

**EXECUTIVE ORDER NO. 06 -15**

**ADOPTING PRISON RAPE ELIMINATION ACT STANDARDS**

**WHEREAS**, the safety and well-being of persons under the supervision of the Philadelphia Prisons System (“PPS”) is properly the concern of City government;

**WHEREAS**, by long-standing practice, the Prisons Superintendent, the head of PPS, has come to be called the Prisons Commissioner;

**WHEREAS**, the PPS mission is to provide a secure correctional environment that adequately detains persons accused or convicted of illegal acts; to provide programs, services, and supervision in a safe, lawful, clean, humane environment; and to prepare incarcerated persons for reentry into society; and

**WHEREAS**, the Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601 *et seq.*, (“PREA”) was enacted to mandate best practices to prevent sexual abuse and sexual harassment in federal prisons and to encourage the adoption of those standards in state and local prisons;

**WHEREAS**, PREA, the City and PPS recognize the particular vulnerabilities of inmates who are Lesbian, Gay, Bisexual, Transgender, Intersex and Gender Non-conforming (LGBTI) or whose appearance or manner does not conform to traditional gender expectations; and

**WHEREAS**, the City recognized that the protections afforded to LGBTI inmates through the implementation of PREA will assist in achieving the mission of PPS; and

**WHEREAS**, the PPS already has taken significant steps to adopt PREA standards in its facilities, including recognized compliance with those standards at the Juvenile Justice Services Center; and

**WHEREAS**, the City wants to apply PREA standards to all PPS facilities;

**NOW, THEREFORE**, I, Michael A. Nutter, Mayor of the City of Philadelphia, by the powers vested in me by the Philadelphia Home Rule Charter, do hereby **ORDER** as follows:

**SECTION 1. PROHIBITION OF SEXUAL ABUSE AND SEXUAL HARASSMENT**

Any form of sexual abuse or sexual harassment of any individual under the supervision of the Philadelphia Department of Prisons is and shall be strictly forbidden. Anyone who engages in, fails to report, or knowingly condones sexual harassment or sexual abuse of an inmate shall be subject to disciplinary action and may be subject to prosecution under applicable law. Anyone found to have engaged in sexual harassment of, or any PPS staff member or contractor

found to have engaged in sexual contact with an inmate, may be subject to disciplinary action and/or sanctions, including dismissal and termination of contracts and/or services. A claim of consent will not be accepted as an affirmative defense for engaging in sexual harassment or sexual abuse of an inmate by any PPS staff.

## **SECTION 2. PROHIBITION OF RETALIATION**

PPS shall prohibit retaliation against an inmate who reports sexual harassment or sexual conduct, or a staff member who reports sexual harassment or sexual contact with an inmate.

## **SECTION 3. COORDINATION**

PPS shall designate an agency-wide PREA Coordinator to oversee PPS' efforts to comply with the National PREA Standards across all facilities, and each facility shall designate a PREA Compliance Manager to coordinate its efforts. The PREA Coordinator shall report directly to the Prisons Commissioner.

## **SECTION 4. SUPERVISION**

PPS shall ensure that each facility develops, documents and makes its best efforts to comply with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse.

## **SECTION 5. PROTECTIVE CUSTODY**

Inmates at a high risk for sexual victimization or inmates that have alleged abuse shall not be placed involuntarily in Administrative Custody or any other form of isolation or segregation as a means of protection unless an assessment of all available alternatives has been made by psychology and security staff in conjunction with the PREA Compliance Manager, and a determination has been made that there is no other available alternative means of separation from likely abusers. If the facility cannot conduct the assessment immediately, the facility may hold the inmate in involuntary Administrative Custody for less than 24 hours while completing the assessment.

Involuntary segregated housing should be used for inmates at a high risk for sexual victimization or inmates that have alleged abuse only as a last resort and should generally not exceed 15 days. If an inmate is placed in restrictive housing for the inmate's own protection, voluntarily or involuntarily, the inmate must be given access to programs, privileges, education, and work opportunities to the extent possible and any reason for any unavoidable restriction must be documented.

## **SECTION 6. YOUTHFUL INMATES**

No inmate under the age of 18 shall be placed in a housing unit in which he or she will have sight, sound, or physical contact with any adult inmate through the use of a shared dayroom or other common space, shower area, or sleeping quarters.

## **SECTION 7. VIEWING AND SEARCHES**

Staff shall not conduct cross-gender strip searches or cross-gender visual body cavity searches, except in exigent circumstances or when performed by medical practitioners in accordance with PPS policy. Provided, in the case of a strip search or visual body cavity search of a transgender or gender non-conforming inmate, the staff member or members to conduct such a search shall be of whatever gender will best protect the dignity of the particular inmate. A transgender or intersex inmate shall not be searched or physically examined by facility staff for the sole purpose of determining the inmate's genitalia status.

## **SECTION 8. SCREENING**

All inmates shall be assessed during the intake screening process, upon receipt into another facility, whenever an inmate is involved in an incident of sexual abuse and at their annual reviews, for risk of being sexually abused by other inmates or sexually abusive toward other inmates.

## **SECTION 9. LGBTI POPULATIONS**

In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, PPS shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. The inmate's own views on his or her safety shall be given full and complete consideration. PPS shall screen individuals within 72 hours of intake to assess each inmate's risk for sexual victimization or abuse and to determine whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming. Housing and all program assignments (i) should separate inmates at high risk of sexual victimization from those at high risk of being sexually abusive, (ii) should reflect the best interests of the inmate, and (iii) should in no case be based merely on genital status.

No search shall be conducted for the sole purpose of determining an individual's genital status and cross-gender strip and cavity searches are forbidden, except in exigent circumstances or when performed by a medical practitioner. PPS shall ensure that individuals are able to shower and undress without being viewed by staff of the opposite gender and that staff of the opposite gender announce themselves prior to entering any housing area. PPS shall provide transgender and intersex individuals with access to private showers wherever possible.

PPS shall not place LGBTI inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless placement (i) is in a dedicated facility, unit, or wing

established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates or (ii) is requested by the inmate. Involuntary segregated housing should be used only as a last resort and should generally not exceed 15 days. If an inmate is placed in restrictive housing for the inmate's own protection, voluntarily or involuntarily, the inmate must be given access to programs, privileges, education, and work opportunities to the extent possible and any reason for any unavoidable restriction must be documented.

**SECTION 10. TRAINING**

The PREA Compliance Manager at each facility shall ensure that all staff members receive (i) basic PREA training, including being informed that sexual contact with an inmate is prohibited and that an inmate has a right to report if sexual contact occurs and (ii) basic training about LGBTI concerns and rights. In addition to that basic training, any staff member in the facility security office or who investigates sexual abuse allegations shall receive additional appropriate training. Any person having regular contact with inmates shall receive training regarding sexual abuse and sexual harassment of inmates during orientation sessions and as appropriate.

**SECTION 11. INMATE EDUCATION**

Every inmate will receive information regarding sexual abuse and sexual harassment in prison, how to report an incident of sexual abuse or sexual harassment, and what to do if he/she is the victim of sexual abuse or sexual harassment.

**SECTION 12. EFFECTIVE DATE**

This Order shall take effect immediately.

12/21/15  
Date

  
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Michael A. Nutter, Mayor  
City of Philadelphia