Advocate

2 § 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers

3 Ibid, subsection b.

4 § 115.82 Access to emergency medical and mental health services, subsection d.

5 Ibid, subsection a.

6 § 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers, subsection g.

Reporting

Who answers the PREA hotline?

The state's PREA Coordinator at the Department of Corrections answers the PREA hotline. The hotline is one reporting option for inmates. It is not a 24-hour service, but messages are checked regularly. The phone number is 1-855-279-4763.

Are there confidential reporting options?

There are anonymous reporting options, but they may not remain confidential. PREA requires a "third party reporting option,"⁷ which is currently in the process of being addressed by both the state Department of Corrections and county jails. In some state run facilities, an inmate may write to their local county jail for an anonymous report and county jail inmates can write to the PREA Coordinator at the Department of Corrections. As of June 2015, inmates in the following facilities can send a letter to the following addresses to make a third party report:

Maine Correctional Center:

PREA Coordinator, Cumberland County Sherriff's Office
50 County Way
Portland, ME 04102

Long Creek Youth Development Center:

PREA Coordinator, York County Sherriff's Office
1 Layman Way
Alfred, ME 04002

Moutain View Correctional Facility:

Sgt. Laura Breton, Penobscot County Sheriff's Office
85 Hammond Street
Bangor, ME 04401

Bolduc Correctional Facility & Maine State Prison:

PREA Coordinator, Knox County Sherriff's Office
327 Park Street
Rockland, ME 04841

The PREA Coordinator's address is:

PREA Coordinator
Maine Department of Corrections
111 State House Station
Augusta, ME 04333-0111

“Many think that sexual violence is merely a byproduct of incarceration. A lot of people struggle with the idea that prisoners who have been raped deserve services. However, that leads us down a dangerous path of deciding who the perfect victim is and who services are meant for.”

-MECASA, goo.gl/GEJwSm

Investigation Process

What is the process following a report?

See attached chart for the reporting process.

How do we support clients who report to advocates that they are experiencing retaliation as a result of their report?

Make sure to document the retaliation they experience and ask them to provide as much detail as possible. With the permission of the survivor, you may relay that information either to the facility's PREA Monitor or to the state PREA Coordinator. Legal services through the ACLU of Maine may be available. There may be no good resolution other than support and safety planning.

What information does an inmate have a right to know about the resolution of their case? Who will relay that information to the victim?

PREA states that the inmate should know the outcome of their case or if the facility chose not to investigate and why.

The inmate should also be told the outcome of disciplinary action in the event that the sexual assault was perpetrated by a corrections officer, including: that the staff member is no longer posted in the inmate's unit; the staff member is no longer employed at the facility; if the agency learns that the staff member is indicted on a charge related to sexual abuse in the facility; or if the agency learns that the staff member is convicted of a charge related to sexual abuse in the facility.⁸

With regard to inmate on inmate sexual assault, the victim should be told the following: if "the agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility." Additionally, "all such notifications or attempted notifications shall be documented" and if the inmate is released from the facility's custody, the obligation under this standard is "terminated."⁹

You may be the one to relay that information to the victim, although the victim will most likely find out from the facility's PREA Monitor or investigator.

What happens after an investigations if there are findings?

PREA states that inmates should know the outcomes of an investigation regardless of whether the allegation is substantiated, unsubstantiated, or unfounded (see glossary below for an explanation of these terms).¹⁰ If the allegation is substantiated, the perpetrator (both staff and other inmate perpetrators) must be administratively and criminally disciplined.¹¹ These cases are referred to the local district attorney's office for prosecution.

8 § 115.73 Reporting to inmates

9 Ibid.

10 Ibid.

11 § 115.71 Criminal and administrative agency investigations

In cases where a corrections officer is the perpetrator, the case will most likely go before the Maine Criminal Justice Academy Board of Trustees where their case will be reviewed for decertification. A corrections officer can be decertified even if a district attorney chooses not to prosecute.

Juveniles

Are there different protocols for juveniles?

There are separate PREA standards for juvenile facilities, but the rights of the inmates are largely the same. You may have issues with regard to mandated reporting questions where correctional facility staff may confuse your mandated reporting obligations with a mandated report to the facility. It's important to respectfully emphasize that your mandated reporting obligations – unless you are concerned that the client with whom you are working may harm themselves or others – are to report to Child Protective Services, or local district attorneys, not to anyone at the facility. In the case where you might report to someone in the facility if your client may be a harm to themselves or others, you might report to the PREA Monitor or to a social worker in the facility.

Resources for Inmates

What outside PREA resources are available to inmates besides advocates?

[Just Detention International](#) is a great resource for inmates that they can access online if that is a safe option for them. The PREA Resource Center recently created the third edition of their inmate handbook: [An End to Silence: Inmates' Handbook on Identifying and Addressing Sexual Abuse](#). However, it is a substantial document, and it may not be safe for them to carry it with them. You may want to bring a copy with you and have sections marked that you could look at together. [Black and Pink](#) is a good resource for LGBTQ inmates. They have a pen-pal service and send monthly newsletters to inmates.

Can we ask correctional facility staff to join our SART?

Yes! In fact, PREA standards require that facilities develop a coordinated response plan similar to those of community Sexual Assault Response Teams. Inviting correctional facility staff such as the facility's PREA Monitor or the correctional facility's leadership may help them in successfully meeting this standard.

Glossary

Inmate: Term used for an incarcerated individual in a county jail setting.

Prisoner: Term used for an incarcerated individual in a state run facility setting.

Resident: Term used for an incarcerated juvenile in a state run facility setting.

PREA Monitor: The person at each facility who is in charge of leading PREA Standard implementation and training.

PREA Coordinator: The person at the Department of Corrections who is in charge of overseeing PREA compliance in state run correctional facilities.

Substantiated allegation: An allegation that was investigated and determined to have been perpetrated.

Unsubstantiated allegation: An allegation was investigated, and the investigation produced insufficient evidence to make a final determination as to whether or not the assault was perpetrated. This case will remain open in case new information becomes available.

Unfounded allegation: An allegation was investigated and determined not to have been perpetrated.

Inmates' Rights Under PREA

The following is a summation of inmates' rights under PREA, as adapted from *An End to Silence: Inmates' Handbook on Identifying and Addressing Sexual Abuse*. For the full PREA standards, visit the PREA Resource Center website or email cara@mecasa.org if you have questions or need more information.

General:

- Inmates have the right to be free from sexual abuse in custodial settings (public or private prisons, jails, lockups, and community residential facilities).¹²

Searches:

- Staff of the opposite gender may not perform searches (strip or visual cavity) except in urgent circumstances. Pat searches of female inmates by male staff are prohibited, except in urgent circumstances.¹³

¹² § 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

¹³ § 115.15 Limits to cross-gender viewing and searches

¹⁴ § 115.33 Inmate education

Inmates' PREA Education:

- Facilities must provide inmates with PREA training during intake and within 30 days of incarceration. The following should be covered during the training:¹⁴
 - The agency's zero tolerance policy regarding sexual abuse or sexual harassment;
 - How to report incidents or suspicions of sexual abuse or sexual harassment;
 - The right to be free from sexual abuse, sexual harassment, and retaliation; and
 - Procedures for responding to such incidents.
- Language or disability should not prevent inmates from receiving education regarding PREA standards. Facilities must provide information about sexual violence in a format they understand. PREA should be made available in a language other than English, by signing, or in braille, etc. and be at a low literacy reading level.¹⁵

Medical, mental health, and advocacy services for victims:

- Victims must be offered services from local sexual assault support centers after they report an assault.¹⁶
- Facilities should provide mailing addresses and telephone numbers, including toll-free hotline numbers where available for outside confidential support services.¹⁷
- Inmates must have access to outside confidential support services for emotional support related to sexual abuse no matter when the abuse was perpetrated. These communications should be as confidential as possible. Facilities must inform inmates if they are not confidential.¹⁸

- Inmates shall receive medical and mental health care immediately following their report of abuse, and on an on-going basis without financial cost. They have a right to this care whether the inmate names the perpetrator or cooperates with any investigation arising out of an incident.¹⁹

Reporting:

- There is no time limit on when inmates can report sexual abuse.²⁰
- Inmates can have a third party (another inmate, family member, etc.) report sexual abuse.²¹
- Facilities must provide inmates with access to multiple reporting mechanisms in the facility (written grievances, oral reporting, hotlines, etc.), as well as one external reporting mechanism so inmates can report to someone outside of the authority of the facility. Advocacy services are often confused as this external reporting mechanism. Advocates may need to remind correctional staff that they are not a reporting entity.²²
- Facilities must provide protection from retaliation by staff and other inmates if an inmate chooses to report sexual abuse perpetrated against them.²³

“Each and every day I grow a little more and surprise myself. I can be changed by what happened to me, but I refuse to be reduced by it.”

-Anonymous, goo.gl/GEj8VL

15 § 115.16 Inmates with disabilities and inmates who are limited English proficient

16 § 115.53 Inmate access to outside confidential support services

17 Ibid.

18 Ibid.

19 § 115.82 Access to emergency medical and mental health services

§ 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers

§ 115.21 Evidence protocol and forensic medical examinations

20 § 115.52 Exhaustion of administrative remedies, section B1.

21 § 115.54 Third-party reporting

§ 115.51 Inmate reporting

22 Ibid.

23 § 115.67 Agency protection against retaliation

Investigations:

- Facilities must take all allegations seriously and investigate them both administratively and criminally.²⁴
- Facilities must provide inmates with the outcomes of allegations reported to them – whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.²⁵

Housing and Vulnerability:

- Facilities must do vulnerability assessments to assess inmate’s risk of victimization while in the facility. This assessment should take into account an inmate’s own perception of risk and should be used to make housing and programming determinations while in the facility.²⁶
- Protective custody of victims is prohibited unless it is the only way to provide safety from perpetrators.²⁷
- An inmate should only be in segregated housing for a short period of time until a more suitable housing option is open. Inmates placed in segregated housing for safety or protection should have access to all programming, education, and visitation as if they were housed with the general population.²⁸

24 § 115.71 Criminal and administrative agency investigations

25 § 115.73 Reporting to inmates

26 § 115.41 Screening for risk of victimization and abusiveness

27 § 115.43 Protective custody

28 Ibid.