

PREA 42 U.S.C § 15607, 28 C.F.R. § 115

What does PREA mean?

PREA stands for the **P**rison **R**ape **E**limination **A**ct. The regulations that tell prisons how to follow PREA is in the Code of Federal Regulations at 28 C.F.R. § 115



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New York claims to follow PREA. For you that means:

- You can be punished for having sex with other prisoners
- You can't be punished for having sex with someone who threatened, intimidated or coerced

(tricked) you into having sex

- PREA provides a process for you to report sexual abuse, see how on page 3
- The prison is not allowed to put you in special housing just because you identify as transgender, gender nonconforming or LGBTQ as opposed to cisgender or heterosexual



What is rape?

When PREA talks about rape, it means sexual abuse.

Sexual abuse is when someone touches or puts things in or on your, genitals, or anus; or touches your upper thigh toward your genitals, or your breasts **for no professional reason:**

- when **you don't want them to**; or

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- in **exchange for protection**; or
- **says they will hurt you if you say no**
- If someone is a **PRISON EMPLOYEE** or **volunteer** and they do these things **for no professional reason**, it is sexual abuse even if you said you wanted to
- Prison employees or volunteers are allowed to put their hand, finger or an object in your genitals, or anus; or touch your upper thigh toward your genitals, or your breasts **for professional reasons** (like a search or medical examination)
- **But**, even if there is a professional reason, they cannot do these things **because it turns them on, or gets them off.**



You can also report Voyeurism and Sexual Harassment under PREA!

Voyeurism is when a person who works, or volunteers, at the prison:

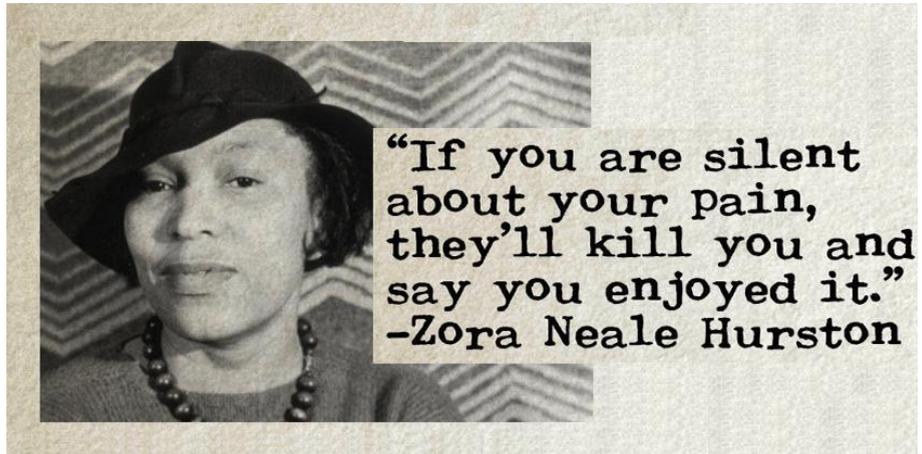
- Watches a prisoner at inappropriate times for no professional reason (like when you are using the toilet, or anything else that you do that shows your breasts or genitals); or,

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- Takes pictures of or films a prisoner while they are doing those things.

These things are **invasions of privacy.**



Sexual harassment is

- When another person keeps hitting on you, asking you to have sex, or asking you to do sexual things with them
- When someone makes nasty sexual comments to you
- When someone who works or volunteers at the prison making mean comments about your gender, how you look, or what you are wearing. 28 C.F.R. § 115.6
- When a prison employee shows you their breasts or genitals

If you have experienced sexual abuse, voyeurism, or sexual harassment, you can use the PREA grievance process to file a complaint by telling anyone who works at the prison (including a volunteer):

- You can tell them verbally (**out loud**), or in **writing**

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- You can tell a **counselor, medical staff, or staff member**
- You do **not** have to tell someone you are afraid of, or the person who hurt you
- The person you tell **MAY NOT** tell anyone what you have told them, except for their supervisor. **(They are told to keep it confidential, but make sure to tell who you trust MOST)**

When you tell the prison about sexual abuse they **MUST**:

- Act **IMMEDIATELY** by telling a supervisor
- Begin to investigate within 90 hours
- **Separate you from the person or people who hurt you**
- Let you know the results of the investigation
 - If the person who hurt you is punished, transferred, or fired

the prison must tell you

When you tell the prison that you were sexually abused they

CANNOT:

- Punish you, unless the report you made was a “lie”
 - Even if there’s not enough evidence to prove the assault happened, that doesn’t mean your report was a lie. For the report to be a “lie,” it must have been unreasonable for you to believe that the assault happened.
- Put you in solitary confinement as a PUNISHMENT. **Warning:** the prison may put you in solitary based on a claim that it is for your protection, but there is paperwork that must be done to prove it. This is called “protective custody,”

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and the solitary confinement guide has more information on this.

If you have been a victim of sexual abuse, the prison may:

- Ask you not to shower
- Ask you not to brush your teeth
- Place you in “protective custody” (solitary)

They may ask you to these things to protect evidence, but you don't have to listen to them.

In order to prevent sexual abuse, PREA says that:

- Strip searches must be done by an officer with the same gender as the prisoner.
 - If you are allowed to wear a bra:
 - a man searching you **must** use the back of his hand while searching your breast area in a pat down search.
 - Male officers **may not** pat your nipples, but female officers may.

