

Implementing The Prison Rape Elimination Act: A Toolkit for Jails



The Moss
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CENTER FOR
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Introduction

Welcome to *Implementing the Prison Rape Elimination Act: A Toolkit for Jails* (the Toolkit)! The goal of this Toolkit is to provide jails of all sizes, political divisions, and geographic locations with a step-by-step guide for preventing, detecting, and eliminating sexual abuse of inmates¹ in their custody – and for responding effectively to abuse when it does occur. Prison rape includes all forms of inmate sexual abuse within any correctional facility, including state and federal prisons, county and municipal jails, police lock-ups, holding facilities, inmate transportation vehicles, juvenile detention facilities, and community corrections facilities. Protecting arrestees, detainees, and inmates from sexual violence is part of a jail’s core mission. This Toolkit will help assess your jail’s operations with an eye to improvements.

The topic of sexual abuse of inmates was acknowledged by the United States Congress in 2003 when it unanimously passed The Prison Rape Elimination Act (PREA). PREA initiated the development of a set of National Standards to Prevent, Detect, and Eliminate Prison Rape, which will be discussed in detail throughout the Toolkit.

The Toolkit includes:

Introductory information:

- An historical perspective of PREA
- General information about the PREA law
- A discussion of Federal partners and their roles
- A review of the work of the National Prison Rape Elimination Commission
- An overview of the role of the Review Panel on Prison Rape
- A description of the role of the National PREA Resource Center

A Self-Assessment Checklist and supporting forms to provide a step-by-step process for jails to review and assess policies, procedures, and practices in light of the PREA Standards and accepted best practices.

Resources to assist in PREA-readiness, including:

- Websites
- Policy Development Guides
- Important research, articles and reports
- Links to ready-to-use training materials – curriculum, lesson plans, interactive exercises

¹ The term “inmate” is used throughout the Toolkit and is used to denote any arrestee, detainee, inmate, or other person legally detained/held by a law enforcement agency, jail, or prison.

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A Word on Policy and Procedure Development

The Toolkit will provide the reader with policy considerations and suggestions. It is strongly recommended that agencies NOT merely copy policies of other jails, but rather analyze their own jail's operations as new or revised policies to address PREA are developed. States have different laws² that will affect development of policy and procedures; jails have unique facility designs, staffing, and budget issues that influence procedures. Agencies are encouraged to use the Policy Guide and Self-Assessment Checklists to develop the most appropriate and effective policies and procedures for their facilities.

² For a listing of these laws, see *The Project on Addressing Prison Rape. Fifty State Survey of Sexual Assault Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)

Part 1—PREA Implementation

1.1—General Information about the PREA Law

PREA supports the elimination, reduction, and prevention of sexual abuse and sexual harassment within corrections systems. PREA:

- Establishes a zero-tolerance standard for the incidence of sexual abuse in confinement settings in the United States;
- Makes the prevention of sexual abuse a top priority in each correctional system;
- Develops and implements national standards for the detection, prevention, reduction, and punishment of prison rape;
- Increases the accountability of corrections officials who fail to detect, prevent, reduce, and punish prison rape;
- Requires the collection of statistical data regarding the prevalence of sexual abuse in facilities; and
- Provided periodic funding of grants for state correctional systems to address factors that contribute to the incidence of sexual abuse³.

The Appendix in Part 3 provides more detailed information about the law.

³ Funding has been exhausted and is not available through this grant program any longer.

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1.2—The PREA Standards

The final National Standards to Prevent, Detect, and Respond to Prison Rape (PREA Standards) were signed by Attorney General Eric Holder on May 16, 2012 and released by the United States Department of Justice on May 17, 2012. They were published in the Federal Register on June 20, 2012.

The standards are immediately effective for the Bureau of Prisons. They become effective for jails sixty (60) days following their publication in the Federal Register, or on August 20, 2012. Audits on the PREA Standards will begin on or around August 20, 2013.

The standards can be found at: http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf.

1.3—Definitions and Terms

The following definitions are included in the PREA Standards. In your jail's review of operations, policies, and procedures, consider incorporating these definitions. Also review the specific language in your state statutes⁴ regarding custodial sexual misconduct as you finalize your policies/procedures.

Abuse-Related Definitions

Sexual abuse includes—

- (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse by another inmate, detainee, or resident includes—

Any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding contact incidental to a physical altercation.

Sexual abuse by a staff member, contractor, or volunteer includes—

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;

⁴ See *The Project on Addressing Prison Rape. Fifty State Survey of Official Misconduct Statutes, 2009* (http://www.wcl.american.edu/nic/documents/50StateSurveyofOfficialMisconductStatutesFINAL_August2009.pdf?rd=1b)

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- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual harassment includes—

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

General Definitions

Agency means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency head means the principal official of an agency.

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile

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facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee means any person detained in a lockup, regardless of adjudication status.

Direct staff supervision means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

Employee means a person who works directly for the agency or facility.

Exigent circumstances means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility head means the principal official of a facility.

Full compliance means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming means a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate means any person incarcerated or detained in a prison or jail.

Intersex means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail..

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Juvenile facility means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Law enforcement staff means employees responsible for the supervision and control of detainees in lockups.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Prison means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

Security staff means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Staff means employees.

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Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender means a person whose gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

Unfounded allegation means an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Youthful inmate means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Youthful detainee means any person under the age of 18 who is under adult court supervision and detained in a lockup.

1.4—Developing Strategies to Comply with the PREA Standards

Compliance

The United States Department of Justice (DOJ) recognizes that local jails are unique with regard to compliance with the PREA standards. PREA required the Attorney General to promulgate standards for a wide range of confinement facilities, and Congress specifically mentioned jails, police lockups, and other facilities.

In the preamble to the National Standards to Prevent, Detect, and Respond to Prison Rape, the DOJ states: “PREA does not require State and local facilities to comply with the Department’s standards, nor does it enact a mechanism for the Department to direct or enforce such compliance; instead, the statute provides certain incentives for such confinement facilities to implement the standards.” The incentives referred to in the standards are provided through Federally-funded corrections programs, few of which are available directly to jails.⁵

PREA standard 115.12 requires that agencies enter into new contracts (or contract renewals) only with facilities that are compliant with the standards. Thus, local agencies that are not compliant may face loss of their contracts with the state or other PREA-compliant agencies. In addition, states themselves may independently decide, at their discretion, to require local facilities to comply or may create financial incentives to encourage compliance. Furthermore, it is possible that private litigants may cite noncompliance as evidence that the facility is constitutionally deficient.

Finally, in a state that operates unified systems, the state must, in order to avoid the financial consequences of noncompliance, demonstrate that all state-operated facilities, including jails, are in compliance.

Jails not impacted by the financial incentives should make a conscious decision to comply or not with the standards. Jails may choose to comply with the standards for many reasons, including but not limited to:

- (1) ensuring the sexual safety of inmates and staff;
- (2) recognizing that prevention of inmate sexual assault and abuse is a core component of jail security operations; ;
- (3) mitigating against litigation as the PREA standards are now considered accepted correctional practice;
- (4) demonstrating to all stakeholders the agency’s commitment to prevention of sexual assault;
- (5) promoting thorough investigative practices to protect both staff and inmates; and/or

⁵ For example, such programs might include State Criminal Alien Program (SCAP); Justice Assistance Grants (JAG); Byrne Grants; justice re-investment and reentry programs.

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(6) ensuring that staff are appropriately trained in sexual assault prevention and response.

Zero-Tolerance; PREA Coordinator

Should the jail determine it is in the best interests of inmates, staff, and the community to comply with the standards, here are highlights of administrative-related standards.

PREA standard 115.11 requires the agency to establish a zero-tolerance policy for sexual abuse and sexual harassment. This policy outlines the agency's approach to preventing, detecting, and responding to such conduct. This standard also requires that the agency employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. Where an agency operates more than one facility, each facility must designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

In the overview of the PREA National Standards⁶ (pp. 23-24), the DOJ notes that the PREA coordinator should have access to agency and facility leadership on a regular basis and have the authority to work with other staff, managers, and supervisors to effect change if necessary. The PREA compliance manager need not be "upper-level," but should have access to facility staff, managers, and supervisors in order to guide implementation within the facility.

Contracting With Other Entities for Confinement of Inmates

Standard 115.12 requires that if an agency contracts with outside entities to hold the agency's inmates it includes in any new contract or contract renewal that organization's obligation to comply with the PREA standards.

Supervision and Monitoring

Standard 115.13 requires that each agency develop, implement, and document a staffing plan that provides adequate levels of staffing and video monitoring (where applicable). Facilities must document times when they deviate from the plan and review the plan at least once per year. Facilities must also have a policy and practice of having specified supervisory staff conduct and document unannounced rounds that must occur on both night and day shifts.

The DOJ provides significant guidance for this standard related to the implementation of the staffing plan, use of monitoring technology, and the conduct of unannounced rounds in the overview of the standards (pp. 27-30, 38-40).

⁶ All references to the final PREA standards (including page numbers) utilize the final rule located at http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf.

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Hiring and Promotion Decisions

Standard 115.17 prohibits the agency from hiring, promoting, or contracting with anyone (that will have direct contact with inmates) who has engaged in, been convicted of, or been civilly or administratively adjudicated for engaging in sexual abuse in confinement settings. The standard requires the agency to conduct criminal background checks and make its best efforts to contact prior institutional employers to obtain this information. These checks must be repeated for all employees at least every five years.

Upgrades to Facilities and Technologies

Standard 115.18 requires the agency to consider the effect any design, acquisition, expansion or modification of physical plant or monitoring technology might have on the agency's ability to protect inmates from sexual abuse.

The DOJ provides guidance for this standard by listing a variety of methods that agencies could use to document this consideration for audit purposes (pp. 69-70).

Inmate Access to Outside Confidential Support Services

Standard 115.53 expects the agency to provide inmates who allege sexual abuse while in the agency's custody with access to outside victim advocates and provide, post, or otherwise make accessible specific contact information for victim advocacy or rape crisis organizations. Further, agencies are to enable reasonable communication between inmates and these organizations as well as inform inmates (prior to giving them access) of the extent to which agency policy governs monitoring of their communications and when reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. Finally, agencies are required to maintain or attempt to enter into agreements with community service providers to provide inmates with confidential emotional support services related to the inmate's sexual abuse while in custody.

The DOJ provides guidance for this standard, noting that victims of sexual abuse should be provided with this information and given the ability to contact service providers regardless of the inmate's past status as an abuser. The DOJ also provides guidance regarding documentation of efforts to enter into agreements for auditing purposes (pp. 112-114).

Preservation of Ability to Protect Inmates from Contact with Abusers

Standard 115.66 prohibits the agency from entering into or renewing collective bargaining agreements that limit the agency's ability to remove alleged staff sexual abusers from contact with inmates pending the outcome of an investigation.

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The DOJ provides guidance for this standard by clarifying the intent of the standard and defining the limits of the standard related to other agreements that the agency might enter into (pp.125-126).

Disciplinary Sanctions for Staff

Standard 115.76 states that staff should be subject to significant disciplinary sanctions for sustained violations of sexual abuse and harassment policies. Termination should be the presumption sanction for a staff person found guilty of sexual abuse, and such conduct should be reported to law enforcement and licensing agencies.

The DOJ provides guidance for this standard by recognizing that the agency may not always be the final determiner of employee terminations. Also, DOJ provides clarifying examples of what kinds of conduct could constitute a violation of agency policies (pp. 134-136).

Corrective Action for Contractors and Volunteers

Standard 115.77 states that any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement and relevant licensing bodies, where applicable. Other violations of the agency's sexual abuse or harassment policies could result in remedial measures and prohibition of further contact with inmates when appropriate.

Resources

- U.S. Department of Justice, National Institute of Corrections. *Staffing Analysis Workbook for Jails 2nd Edition* (<http://static.nicic.gov/Library/016827.pdf>)
- National Institute of Corrections and The Moss Group. *Prison Rape Elimination Act (PREA) Considerations for Policy Review* (<http://www.mossgroup.us/policy.html>)
- The Center for Innovative Public Policies, Inc. *Policy Development Guide for Sheriffs and Jails 2002* (<http://nicic.gov/Library/017925>)
- U.S. Department of Justice, National Institute of Corrections. *Jail Vulnerability Assessment: A Systems Approach to Safety and Security* (<https://www.onlinefilefolder.com/2sSH2Emn2FEKhB>)
- Evaluation of Colorado PREA Program – February 2009 (<http://nicic.gov/Library/023997>)
- The Project on Addressing Prison Rape. *Fifty State Survey of State Mandatory Reporting Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- The Project on Addressing Prison Rape. *Fifty State Survey of State Criminal Laws Prohibiting the Sexual Abuse of Individuals under Custodial Supervision* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- The Project on Addressing Prison Rape. *Fifty State Survey of Sexual Assault Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)

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- The Project on Addressing Prison Rape. *Fifty State Survey of Child Exploitation Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- The Project on Addressing Prison Rape. *Fifty State Survey of Adult Sex Offender Registration Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- The Project on Addressing Prison Rape. *Fifty State Survey of Juvenile Sex Offender Registration Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- The Project on Addressing Prison Rape. *Fifty State Survey of Official Misconduct Statutes* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)

Section 1.4.1 – Administrative Considerations Self-Assessment Checklist

- 1) Agency Zero Tolerance Policy
- 2) Staffing, Personnel, and Facility Considerations
- 3) Agreements with External Entities

1) Agency Zero Tolerance Policy

Questions	YES	NO	Standard Reference
1. Is there a written policy that does the following?			
	YES	NO	
A. Mandates zero tolerance toward all forms of sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.11
B. Outlines the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	
<div style="display: flex; justify-content: space-between; width: 100%;"> <i>(Select only if both A & B are Yes)</i> <i>(Go to next section)</i> </div>			
2. If the answer to (1) is YES, does the policy include the following?			
	YES	NO	
A. Definitions of prohibited behaviors.	<input type="checkbox"/>	<input type="checkbox"/>	Best Practice
B. Sanctions for participation in prohibited behaviors.	<input type="checkbox"/>	<input type="checkbox"/>	
C. Other agency strategies and responses to sexual abuse and sexual harassment of inmates.	<input type="checkbox"/>	<input type="checkbox"/>	
<div style="display: flex; justify-content: space-between; width: 100%;"> <i>(Select only if A-C are Yes)</i> </div>			

2) Staffing, Personnel, and Facility Considerations

Questions	Yes	No	Standard Reference
1. Does the agency employ or designate an upper-level, agency-wide PREA coordinator?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 2)</i>	§115.11
A. If the answer to (1) is YES, does the PREA coordinator have sufficient time and authority to develop, implement and oversee agency efforts to comply with the PREA standards in all its facilities?	<input type="checkbox"/>	<input type="checkbox"/>	§115.11
2. Does the agency operate more than one facility?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>	§115.11
A. If the answer to (2) is YES, has each facility designated a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards?	<input type="checkbox"/>	<input type="checkbox"/>	§115.11
3. Has the agency ensured that each facility develops and documents a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to protect inmates against sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.13

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Questions			Yes	No	Standard Reference																																				
<p>A. If the answer to (3) is YES, did the facility take into consideration the following when calculating staffing levels and determining the need for video monitoring?</p> <table border="1"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>i. Generally accepted detention and correctional practices.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>ii. Any judicial findings of inadequacy.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>iii. Any findings of inadequacy from Federal investigative agencies.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>iv. Any findings of inadequacy from internal or external oversight bodies.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>v. All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated).</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>vi. The composition of the inmate population.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>vii. The number and placement of supervisory staff.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>viii. Institution programs occurring on a particular shift.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>ix. Any applicable State or local laws, regulations, or standards.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>x. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>xi. Any other relevant factors.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>				YES	NO	i. Generally accepted detention and correctional practices.	<input type="checkbox"/>	<input type="checkbox"/>	ii. Any judicial findings of inadequacy.	<input type="checkbox"/>	<input type="checkbox"/>	iii. Any findings of inadequacy from Federal investigative agencies.	<input type="checkbox"/>	<input type="checkbox"/>	iv. Any findings of inadequacy from internal or external oversight bodies.	<input type="checkbox"/>	<input type="checkbox"/>	v. All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated).	<input type="checkbox"/>	<input type="checkbox"/>	vi. The composition of the inmate population.	<input type="checkbox"/>	<input type="checkbox"/>	vii. The number and placement of supervisory staff.	<input type="checkbox"/>	<input type="checkbox"/>	viii. Institution programs occurring on a particular shift.	<input type="checkbox"/>	<input type="checkbox"/>	ix. Any applicable State or local laws, regulations, or standards.	<input type="checkbox"/>	<input type="checkbox"/>	x. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>	xi. Any other relevant factors.	<input type="checkbox"/>	<input type="checkbox"/>			
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<p>B. If the answer to (3) is YES, does the agency make its best efforts to comply with the staffing plan on a regular basis?</p>			<input type="checkbox"/>	<input type="checkbox"/>	§115.13																																				
				<i>(Go to 4)</i>																																					

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Questions	Yes	No	Standard Reference												
<p>7. Does the agency prohibit hiring or promoting anyone (who may have contact with inmates) who has done any of the following?</p>															
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<p><input type="checkbox"/> <input type="checkbox"/> §115.17</p> <p><i>(Go to 8)</i></p>															
<p>D. If the answer to (7) is YES, does the agency ask all applicants and employees directly about previous misconduct in the following?</p>															
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<p><i>(Select only if i-iii are Yes)</i></p>															
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Questions	Yes	No	Standard Reference												
<p>8. Does the agency prohibit enlisting the services of any contractor (who may have contact with inmates) who has done the following?</p> <table border="1" data-bbox="94 365 927 1060"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>A. Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>B. Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>C. Been civilly or administratively adjudicated to have engaged in the activity described in section (B) above.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).	<input type="checkbox"/>	<input type="checkbox"/>	B. Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.	<input type="checkbox"/>	<input type="checkbox"/>	C. Been civilly or administratively adjudicated to have engaged in the activity described in section (B) above.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.17
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C. Been civilly or administratively adjudicated to have engaged in the activity described in section (B) above.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>9. Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.17												
<p>10. Does the agency perform a criminal background check before hiring new employees who may have contact with inmates?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.17												
<p>11. Does the agency make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse, or any resignation during a pending investigation of an allegation of sexual abuse, (consistent with Federal, State, and local law), before hiring a new employee who may have contact with inmates?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.17												
<p>12. Does the agency perform criminal background records checks before enlisting the services of any contractor who may have contact with inmates?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.17												

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Questions	Yes	No	Standard Reference
13. Does the agency conduct criminal background checks of current employees and contractors who may have contact with inmates at least every five years?	<input type="checkbox"/>	<input type="checkbox"/>	§115.17
	<i>(Go to 14)</i>		
A. If the answer to (13) is NO, does the agency have a system in place for otherwise capturing such information on current employees?	<input type="checkbox"/>	<input type="checkbox"/>	§115.17
14. Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct?	<input type="checkbox"/>	<input type="checkbox"/>	§115.17
15. Does the agency consider material omissions regarding such misconduct on application materials, or the provision of materially false information, to be grounds for termination?	<input type="checkbox"/>	<input type="checkbox"/>	§115.17
16. Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work, unless prohibited by law?	<input type="checkbox"/>	<input type="checkbox"/>	§115.17
17. Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies?	<input type="checkbox"/>	<input type="checkbox"/>	§115.76
18. Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.76
19. Are staff disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the following?			
	YES	NO	
A. The nature and circumstances of the acts committed.	<input type="checkbox"/>	<input type="checkbox"/>	
B. The staff member's disciplinary history.	<input type="checkbox"/>	<input type="checkbox"/>	
C. The sanctions imposed for comparable offenses by other staff with similar histories.	<input type="checkbox"/>	<input type="checkbox"/>	
	<i>(Select only if A-C are Yes)</i>	<input type="checkbox"/>	§115.76

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Questions	YES	NO	Standard Reference
4. Does the agency maintain memoranda of understanding or other agreements with community service providers that are able to provide inmates with emotional support services related to sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>	§115.53
A. If the answer to (4) is YES, does the agency maintain copies of those agreements?	<input type="checkbox"/> <i>(Go to 5)</i>	<input type="checkbox"/>	§115.53
B. If the answer to (4) is NO, has the agency attempted to enter into memoranda of understanding or other agreements with community service providers that are able to provide such services, and does the agency maintain documentation of the attempts to enter into such agreements?	<input type="checkbox"/>	<input type="checkbox"/>	§115.53
5. Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies?	<input type="checkbox"/>	<input type="checkbox"/>	§115.76

1.5—Inmate Management, Services, Cross-Gender Searches, Transgender Inmates

Youthful Inmates

Standard 115.14 addresses how jails should house and provide services for youthful inmates.⁷ The standard requires that youthful inmates be placed in housing units that have sight, sound, and physical contact separation from adult inmates. In areas other than housing units, sight and sound separation must be maintained between youthful inmates and adult inmates unless the facility can provide direct staff supervision⁸ over inmates in the area. Finally, the standard directs that agencies should not use isolation or denial of exercise, education, or other program/work opportunities in order to comply with the requirements.

The DOJ recommends that agencies utilize alternatives for housing of youth rather than relying on isolation (pp. 48-49). Alternatives include:

- using dedicated units, wings, or tiers;
- entering into agreements with other entities to hold youthful inmates; or
- exploring non-secure alternatives

Limits to Cross-Gender Viewing and Searches

Standard 115.15 provides extensive guidance regarding the conduct of searches. Cross-gender strip and visual body cavity searches are prohibited except in exigent circumstances⁹ or when performed by medical practitioners.

The standard also places a prohibition on cross-gender pat-down searches of female inmates (absent exigent circumstances). This prohibition does not take effect until August 20, 2015, for jails with a rated capacity of more than 50 inmates or until August 20, 2017, for jails with a rated capacity of 50 or fewer inmates.

In addition, facilities cannot search or physically examine a transgender or intersex inmate solely to determine the inmate's genital status. The agency must also train staff to conduct pat-down searches of cross-gender, transgender, and intersex inmates in a professional and respectful manner.

⁷ A *youthful inmate* means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

⁸ *Direct staff supervision* means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

⁹ *Exigent circumstances* means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

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The standard also requires jails to implement policies and procedures that allow inmates to shower, change clothes, and perform bodily functions without staff members of the opposite gender viewing them, absent exigent circumstances or instances when the viewing is incidental to routine cell checks. These policies and procedures also require staff members of the opposite gender to announce their presence when entering an inmate housing unit.

DOJ provides further guidance for this standard by noting that the prohibition against staff viewing inmates of the opposite sex includes staff members that monitor cameras (p. 40). The DOJ also notes that the ban on cross-gender searches does not, in and of itself, create or establish a bona fide occupational qualification (BFOQ) that could result in employment discrimination on the basis of sex (pp. 54-55). The DOJ addresses many concerns related to the housing and treatment of transgender and intersex inmates (pp. 55-59).

Evidence Protocol and Forensic Medical Examinations

Standard 115.21 requires agencies that are responsible for investigating allegations of sexual abuse to follow uniform evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The agency must offer all inmates who experience sexual abuse access to forensic medical examinations (whether on-site or at an outside facility) without cost to the inmate. Examinations are to be performed by Sexual Assault Nurse Examiners (SANEs) if possible, or by a qualified medical practitioner. A victim advocate is to be made available to accompany the victim through examinations and investigatory interviews.

The DOJ notes that this standard applies to both criminal and administrative investigations. There is significant information and discussion about the use of rape crisis centers and the activities and training of victim advocates in the standards overview (pp. 71-75).

Access to Emergency Medical and Mental Health Services

Standard 115.82 requires that inmate victims of sexual abuse in-custody receive timely, unimpeded access to emergency medical treatment and crisis intervention services as directed by medical and mental health practitioners. This access includes information about and access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate. All services are to be provided without financial cost to the victim.

The DOJ provides clarification on the meaning of key terms within the standard within the standards overview (pp. 145-146).

Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

Standard 115.83 states that the facility is to offer medical and mental health evaluations (and treatment where appropriate) to all victims of sexual abuse that occurs in any prison, jail, lockup, or juvenile facility. The evaluation and treatment should include follow-up services, treatment

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plans, and (when necessary) referrals for continued care following a transfer or release. These services should be provided in a manner that is consistent with the level of care the inmate would receive in the community and include pregnancy tests and all lawful pregnancy-related medical services where applicable. All services are to be provided without financial cost to the victim.

The DOJ states that the standard is intended to encompass individuals who were victimized while in another facility (p. 148) but does not encompass inmates who committed a sex offense in the community or staff who have abused inmates (p. 151). The language “shall be offered tests” in the standard is meant to make clear that victims are not required to undergo such testing—only that such testing is offered when appropriate (p. 149).

Resources

- National Law Enforcement and Corrections Training Center. *Clean Techniques for Handling Evidence* (<http://www.justnet.org/TechBeat%20Files/Clean%20Techniques%20for%20Handling%20Evidence.pdf>)
- American Jail Association. *Effective Management of Female Offenders in Jails* (nicic.gov/Library/018812)
- National Institute of Justice (USDOJ). *Mental Health Screens for Corrections* (www.nij.gov/pubs-sum/216152.htm)
- The Project on Addressing Prison Rape. *Responding to Inmate on Inmate Sexual Violence* (<http://www.wcl.american.edu/endsilence>)
- The Project on Addressing Prison Rape. *Policy Guide: LGBTI Policies* (<http://www.wcl.american.edu/endsilence>)
- Transgender Law and Policy Institute with the National Center for Transgender Equality. *Handbook for Understanding Transgender Americans* (<http://www.ithaca.edu/sacl/lgbt/docs/basicresources/understandingtrans/>)
- National Institute of Corrections. *Gender-Responsive Strategies for Women Offenders: The Gender-Responsive Strategies Project: Jail Applications* (<http://static.nicic.gov/Library/020417.pdf>)

Section 1.5.1 – Inmate Management and Services Self-Assessment Checklist

- 1) Supervising Inmates
- 2) Victim Services: General
- 3) Victim Services: Immediate Response
- 4) Victim Services: Ongoing

1) Supervising Inmates

Questions	YES	NO	Standard Reference
1. Has the agency implemented a policy and practice of having intermediate-level or higher-level supervisors to conduct and document unannounced rounds to identify and deter staff sexual misconduct and sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 2)</i>	§115.13
A. If the answer to (1) is YES, does policy require unannounced rounds on both night and day shifts?	<input type="checkbox"/>	<input type="checkbox"/>	§115.13
B. If the answer to (1) is YES, is there a policy in place prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility?	<input type="checkbox"/>	<input type="checkbox"/>	§115.13
2. Does the facility prohibit cross-gender pat-down searches of female inmates, absent exigent circumstances? NOTE: Facilities have 3 years and 60 days following the date of publication of the final PREA standards in the Federal Register to comply. Facilities whose rated capacity does not exceed 50 inmates have 5 years and 60 days following the date of publication of the final PREA standards in the Federal Register to comply.	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>	§115.15
A. If the answer to (2) is YES, does the facility NOT restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision?	<input type="checkbox"/>	<input type="checkbox"/>	§115.15
B. If the answer to (2) is YES, does the agency require that all cross-gender pat-down searches of female inmates be documented?	<input type="checkbox"/>	<input type="checkbox"/>	§115.15
3. Does the agency prohibit cross-gender strip searches or visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.15

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Questions	YES	NO	Standard Reference												
A. If the answer to (3) is YES, does the agency require that all cross-gender strip searches and cross-gender visual body cavity searches be documented?	<input type="checkbox"/>	<input type="checkbox"/>	§115.15												
4. Does the agency have policies and procedures that enable inmates to perform the following without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances, or when such viewing is incidental to routine cell checks?	<i>(Select only if A-C are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 5)</i>	§115.15												
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A. If the answer to (4) is YES, do such policies and procedures require staff of the opposite gender to announce their presence when entering an inmate housing unit?	<input type="checkbox"/>	<input type="checkbox"/>	§115.15												
5. Are transgender and intersex inmates given the opportunity to shower separately from other inmates?	<input type="checkbox"/>	<input type="checkbox"/>	§115.42												
6. Does the facility house youthful inmates (i.e. persons under the age of 18 who are under adult court supervision and incarcerated or detained in a prison, jail or lockup)?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to section 2)</i>	§115.14												
A. Are youthful inmates placed in housing units in which the youthful inmates will NOT have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters?	<input type="checkbox"/>	<input type="checkbox"/>	§115.14												
B. In areas outside of housing units, does the agency maintain sight and sound separation between youthful inmates and adult inmates?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to C)</i>	§115.14												
i. If the answer to (B) is NO, does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact?	<input type="checkbox"/>	<input type="checkbox"/>	§115.14												
C. Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision?	<input type="checkbox"/>	<input type="checkbox"/>	§115.14												
D. Are youthful inmates NOT denied daily large-muscle exercise and any legally required special education services due to agency efforts to comply with this provision?	<input type="checkbox"/>	<input type="checkbox"/>	§115.14												

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Questions	YES	NO	Standard Reference
E. Are youthful inmates also provided access to other programs and work opportunities to the extent possible?	<input type="checkbox"/>	<input type="checkbox"/>	§115.14

2) Victim Services: General

Questions	YES	NO	Standard Reference
1. Does the facility provide inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility with medical and mental health services consistent with the community level of care?	<input type="checkbox"/>	<input type="checkbox"/>	§115.83
2. Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to section 3)</i>	§115.53
A. If the answer to (2) is YES, does the facility do the following?			
	YES	NO	
i. Give inmates mailing addresses and telephone numbers (including toll-free hotline numbers where available) of local, State, or national victim advocacy or rape crisis organizations.	<input type="checkbox"/>	<input type="checkbox"/>	
ii. Give inmates mailing addresses and telephone numbers (including toll-free hotline numbers where available) of immigrant service agencies for persons detained solely for civil immigration purposes.	<input type="checkbox"/>	<input type="checkbox"/>	§115.53
iii. Enable reasonable communication between inmates and these organizations, in as confidential a manner as possible.	<input type="checkbox"/>	<input type="checkbox"/>	
	<i>(Select only if i-iii are Yes)</i>		
B. If the answer to (2) is YES, does the facility inform inmates, prior to giving them access, of the extent to which such communications will be monitored?	<input type="checkbox"/>	<input type="checkbox"/>	§115.53
C. If the answer to (2) is YES, does the facility inform inmates, prior to giving them access, of the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws?	<input type="checkbox"/>	<input type="checkbox"/>	§115.53

3) Victim Services: Immediate Response

Questions	YES	NO	Standard Reference
1. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, do staff first responders take preliminary steps to protect the victim pursuant to § 115.62 and immediately notify the appropriate medical and mental health practitioners?	<input type="checkbox"/>	<input type="checkbox"/>	§115.82
2. Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?	<input type="checkbox"/>	<input type="checkbox"/>	§115.82
3. Are treatment services provided to victims of sexual abuse without financial cost?	<input type="checkbox"/>	<input type="checkbox"/>	§115.82
4. Are treatment services provided to victims of sexual abuse regardless of whether or not the victim names the abuser?	<input type="checkbox"/>	<input type="checkbox"/>	§115.82
5. Are treatment services provided to victims of sexual abuse regardless of whether or not the victim cooperates with any investigation arising out of the incident?	<input type="checkbox"/>	<input type="checkbox"/>	§115.82
6. Does the agency offer all inmates who experience sexual abuse access to forensic medical exams, whether onsite or at an outside facility, without financial cost, where evidentiarily or medically appropriate? (Note: Also applies to State entities and DOJ components.)	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 7)</i>	§115.21
A. If the answer to (6) is YES, are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?	<input type="checkbox"/> <i>(Go to C)</i>	<input type="checkbox"/>	§115.21
B. If the answer to (A) is NO, in the event that SAFEs or SANEs cannot be made available, are the examinations performed by other qualified medical practitioners?	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
C. Does the agency document its efforts to provide SAFEs or SANEs?	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
7. Are inmate victims of sexual abuse while incarcerated offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally	<input type="checkbox"/>	<input type="checkbox"/>	§115.82

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Questions	YES	NO	Standard Reference
accepted standards of care, where medically appropriate?			
<p>8. Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?</p> <p>NOTE: For the purposes of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages.</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to section 4)</i>	§115.21
<p>A. If the answer to (8) is YES, and the rape crisis center is part of a governmental entity, is the center NOT part of the criminal justice system (such as a law enforcement agency), and does it offer a comparable level of confidentiality as a nongovernmental entity that provides similar victim services?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
<p>B. If the answer to (8) is YES, does the agency document efforts to secure services from rape crisis centers?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
<p>C. If the answer to (8) is YES, but a rape crisis center is unable to provide victim advocate services, does the agency make available a qualified staff member from a community-based organization or a qualified agency staff member to provide these services?</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to D)</i>	§115.21
<p>a) If the answer to (C) is YES, is the qualified agency staff member or the qualified community-based staff member screened for appropriateness to serve in this role?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
<p>b) If the answer to (C) is YES, is the qualified agency staff member or the qualified community-based staff member someone who has received education concerning sexual assault and forensic examination issues in general?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
<p>D. If the answer to (8) is YES, does the victim advocate, qualified agency staff member or qualified community-based staff member accompany and support the victim through the forensic medical exam process and investigatory interviews, and provide emotional support, crisis intervention, information, and referrals, as requested by the victim?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21

4) Victim Services: Ongoing

Questions	YES	NO	Standard Reference												
1. Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?	<input type="checkbox"/>	<input type="checkbox"/>	§115.83												
2. Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?	<input type="checkbox"/>	<input type="checkbox"/>	§115.83												
3. Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests?	<input type="checkbox"/>	<input type="checkbox"/>	§115.83												
4. If pregnancy results from an inmate suffering from sexually abusive vaginal penetration while incarcerated, do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services?	<input type="checkbox"/>	<input type="checkbox"/>	§115.83												
5. Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections, as medically appropriate?	<input type="checkbox"/>	<input type="checkbox"/>	§115.83												
6. Does the evaluation and treatment of such victims following their transfer to, or placement in, other facilities, or their release from custody, include the following, as appropriate?	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>		§115.83												
<table border="1"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>A. Follow-up services.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>B. Treatment plans.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>C. Referrals for continued care (when necessary).</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>					YES	NO	A. Follow-up services.	<input type="checkbox"/>	<input type="checkbox"/>	B. Treatment plans.	<input type="checkbox"/>	<input type="checkbox"/>	C. Referrals for continued care (when necessary).	<input type="checkbox"/>	<input type="checkbox"/>
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1.6—Inmate Screening

Screening for Risk of Victimization and Abusiveness

Standard 115.41 requires that all inmates be assessed during intake and upon transfer for their risk of being sexually abused or being sexually abusive. This screening is to be done within 72 hours of the inmate's arrival at the facility and is to be conducted using an objective screening instrument. The standard provides a number of considerations that must be taken into account during the screening. It also requires periodic inmate rescreening.

The standard prohibits disciplining inmates for refusing to answer or not providing complete information in response to certain screening questions. Lastly, the facility must implement controls on who in the facility has access to information obtained through these screening procedures.

The DOJ notes that screening according to this standard presents certain challenges for facilities and provides guidance to address these challenges in the standards summary (pp. 90-92, 144).

Use of Screening Information

Standard 115.42 requires that the agency use information obtained from standard 115.41 to inform a wide variety of assignments within the facility in order to keep potential inmate victims away from inmate potential abusers.

Housing and access to programming for lesbian, gay, bisexual, transgender, or intersex (LGBTI) inmates is subject to a variety of requirements, including that decisions on housing and program assignments be made based on an individual assessment. These housing and programming assignments are to be reassessed at least twice a year to review any threats to safety experienced by the inmate. LGBTI inmates are not to be classified into facilities or housing units solely based on their identification as LGBTI, unless such a dedicated unit exists in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

Involuntary Segregated Housing (Protective Custody)

Standard 115.43 addresses involuntary segregated housing by requiring that this be used only after an assessment of all available housing alternatives has shown that there are no other means of protecting the inmate. If segregated housing is used, the inmate should have all possible access to programs and services for which he/she is otherwise eligible, and the facility should document any restrictions imposed. The standard states that involuntary segregated housing shall not ordinarily exceed a period of 30 days. In cases where involuntary segregated housing is needed for longer than the initial 30 days, the facility shall review the situation every 30 days to determine if ongoing involuntary segregated housing continues to be needed.

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Medical and Mental Health Screenings; History of Sexual Abuse

Standard 115.81 requires that any inmate that is identified as a past sexual abuse victim (pursuant to the screening conducted in standard 115.41) in an institutional setting is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the screening. The standard limits information related to sexual victimization or abusiveness in an institutional setting only to medical and mental health practitioners and other necessary staff. The standard also requires medical and mental health practitioners to obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting (unless the inmate is under the age of 18).

The DOJ notes that the follow-up meeting in this standard is intended to emphasize immediate mental health needs and security risks. If the medical or mental health practitioner determines through the follow-up meeting that further treatment is not warranted, the facility is not required to provide such services (pp. 143-145).

Resources

- National Institute of Corrections. *Women in Jail: Classification Issues* (static.nicic.gov/Library/013768.pdf)
- National Institute of Corrections. *Cross-Gender Supervision Training* (nicic.gov/Library/006806)
- National Institute of Corrections. *Developing Gender Specific Classification Systems for Women* (static.nicic.gov/Library/018931.pdf)
- National Institute of Justice. *Risk Markers for Sexual Predation and Victimization in Prison* (<https://www.ncjrs.gov/pdffiles1/nij/grants/230522.pdf>)
- National Institute of Corrections. *Resource Guide for Jail Administrators* (<http://static.nicic.gov/Library/020030.pdf>)
- National Institute of Corrections. *Objective Jail Classification Systems: A Guide for Jail Administrators* (<http://static.nicic.gov/Library/014373.pdf>)

Section 1.6.1 – Inmate Screening Self-Assessment Checklist

- 1) Intake
- 2) Obtaining Information from Inmates
- 3) Use of Information
- 4) Information Management

1) Intake

Questions	YES	NO	Standard Reference									
1. Does the agency prohibit searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status?	<input type="checkbox"/>	<input type="checkbox"/>	§115.15									
2. In situations where the genital status of an inmate is unknown, does the facility attempt to determine the genital status through the following?	<i>(Select only if i-ii are Yes)</i>		§115.15									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #c00000; color: white;">YES</th> <th style="width: 10%; background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Conversations with the inmate.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Review of medical records.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES		NO	i. Conversations with the inmate.	<input type="checkbox"/>	<input type="checkbox"/>	ii. Review of medical records.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	YES	NO										
i. Conversations with the inmate.	<input type="checkbox"/>	<input type="checkbox"/>										
ii. Review of medical records.	<input type="checkbox"/>	<input type="checkbox"/>										
3. If all other attempts to determine the inmate’s genital status have failed, does the facility learn the information as part of a broader medical examination conducted in private by a medical practitioner?	<input type="checkbox"/>	<input type="checkbox"/>	§115.15									

2) Obtaining Information from Inmates

Questions	YES	NO	Standard Reference									
1. Are all inmates assessed at the following times for their risk of being sexually abused by other inmates or sexually abusive toward other inmates both:	<i>(Select only if A-B are Yes)</i>		§115.41									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #c00000; color: white;">YES</th> <th style="width: 10%; background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. During an intake screening?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Upon transfer to another facility?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES		NO	A. During an intake screening?	<input type="checkbox"/>	<input type="checkbox"/>	B. Upon transfer to another facility?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	YES	NO										
A. During an intake screening?	<input type="checkbox"/>	<input type="checkbox"/>										
B. Upon transfer to another facility?	<input type="checkbox"/>	<input type="checkbox"/>										
A. If the answer to (1) is YES, does intake screening ordinarily take place within 72 hours of arrival at the facility?	<input type="checkbox"/>	<input type="checkbox"/>	§115.41									

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Questions	YES	NO	Standard Reference																																				
<p>2. Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #800000; color: white;"></th> <th style="background-color: #800000; color: white;">YES</th> <th style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Whether the inmate has a mental, physical, or developmental disability.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Age.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Physical build of the inmate.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. Whether the inmate has previously been incarcerated.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>E. Level of emotional and cognitive development.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>F. Whether the inmate has prior convictions for sex offenses against an adult or child.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>G. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>H. Whether the inmate has previously experienced sexual victimization.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>I. The inmate's own perception of vulnerability.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>J. Whether the inmate is detained solely for civil immigration purposes.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>K. Prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse as known to the agency.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Whether the inmate has a mental, physical, or developmental disability.	<input type="checkbox"/>	<input type="checkbox"/>	B. Age.	<input type="checkbox"/>	<input type="checkbox"/>	C. Physical build of the inmate.	<input type="checkbox"/>	<input type="checkbox"/>	D. Whether the inmate has previously been incarcerated.	<input type="checkbox"/>	<input type="checkbox"/>	E. Level of emotional and cognitive development.	<input type="checkbox"/>	<input type="checkbox"/>	F. Whether the inmate has prior convictions for sex offenses against an adult or child.	<input type="checkbox"/>	<input type="checkbox"/>	G. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming.	<input type="checkbox"/>	<input type="checkbox"/>	H. Whether the inmate has previously experienced sexual victimization.	<input type="checkbox"/>	<input type="checkbox"/>	I. The inmate's own perception of vulnerability.	<input type="checkbox"/>	<input type="checkbox"/>	J. Whether the inmate is detained solely for civil immigration purposes.	<input type="checkbox"/>	<input type="checkbox"/>	K. Prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse as known to the agency.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-K are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.41
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<p>3. Is inmate screening conducted using an objective screening instrument?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.41																																				
<p>4. Does the facility reassess each inmate's risk of victimization or abusiveness within a set time period, not to exceed 30 days from the inmate's arrival at the facility, based upon any additional, relevant information received by the facility since the intake screening?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.41																																				

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Questions			YES	NO	Standard Reference
5. Is an inmate's risk level reassessed when warranted due to the following?					
	YES	NO	<i>(Select only if A-D are Yes)</i> <input type="checkbox"/> <input type="checkbox"/> §115.41		
A. Referrals.	<input type="checkbox"/>	<input type="checkbox"/>			
B. Requests.	<input type="checkbox"/>	<input type="checkbox"/>			
C. Incidents of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>			
D. Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.	<input type="checkbox"/>	<input type="checkbox"/>			

3) Use of Information

Questions			YES	NO	Standard Reference
1. Does the agency use the information from the risk screening required by §115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive?			<input type="checkbox"/>	<input type="checkbox"/>	§115.42
2. Are placement decisions made on an individualized basis to ensure the safety of each inmate?			<input type="checkbox"/>	<input type="checkbox"/>	§115.42
3. Does the agency prohibit placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers?			<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.43
A. If the answer to (3) is YES, but the facility cannot conduct the assessment immediately, does the facility have procedures in place allowing the holding of the inmate in involuntary segregated housing for less than 24 hours while the assessment is completed?			<input type="checkbox"/>	<input type="checkbox"/>	§115.43
B. If the answer to (3) is YES, and if an involuntary segregated housing assignment is made pursuant to question (3) above, does the facility clearly document the following?			<i>Select only if i and ii are Yes)</i> <input type="checkbox"/> <input type="checkbox"/> §115.43		
	YES	NO			
i. The basis for the facility's concern for the inmate's safety.	<input type="checkbox"/>	<input type="checkbox"/>			
ii. The reason why no alternative means of separation can be arranged.	<input type="checkbox"/>	<input type="checkbox"/>			

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Questions	YES	NO	Standard Reference		
4. Are inmates placed in involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged?	<input type="checkbox"/>	<input type="checkbox"/>	§115.43		
5. Are inmates placed in involuntary segregated housing for a period that does not ordinarily exceed 30 days?	<input type="checkbox"/>	<input type="checkbox"/>	§115.43		
6. Do inmates placed in segregated housing for this purpose still have access to the following, to the extent possible?	<i>(Select only if A-D are Yes)</i> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <i>(Go to 7)</i>		§115.43		
YES NO					
A. Programs.				<input type="checkbox"/>	<input type="checkbox"/>
B. Privileges.				<input type="checkbox"/>	<input type="checkbox"/>
C. Education.				<input type="checkbox"/>	<input type="checkbox"/>
D. Work opportunities.	<input type="checkbox"/>	<input type="checkbox"/>			
E. If the answer to (6) is YES, and if the facility restricts access to programs, privileges, education or work opportunities, does the facility document the following?	<i>(Select only if i-iii are Yes)</i> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		§115.43		
YES NO					
i. The opportunities that have been limited.				<input type="checkbox"/>	<input type="checkbox"/>
ii. The duration of the limitations.				<input type="checkbox"/>	<input type="checkbox"/>
iii. The reasons for such limitations.	<input type="checkbox"/>	<input type="checkbox"/>			
7. If an involuntary segregated housing assignment is made pursuant to question (3) above, does the facility afford each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population?	<input type="checkbox"/>	<input type="checkbox"/>	§115.43		
8. Does the agency prohibit placing lesbian, gay, bisexual, transgender or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement 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?	<input type="checkbox"/>	<input type="checkbox"/>	§115.42		

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Questions	YES	NO	Standard Reference															
<p>9. In determining whether to house a transgender or intersex inmate to a facility for male or female inmates, and in making other housing, and program assignments for transgender and intersex inmates, does the agency make the decisions in the following manner?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #800000; color: white;"></th> <th style="background-color: #800000; color: white;">YES</th> <th style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. On a case-by-case basis.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. With the intention of ensuring the inmate's health and safety.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. To determine whether the placement would present management and/or security problems.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. On a case-by-case basis.	<input type="checkbox"/>	<input type="checkbox"/>	B. With the intention of ensuring the inmate's health and safety.	<input type="checkbox"/>	<input type="checkbox"/>	C. To determine whether the placement would present management and/or security problems.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/> <p><i>(Go to 10)</i></p>	§115.42			
	YES	NO																
A. On a case-by-case basis.	<input type="checkbox"/>	<input type="checkbox"/>																
B. With the intention of ensuring the inmate's health and safety.	<input type="checkbox"/>	<input type="checkbox"/>																
C. To determine whether the placement would present management and/or security problems.	<input type="checkbox"/>	<input type="checkbox"/>																
D. If the answer to (9) is YES, does the agency specify the staff authorized to make this determination?	<input type="checkbox"/>	<input type="checkbox"/>	Best practice															
E. If the answer to (9) is YES, does the agency reassess the placement and programming assignments for each transgender and intersex inmate at least twice each year to review any threats to safety experienced by the inmate?	<input type="checkbox"/>	<input type="checkbox"/>	§115.42															
F. If the answer to (9) is YES, are such inmate's own views with respect to his or her own safety given serious consideration?	<input type="checkbox"/>	<input type="checkbox"/>	§115.42															
10. If the screening pursuant to §115.41 indicates that an inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, does staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?	<input type="checkbox"/>	<input type="checkbox"/>	§115.81															
<p>11. Does the agency prohibit the disciplining of inmates for refusing to answer (or for not disclosing complete information related to) the following questions:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #800000; color: white;"></th> <th style="background-color: #800000; color: white;">YES</th> <th style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Whether the inmate has a mental, physical, or developmental disability.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Whether the inmate has previously experienced sexual victimization.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. The inmate's own perception of vulnerability.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Whether the inmate has a mental, physical, or developmental disability.	<input type="checkbox"/>	<input type="checkbox"/>	B. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming.	<input type="checkbox"/>	<input type="checkbox"/>	C. Whether the inmate has previously experienced sexual victimization.	<input type="checkbox"/>	<input type="checkbox"/>	D. The inmate's own perception of vulnerability.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-D are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.41
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D. The inmate's own perception of vulnerability.	<input type="checkbox"/>	<input type="checkbox"/>																

4) Information Management

Questions	YES	NO	Standard Reference												
<p>1. Has the agency implemented appropriate controls on the dissemination of responses to the questions asked pursuant to this standard within the facility in order to ensure that sensitive information is not exploited to the inmate’s detriment by staff or other inmates?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.41												
<p>2. Is any information related to sexual victimization or abusiveness that occurred in an institutional setting subject to the following requirements:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr style="background-color: #C00000; color: white;"> <th style="width: 80%;"></th> <th style="width: 10%; text-align: center;">YES</th> <th style="width: 10%; text-align: center;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Strictly limited to medical and mental health practitioners.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Strictly limited to other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Strictly limited to other staff as otherwise required by Federal, State or local law.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Strictly limited to medical and mental health practitioners.	<input type="checkbox"/>	<input type="checkbox"/>	B. Strictly limited to other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.	<input type="checkbox"/>	<input type="checkbox"/>	C. Strictly limited to other staff as otherwise required by Federal, State or local law.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.81
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C. Strictly limited to other staff as otherwise required by Federal, State or local law.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>3. Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.81												

Implementing The Prison Rape Elimination Act: A Toolkit for Jails

1.7—Reporting

Inmate Reporting

Standard 115.51 requires that agencies provide multiple ways for inmates to report sexual abuse and harassment, and at least one way for inmates to report to an entity that is not part of the agency. The standard also requires that agencies provide contact information to inmates detained solely for civil immigration purposes for relevant consular officials and officials at the Department of Homeland Security. Finally, staff must have a method to privately report sexual abuse and harassment of inmates, and staff must accept and promptly document reports that are made verbally, in writing, anonymously, and from third parties..

The DOJ provides guidance to agencies that addresses: (1) the types of entities that constitute “a public or private entity or office that is not part of the agency”; (2) the contractual arrangements recommended with the outside entity; (3) best practice in this area; and (4) the role required of the outside entity (pp. 101-103). Further, the DOJ provides explanation for the requirement of a “private” reporting method (p. 103).

Inmates with Disabilities and Inmates who are Limited English Proficient

Standard 115.16 requires agencies to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. It also requires that inmates who are limited English proficient have meaningful access to all such agency efforts. The standard gives a number of required steps that agencies must take in order to meet these requirements. These steps include providing access to appropriate interpreters for both inmates with disabilities and inmates who are limited English proficient, and formatting or communicating written materials to inmates with disabilities.

Finally, the standard requires that the agency not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate’s safety, the performance of first-response duties under standard 115.64, or the investigation of the inmate’s allegations.

The DOJ specifies that this final standard does not, nor is it intended to, go beyond the relevant Federal civil rights laws¹⁰ and it intends to protect all inmates while providing agencies with discretion over how to provide the requisite information and interpretation services (p. 63). The DOJ also recommends a number of options to agencies attempting to comply with this standard as well as some recommended resources (pp. 64-67¹¹).

¹⁰ Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, 12131 *et seq.* (www.ada.gov/pubs/adastatute08.htm); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (<http://uscode.house.gov/download/pls/29C16.txt>); and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (<http://uscode.house.gov/download/pls/42C21.txt>).

¹¹ Jail-related resources can also be found at the webpage of the Disability Rights Section of the Civil Rights Division of the United States Department of Justice, found at www.justice.gov/crt/about/drs/?r44b=no

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Exhaustion of Administrative Remedies

Standard 115.52 outlines agency requirements for the inmate administrative grievance procedures. This standard does not apply if an agency does not have administrative procedures to address inmate grievances regarding sexual abuse.

The standard provides requirements for grievance procedure timelines, including submission of grievances, the issuing of agency decisions, length of agency time extensions, when inmates may consider their requests to be denied at that level, and similar timelines for emergency grievances. It also addresses inmates' rights to submit grievances alleging sexual abuse to someone other than the alleged abuser.

Finally, the standard requires the agency to allow third parties (e.g. fellow inmates, staff members, family members, attorneys and outside advocates) to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and to allow third parties to file such requests on behalf of inmates. The facility may require the alleged victim to agree to have the request filed on his or her behalf and to personally pursue any subsequent steps in the administrative remedy process.

The DOJ addresses that a grievance system cannot be the only—or even primary—method for inmates to report abuse (p. 107).

Third-Party Reporting

Standard 115.54 requires that the agency establish a method to receive third-party reports of sexual abuse and sexual harassment, and publically distribute information on how to report sexual abuse and sexual harassment on behalf of an inmate.

The DOJ suggests using the agency's websites, postings at the facility, and printed pamphlets as options for publically distributing this information (p. 115).

Staff and Agency Reporting Duties

Standard 115.61 requires all staff to immediately report any of the following: (1) knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility (whether or not it is part of the agency); (2) retaliation against inmates or staff who reported such an incident; and (3) any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

“Staff” in this standard includes medical and mental health staff members and contractors, who are also required to inform inmates of their duty to report to the agency, as well as the limitations of confidentiality at the initiation of services. Additionally, the standard addresses confidentiality issues, and requires agencies to prohibit staff from revealing information about sexual abuse reports to anyone other than to the extent necessary, as specified in agency policy.

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Finally, the standard requires agencies to report allegations of sexual abuse in which the alleged victim is under the age of 18 or considered a vulnerable adult to designated state or local services agencies, and for facilities to report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

The DOJ notes that an individual who needs to know certain information relating to a sexual abuse report should receive only the information necessary to make treatment, investigation, and other security and management decisions (p. 118).

Protection Against Retaliation

Standard 115.67 requires agencies to establish a policy to protect all inmates and staff members from retaliation if they report sexual abuse and sexual harassment or to protect from retaliation those who cooperate with sexual abuse or sexual harassment investigations. The standard specifies what should be included in the policy and required actions to be taken by the agency to protect inmates, staff, and those who report they are in fear of retaliation; and further possible actions the agency could take to ensure the protection of such individuals.

The DOJ recognizes that, because of space restraints, some facilities will not be able to accommodate housing changes for inmate protection and may need to employ alternative protection measures (p. 128).

Resources

- The Project on Addressing Prison Rape. *Fifty State Survey of State Vulnerable Persons Statutes* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- The Project on Addressing Prison Rape. *Fifty State Survey of State Mandatory Reporting Laws* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)
- Colorado Department of Public Safety. *Building Blocks for Institutional Safety* (http://dcj.state.co.us/ors/pdf/PREA/Building_Block_Bulletins/BB_No3_SF_ver4FV.pdf)

Section 1.7.1 – Reporting Self-Assessment Checklist

- 1) Inmate Reporting of Allegations
- 2) Staff and Third-Party Reporting of Allegations
- 3) Protection from Retaliation

1) Inmate Reporting of Allegations

Questions	YES	NO	Standard Reference												
<p>1. Does the agency provide multiple internal ways for inmates to privately report the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #C00000; color: white;"> <th style="width: 60%;"></th> <th style="width: 20%;">YES</th> <th style="width: 20%;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Sexual abuse and sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Retaliation by other residents or staff for reporting sexual abuse and sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	B. Retaliation by other residents or staff for reporting sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	C. Staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.51</p>
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C. Staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>2. Does the agency provide at least one way for inmates to report sexual abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?</p>	<input type="checkbox"/>	<input type="checkbox"/> <p><i>(Go to 3)</i></p>	<p>§115.51</p>												
<p>A. If the answer to (2) is YES, does the public or private entity or office allow inmates to remain anonymous upon request?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.51</p>												
<p>3. Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.51</p>												

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Questions	YES	NO	Standard Reference									
<p>4. Does the agency take appropriate steps to ensure that inmates with disabilities (e.g. inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, to include the following steps?</p> <table border="1" data-bbox="155 527 927 1236"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td data-bbox="155 527 683 898"> <p>A. Providing access (for inmates who are deaf or hard of hearing) to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary (when necessary to ensure effective communication).</p> </td> <td data-bbox="683 527 800 898" style="text-align: center;"><input type="checkbox"/></td> <td data-bbox="800 527 927 898" style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td data-bbox="155 898 683 1236"> <p>B. Ensuring that written materials are provided in formats and through methods that ensure effective communication with inmates with disabilities, including inmates with intellectual disabilities, limited reading skills, or who are blind or low vision.</p> </td> <td data-bbox="683 898 800 1236" style="text-align: center;"><input type="checkbox"/></td> <td data-bbox="800 898 927 1236" style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p><u>NOTE:</u> An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164.</p>		YES	NO	<p>A. Providing access (for inmates who are deaf or hard of hearing) to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary (when necessary to ensure effective communication).</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>B. Ensuring that written materials are provided in formats and through methods that ensure effective communication with inmates with disabilities, including inmates with intellectual disabilities, limited reading skills, or who are blind or low vision.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A and B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.16</p>
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<p>5. Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.16</p>									

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Questions	YES	NO	Standard Reference																		
6. Does the agency prohibit reliance on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responder duties under §115.64, or the investigation of the inmate's allegations?	<input type="checkbox"/>	<input type="checkbox"/>	§115.16																		
7. Are staff instructed to do the following? <table border="1" data-bbox="154 573 927 959"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>A. Accept sexual assault reports that are made verbally.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Accept sexual assault reports that are made in writing.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Accept sexual assault reports that are made anonymously.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. Accept sexual assault reports that are made by third parties.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>E. Promptly document any verbal reports.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Accept sexual assault reports that are made verbally.	<input type="checkbox"/>	<input type="checkbox"/>	B. Accept sexual assault reports that are made in writing.	<input type="checkbox"/>	<input type="checkbox"/>	C. Accept sexual assault reports that are made anonymously.	<input type="checkbox"/>	<input type="checkbox"/>	D. Accept sexual assault reports that are made by third parties.	<input type="checkbox"/>	<input type="checkbox"/>	E. Promptly document any verbal reports.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if A-E are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 8)</i>	§115.51
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F. If the answer to (7) is YES, are these instructions given in writing, through policy or other written directive?	<input type="checkbox"/>	<input type="checkbox"/>	Best Practice																		
8. Does the agency have administrative procedures to address inmate grievances regarding sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 9)</i>	§115.52																		
A. If the answer to (8) is YES, does the agency NOT impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse? <u>NOTE:</u> The agency may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>	§115.52																		
B. If the answer to (8) is YES, does the agency NOT require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.52																		

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<p>C. If the answer to (8) is YES, does the agency ensure the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #800000; color: white;">YES</th> <th style="width: 10%; background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. That an inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. That such a grievance is not referred to a staff member who is the subject of the complaint.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	i. That an inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint.	<input type="checkbox"/>	<input type="checkbox"/>	ii. That such a grievance is not referred to a staff member who is the subject of the complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i and ii are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.52									
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<p>E. If the answer to (8) is YES, does the agency allow the following third parties to file such requests for administrative remedies relating to allegations of sexual abuse on behalf of inmates?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #800000; color: white;">YES</th> <th style="width: 10%; background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Fellow inmates.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Staff members.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Family members.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iv. Attorneys.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>v. Outside advocates.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>NOTE: If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.</p>		YES	NO	i. Fellow inmates.	<input type="checkbox"/>	<input type="checkbox"/>	ii. Staff members.	<input type="checkbox"/>	<input type="checkbox"/>	iii. Family members.	<input type="checkbox"/>	<input type="checkbox"/>	iv. Attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	v. Outside advocates.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i-v are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.52
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<p>vi. If the facility requires as a condition of processing that the alleged victim agree to have the request filed on his or her behalf and the alleged victim declines, does the agency document the inmate's decision?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.52																		

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Questions	YES	NO	Standard Reference									
<p>ii. If the answer to (G) is YES, does the initial response and final agency decision document the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #c00000; color: white;"></th> <th style="background-color: #c00000; color: white;">YES</th> <th style="background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>a) The agency's determination of whether the inmate is in substantial risk of imminent sexual abuse.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>b) The action taken in response to the emergency grievance.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	a) The agency's determination of whether the inmate is in substantial risk of imminent sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>	b) The action taken in response to the emergency grievance.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if a and b are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.52
	YES	NO										
a) The agency's determination of whether the inmate is in substantial risk of imminent sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>										
b) The action taken in response to the emergency grievance.	<input type="checkbox"/>	<input type="checkbox"/>										
H. If the answer to (8) is YES, does the agency restrict disciplining an inmate for filing a grievance related to alleged sexual abuse only to situations where the agency demonstrates that the inmate filed the grievance in bad faith?	<input type="checkbox"/>	<input type="checkbox"/>	§115.52									
I. If the answer to (8) is YES, does the agency recognize that the absence of a response within the time allotted for reply (including any properly noticed extension) at any time in the administrative process (including the final level) allows the inmate to consider this absence of a response to be a denial at that level?	<input type="checkbox"/>	<input type="checkbox"/>	§115.52									
9. If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws?	<input type="checkbox"/>	<input type="checkbox"/>	§115.61									
10. When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate?	<input type="checkbox"/>	<input type="checkbox"/>	§115.62									
11. Apart from reporting to designated supervisors or officials and designated State or local services agencies, is staff prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions?	<input type="checkbox"/>	<input type="checkbox"/>	§115.61 <i>(Go to 12)</i>									
A. If the answer to (11) is YES, does the agency policy specify those who need to know about a sexual abuse report, and what information they need to know, in order to make treatment, investigation, and other security and management decisions?	<input type="checkbox"/>	<input type="checkbox"/>	Best Practice									

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Questions	YES	NO	Standard Reference
12. Are medical practitioners required to inform inmates at the initiation of services of their duty to report, and the limitations of confidentiality, unless otherwise precluded by Federal, State, or local law?	<input type="checkbox"/>	<input type="checkbox"/>	§115.61

2) Staff and Third-Party Reporting of Allegations

Questions	YES	NO	Standard Reference												
<p>1. Does the agency require all staff to report immediately and according to agency policy the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>A. Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>B. Retaliation against inmates or staff who reported such an incident.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>C. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency.	<input type="checkbox"/>	<input type="checkbox"/>	B. Retaliation against inmates or staff who reported such an incident.	<input type="checkbox"/>	<input type="checkbox"/>	C. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p>	<input type="checkbox"/>	§115.61
	YES	NO													
A. Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency.	<input type="checkbox"/>	<input type="checkbox"/>													
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C. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.	<input type="checkbox"/>	<input type="checkbox"/>													
2. Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of inmates?	<input type="checkbox"/>	<input type="checkbox"/>													
3. Does the facility provide a method to receive third-party reports of sexual abuse and sexual harassment?	<input type="checkbox"/>	<input type="checkbox"/>	§115.54 <i>(Go to 4)</i>												
A. If the answer to (3) is YES, does the facility publicly distribute information on how to report sexual abuse and sexual harassment on behalf of inmates?	<input type="checkbox"/>	<input type="checkbox"/>	§115.54												
4. Are medical and mental health practitioners required to report immediately and according to agency policy to designated supervisors or officials pursuant to question (1) of this section?	<input type="checkbox"/>	<input type="checkbox"/>	§115.61												

3) Protection from Retaliation:

Questions	YES	NO	Standard Reference
1. Does the agency have a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff?	<input type="checkbox"/>	<input type="checkbox"/>	§115.67
A. If the answer to (1) is YES, does the policy designate which staff members or departments are charged with monitoring retaliation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.67
2. Does the agency employ multiple protection measures for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations? NOTE: Protection measures may include the following: <ul style="list-style-type: none"> • Housing changes or transfers for inmate victims or abusers • Removal of alleged staff or inmate abusers from contact with victims • Emotional support services 	<input type="checkbox"/>	<input type="checkbox"/>	§115.67
3. Does the agency monitor the conduct or treatment of inmates or staff who have reported sexual abuse and of inmates who were reported to have suffered from sexual abuse for at least 90 days following a report of sexual abuse, to see if there are changes that may suggest possible retaliation by inmates or staff? NOTE: An agency’s obligation to monitor terminates if the agency determines that the allegation is unfounded.	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.67
A. If the answer to (3) is YES, and the agency detects changes that may suggest possible retaliation by inmates or staff, does the agency act promptly to remedy any such retaliation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.67

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B. If the answer to (3) is YES, does agency monitoring include the following?					
	YES	NO	(Select only if i-v are Yes)	<input type="checkbox"/>	§115.67
i. Any inmate disciplinary reports.	<input type="checkbox"/>	<input type="checkbox"/>			
ii. Any inmate housing changes.	<input type="checkbox"/>	<input type="checkbox"/>			
iii. Any inmate program changes.	<input type="checkbox"/>	<input type="checkbox"/>			
iv. Negative staff performance reviews.	<input type="checkbox"/>	<input type="checkbox"/>			
v. Staff reassignments.	<input type="checkbox"/>	<input type="checkbox"/>			
C. If the answer to (3) is YES, in the case of inmates, does such monitoring include periodic status checks?			<input type="checkbox"/>	<input type="checkbox"/>	§115.367
D. If the answer to (3) is YES, does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?			<input type="checkbox"/>	<input type="checkbox"/>	§115.67
4. If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect the individual against retaliation?			<input type="checkbox"/>	<input type="checkbox"/>	§115.367

1.8—Investigations

Policies to Ensure Referrals of Allegations for Investigations

Standard 115.22 requires agencies to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment, and requires the agency to have a policy ensuring that all allegations of sexual abuse and sexual harassment are referred to an agency with the legal authority to conduct criminal investigations. The standard requires the agency to document all such referrals and to post their policy on their website (or otherwise make it available to the public). Additionally, the policy must describe the investigative responsibilities of the agency and the investigating entity, if the agency itself does not have the legal authority to investigate allegations. Finally, the standard requires all state entities and DOJ components responsible for conducting investigations of sexual abuse or harassment to have in place a policy governing the conduct of such investigations.

The DOJ clarifies that an agency need not definitively determine whether behavior is criminal before referring it for investigation; it need only refer allegations of potentially criminal behavior (p. 79). The DOJ also recommends that agencies explore the viability of entering into memoranda of understanding with outside investigative agencies and with prosecutorial agencies (p. 77).

Specialized Training: Investigations

Standard 115.34 lists the topics to be included in the training of all investigators conducting investigations of sexual abuse in confinement settings, including investigators employed by agencies, state entities, and DOJ components. The standard requires agencies to maintain documentation of the training.

The DOJ clarifies that training on the topic of distinguishing between abusive and consensual sexual contact should be considered part of the relevant training in conducting sexual abuse investigations in confinement settings as mandated by the standard, and states that the National Resource Center on Prison Rape will assist in the provision of specialized training to investigators (pp. 86-87).

Agency Protection Duties

Standard 115.62 requires agencies to take immediate action to protect an inmate upon learning that the inmate is subject to a substantial risk of imminent sexual abuse.

Reporting to Other Confinement Facilities

In the event that an inmate alleges that sexual abuse occurred at another facility, standard 115.63 requires agencies to document those allegations and report to the head of the facility or appropriate office of the agency where the abuse is alleged to have occurred as soon as possible, but no later than 72 hours after receiving the notification,. Additionally, the standard requires

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any facility or agency office that receives that notification to ensure that the allegation is investigated in accordance with PREA standards.

The DOJ notes that it does not expect facilities to be able to identify the appropriate investigative staff at other facilities, especially at facilities operated by other agencies. When a facility is uncertain about whom to contact, it may simply contact the facility head (pp. 120-121).

Staff First Responder Duties

Standard 115.64 outlines requirements for security staff members who are the first to respond to a report that an inmate was sexually abused. The standard lists four steps, including steps to separate the alleged victim and abuser, preserve any crime scenes, and collect any physical evidence. The standard also outlines the actions to be taken by first responders who are not security staff.

Coordinated Response

Standard 115.65 requires facilities to develop written institutional plans to coordinate the actions taken in response to incidents of sexual abuse. The plans should coordinate actions of staff first responders, medical and mental health practitioners, investigators, and facility leadership.

The DOJ clarifies that this standard only requires facilities to coordinate actions among those involved, not to take actions outside the scope of their authority (pg. 123). Additionally, the DOJ recommends a number of items to include in the written institutional plan (pg. 123) and encourages facilities to formalize the composition of their response teams. Finally, there is some guidance around the auditing of this standard (pg. 124).

Post-Allegation Protective Custody

Standard 115.68 requires the agency to comply with the requirements of 115.43 (see Section 1.6) in any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse.

Criminal and Administrative Agency Investigations

Standard 115.71 has a number of requirements for agencies with the legal capability of conducting their own investigations into allegations of sexual abuse and sexual harassment. These requirements address when investigations occur, who conducts the investigations, what the investigators do, how they record their actions, when they conduct compelled interviews of employees, how they assess victim and witness credibility, when they refer allegations for prosecution, and how long agencies should retain records, among other things. Additionally, this standard requires all state entities and DOJ components conducting such investigations to comply with this standard.

Finally, this standard requires all agencies that rely on outside investigative entities (for investigating sexual abuse) to cooperate with these entities during the course of an investigation.

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Such agencies must also remain informed about the progress of the investigation that is conducted by the outside entity.

The DOJ provides guidance on when an agency should consider administrative investigations (violation of internal agency rules) versus criminal investigations, as well as the use of the polygraph. The retention period of records is addressed (pp. 131-133).

Evidentiary Standard for Administrative Investigations

Standard 115.72 requires agencies to impose a standard no higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Reporting to Inmates

Standard 115.73 has a number of agency requirements following a determination that an allegation was substantiated, unsubstantiated, or unfounded. Unless an allegation is determined to be unfounded, at the conclusion of the investigation the agency must inform the inmate who made the allegation of sexual abuse of the status of the accused staff abuser. ‘Status’ includes whether the staff member is posted within the inmate’s unit; whether the staff member is employed at the facility; and whether the staff member has been indicted or convicted of a charge related to sexual abuse within the facility. The agency is similarly required to inform the inmate of indictments or convictions of alleged inmate abusers.

The DOJ specifies that this reporting requirement does not require an agency to explain the reasons for a staff member’s posting or employment status to the alleged victim. Additionally, the agency is not required to gather information regarding indictments or convictions; the agency must only inform the inmate upon learning the information (p. 135). Finally, the DOJ encourages agencies to share other information such as remedial actions taken or updates on investigation status as a best practice (p. 136).

Disciplinary Sanctions for Inmates

Standard 115.78 requires that agencies subject inmates who are found guilty of engaging in inmate-on-inmate sexual abuse (either through an administrative or criminal investigation) to disciplinary sanctions. The standard establishes requirements to determine the type and level of sanction to be imposed. The standard prohibits disciplining an inmate for sexual contact with staff unless it is found that the staff member did not consent to the contact. Additionally, the standard prohibits agencies from considering an inmate report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred to constitute false reporting or lying. It also prohibits agencies from assuming that sexual activity between inmates is sexual abuse unless it is determined that the activity was coerced.

The DOJ explains that staff should make individualized assessments regarding inmate behavior and not label every inmate caught having sex with another inmate as the abuser (pp. 140-141).

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Sexual Abuse Incident Reviews

Standard 115.86 requires facilities to conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation (except those investigation determined to be unfounded), including those in which the allegation has not been substantiated. The standard dictates when this review should occur, who conducts the review, and what actions the review team should take over the course of the review. The standard requires facilities to develop and implement recommendations for improvement or document the reasons why recommendations were not implemented.

The DOJ clarifies the term “upper-level management official” in the standards summary (p. 154).

Resources

- National Institute of Corrections Staff Perspective. *Investigating Sexual Assaults in Corrections* (nicic.gov/Library/022444)
- National Institute of Corrections and Washington College of Law Project on Prison Rape. *Tools for Prevention, Investigation and Discipline of Staff Sexual Misconduct in Custodial Settings* (<http://nicic.gov/Library/024078>)
- The Center for Innovative Public Policies, Inc. *Training for Investigators of Staff Sexual Misconduct* (<http://www.cipp.org/pdf/ssm1.PDF>)
- National Institute of Corrections and The Moss Group. *Correctional Investigators Job Analysis* (<http://nicic.gov/Library/021984>)
- Office of Justice Program (USDOJ). *Eyewitness Evidence Trainer Manual for Law Enforcement* (www.ncjrs.gov/nij/eyewitness/188678.pdf)

Section 1.8.1 – Investigations Self-Assessment Checklist

- 1) General Considerations
- 2) Response to Report of Allegation
- 3) Investigators and Investigation Procedure
- 4) Investigations Aftermath
- 5) Disciplinary Sanctions
- 6) Incident Review Team

1) General Considerations

Questions	YES	NO	Standard Reference
1. Is the agency responsible for investigating allegations of sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>	§115.21
A. If the answer to (1) is YES, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>	§115.21
i. If the answer to (A) is YES, is the protocol developmentally appropriate for youth where applicable?	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
ii. If the answer to (A) is YES, is the protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication “ A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents ,” or similarly comprehensive and authoritative protocols developed after 2011?	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
B. If the answer to (1) is NO, does the agency cooperate with outside investigators and endeavor to remain informed about the process of the investigation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71
C. If the answer to (1) is NO, does the agency request that the investigating entity follow the requirements of paragraphs (a) through (e) of §115. 21?	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
D. If the answer to (1) is NO, and investigations are conducted by a State entity (e.g., State Police), is the agency informed of whether the State entity complies with the requirements of Standard 115.71?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71

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Questions	YES	NO	Standard Reference
2. Does the agency conduct its own investigations into allegations of sexual abuse and sexual harassment?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>	§115.71
A. If the answer to (2) is YES, does it do so as follows for all sexual abuse and sexual harassment allegations, including third-party and anonymous reports?			
	YES	NO	
i. Promptly	<input type="checkbox"/>	<input type="checkbox"/>	
ii. Thoroughly	<input type="checkbox"/>	<input type="checkbox"/>	
iii. Objectively	<input type="checkbox"/>	<input type="checkbox"/>	
iv. Using investigators who have received special training in sexual abuse investigations pursuant to § 115.34	<input type="checkbox"/>	<input type="checkbox"/>	§115.71

(Select only if i-iv are Yes)

2) Response to Reports of Allegations

Questions	YES	NO	Standard Reference
1. Does the agency ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment?	<input type="checkbox"/>	<input type="checkbox"/>	§115.22
2. Does the agency have a policy in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>	§115.22
A. If the answer to (2) is YES, does the agency document all such referrals?	<input type="checkbox"/>	<input type="checkbox"/>	§115.22
B. If the answer to (2) is YES, does the agency publish the policy on its website or, if it does not have one, make the policy available through other means?	<input type="checkbox"/>	<input type="checkbox"/>	§115.22
C. If the answer to (2) is YES, and if a separate entity is responsible for conducting criminal investigations, does this publication describe the responsibilities of both the agency and the investigating entity?	<input type="checkbox"/>	<input type="checkbox"/>	§115.22
3. Does any State entity responsible for conducting criminal or administrative investigations of sexual abuse or sexual harassment in your agency's facilities have in place a policy governing the conduct of such investigations?	<input type="checkbox"/>	<input type="checkbox"/>	§115.22

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Questions	YES	NO	Standard Reference
4. If a Department of Justice component is responsible for conducting criminal or administrative investigations of sexual abuse or sexual harassment in your agency's facilities, is there a policy in place governing the conduct of such investigations?	<input type="checkbox"/>	<input type="checkbox"/>	§115.22
5. If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does policy state that the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws?	<input type="checkbox"/>	<input type="checkbox"/>	§115.61
6. Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators?	<input type="checkbox"/>	<input type="checkbox"/>	§115.61
7. If a facility receives an allegation that an inmate was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and the appropriate investigating agency?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 8)</i>	§115.63
A. If the answer to (7) is YES, is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.63
B. If the answer to (7) is YES, does the agency document that it has provided such notification?	<input type="checkbox"/>	<input type="checkbox"/>	§115.63
8. Has the facility developed a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 9)</i>	§115.65

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Questions	YES	NO	Standard Reference																											
<p>A. If the answer to (8) is YES, do the following actions occur (at minimum)?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #800000; color: white;">YES</th> <th style="width: 10%; background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Assessing the victim’s acute medical needs?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Informing the victim of his or her rights under relevant Federal or State law?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Explaining of the need for a forensic medical exam and offering the victim the option of undergoing one?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iv. Offering the presence of a victim advocate or a qualified staff member to be present during the exam?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>v. Providing crisis intervention counseling?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>vi. Interviewing the victim and any witnesses?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>vii. Collecting evidence?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>viii. Providing for any special needs the victim may have?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	i. Assessing the victim’s acute medical needs?	<input type="checkbox"/>	<input type="checkbox"/>	ii. Informing the victim of his or her rights under relevant Federal or State law?	<input type="checkbox"/>	<input type="checkbox"/>	iii. Explaining of the need for a forensic medical exam and offering the victim the option of undergoing one?	<input type="checkbox"/>	<input type="checkbox"/>	iv. Offering the presence of a victim advocate or a qualified staff member to be present during the exam?	<input type="checkbox"/>	<input type="checkbox"/>	v. Providing crisis intervention counseling?	<input type="checkbox"/>	<input type="checkbox"/>	vi. Interviewing the victim and any witnesses?	<input type="checkbox"/>	<input type="checkbox"/>	vii. Collecting evidence?	<input type="checkbox"/>	<input type="checkbox"/>	viii. Providing for any special needs the victim may have?	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i-viii are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>USDOJ PREA Standards Preamble¹</p>
	YES	NO																												
i. Assessing the victim’s acute medical needs?	<input type="checkbox"/>	<input type="checkbox"/>																												
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<p>B. If the answer to (8) is YES, does the policy specify which entities within the facility are responsible for which actions, how actions should be sequenced, and which actions can occur concurrently with other actions?</p>	<input type="checkbox"/>	<input type="checkbox"/>	Best practice																											
<p>9. Does the agency conduct internal investigations?</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>																												
<p>A. If the answer to (9) is YES, following an investigation into an inmate’s allegation of sexual abuse suffered in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded?</p>	<input type="checkbox"/> <i>(Go to 10)</i>	<input type="checkbox"/>	§115.73																											
<p>B. If the answer to (9) is NO, does the agency request the relevant information from the investigative agency in order to inform the inmate?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.73																											

¹ Discussion of the eight coordination actions can be found within the discussion of §115.65 in the preamble to the U.S. Department of Justice’s National Standards to Prevent, Detect, and Respond to Prison Rape.

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Questions	YES	NO	Standard Reference															
<p>10. Except when an allegation has been determined to be unfounded, following an inmate's allegation that a staff member has committed sexual abuse against the inmate, does the agency subsequently inform the inmate whenever any of the following occur?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #800000; color: white;"></th> <th style="background-color: #800000; color: white;">YES</th> <th style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. The staff member is no longer posted within the inmate's unit.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. The staff member is no longer employed at the facility.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>NOTE: An agency's obligation to report under this standard terminates if the inmate is released from the agency's custody.</p>		YES	NO	A. The staff member is no longer posted within the inmate's unit.	<input type="checkbox"/>	<input type="checkbox"/>	B. The staff member is no longer employed at the facility.	<input type="checkbox"/>	<input type="checkbox"/>	C. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility.	<input type="checkbox"/>	<input type="checkbox"/>	D. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-D are Yes)</i></p> <input type="checkbox"/>	<p><input type="checkbox"/></p> <p><i>(Go to 11)</i></p>	<p>§115.73</p>
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E. If the answer to (10) is YES, does the agency document all such notifications or attempted notifications?	<input type="checkbox"/>	<input type="checkbox"/>	§115.73															
<p>11. Following an inmate's allegation he or she has been sexually abused by another inmate, does the agency subsequently inform the inmate whenever either of the following occur?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #800000; color: white;"></th> <th style="background-color: #800000; color: white;">YES</th> <th style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>NOTE: An agency's obligation to report under this standard terminates if the inmate is released from the agency's custody.</p>		YES	NO	A. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility.	<input type="checkbox"/>	<input type="checkbox"/>	B. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A and B are Yes)</i></p> <input type="checkbox"/>	<p><input type="checkbox"/></p> <p><i>(Go to 12)</i></p>	<p>§115.73</p>						
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Questions	YES	NO	Standard Reference
C. If the answer to (11) is YES, does the agency document all such notifications or attempted notifications?	<input type="checkbox"/>	<input type="checkbox"/>	§115.73
12. Does the facility head or agency office that receives a notification from another facility or agency that an inmate was sexually abused while confined at a facility within the agency ensure that the allegation is investigated in accordance with these standards?	<input type="checkbox"/>	<input type="checkbox"/>	§115.63
13. Upon learning that of an allegation that an inmate was sexually abused, is the first staff member to respond to the report required to do the following?			
	YES	NO	
A. Separate the alleged victim and abuser.	<input type="checkbox"/>	<input type="checkbox"/>	
B. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.	<input type="checkbox"/>	<input type="checkbox"/>	
C. If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim not to take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.	<input type="checkbox"/>	<input type="checkbox"/>	
D. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	§115.64

(Select only if A-D are Yes)

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Questions	YES	NO	Standard Reference									
<p>14. If the first staff member to respond to an allegation that an inmate was sexually abused is not a security staff member, is the first responder required to do the following?</p> <table border="1"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>A. Request that the alleged victim not take any actions that could destroy physical evidence.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>B. Notify security staff.</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Request that the alleged victim not take any actions that could destroy physical evidence.	<input type="checkbox"/>	<input type="checkbox"/>	B. Notify security staff.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.64
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A. Request that the alleged victim not take any actions that could destroy physical evidence.	<input type="checkbox"/>	<input type="checkbox"/>										
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15. Is any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of §115.43?	<input type="checkbox"/>	<input type="checkbox"/>	§115.68									

3) Investigators and Investigation Procedure

Questions	YES	NO	Standard Reference
1. Does the agency itself conduct sexual abuse and sexual harassment investigations?	<input type="checkbox"/>	<input type="checkbox"/>	§115.34
A. If the answer to (1) is YES, does the agency ensure that, where sexual abuse is alleged, its investigators have received training in conducting such investigations in confinement settings in addition to the general training provided to all employees pursuant to § 115.31?	<input type="checkbox"/>	<input type="checkbox"/>	§115.34
i. If the answer to (A) is YES, does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations?	<input type="checkbox"/>	<input type="checkbox"/>	§115.34

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Questions	YES	NO	Standard Reference															
<p>ii. If the answer to (A) is YES, does this specialized training include the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #c00000; color: white;">YES</th> <th style="width: 10%; background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Techniques for interviewing sexual abuse victims.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Proper use of <i>Miranda</i> and <i>Garrity</i> warnings.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Sexual abuse evidence collection in confinement settings.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iv. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	i. Techniques for interviewing sexual abuse victims.	<input type="checkbox"/>	<input type="checkbox"/>	ii. Proper use of <i>Miranda</i> and <i>Garrity</i> warnings.	<input type="checkbox"/>	<input type="checkbox"/>	iii. Sexual abuse evidence collection in confinement settings.	<input type="checkbox"/>	<input type="checkbox"/>	iv. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i-iv are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.34
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B. If the answer to (1) is YES, do the investigators investigate all allegations of sexual abuse, including third-party and anonymous reports?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71															
<p>2. Do investigators do the following:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #c00000; color: white;">YES</th> <th style="width: 10%; background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Interview alleged victims, suspected perpetrators, and witnesses.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data.	<input type="checkbox"/>	<input type="checkbox"/>	B. Interview alleged victims, suspected perpetrators, and witnesses.	<input type="checkbox"/>	<input type="checkbox"/>	C. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.71			
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C. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.	<input type="checkbox"/>	<input type="checkbox"/>																
3. When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71															
4. Is the credibility of an alleged victim, suspect, or witness assessed on an individual basis and not determined by the person's status as inmate or staff?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71															
5. Does the agency prohibit requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71															

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Questions	YES	NO	Standard Reference
6. Does the agency continue with an investigation into allegations to completion and findings, even if the alleged abuser or victim has resigned from the employment or departed from control of the facility or agency?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71
7. Does the agency impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?	<input type="checkbox"/>	<input type="checkbox"/>	§115.72

4) Investigations Aftermath

Questions	YES	NO	Standard Reference
1. Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71
2. Are administrative investigations documented in written reports that include the following?			
	YES	NO	
A. A description of the physical and testimonial evidence.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if A-C are Yes)</i> <input type="checkbox"/> <input type="checkbox"/> §115.71
B. The reasoning behind credibility assessments.	<input type="checkbox"/>	<input type="checkbox"/>	
C. Investigative findings.	<input type="checkbox"/>	<input type="checkbox"/>	
3. Are criminal investigations documented in a written report that contains the following:			
	YES	NO	
A. A thorough description of physical, testimonial, and documentary evidence.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if A-B are Yes)</i> <input type="checkbox"/> <input type="checkbox"/> §115.71
B. Attached copies of all documentary evidence, where feasible.	<input type="checkbox"/>	<input type="checkbox"/>	
4. Are substantiated allegations of conduct that appear to be criminal referred for prosecution?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71

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Questions	YES	NO	Standard Reference
5. Does the agency retain all written reports referenced in questions (2) and (3) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71

5) Disciplinary Sanctions

Questions	YES	NO	Standard Reference
1. Are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78
2. Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78
3. Does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78
4. Does the facility offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 5)</i>	
A. If the answer to (4) is YES, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78
5. Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78
6. Does the agency prohibit any inmate-on-inmate sexual activity?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 7)</i>	
A. If the answer to (6) is YES, does agency policy clearly outline the entity that is authorized to determine whether or not inmate-on-inmate sexual activity is consensual?	<input type="checkbox"/>	<input type="checkbox"/>	Best Practice

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Questions	YES	NO	Standard Reference
B. If the answer to (6) is YES, does the prohibition acknowledge that sexual activity between inmates that was not coerced does NOT constitute sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78
7. For the purpose of disciplinary action, does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.78

6) Incident Review Team

Questions	YES	NO	Standard Reference
1. Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 2)</i>	§115.86
A. If the answer to (1) is YES, does such review ordinarily occur within 30 days of the conclusion of the investigation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.86
2. Does the sexual abuse incident review team include upper-level management officials and allow for input from line supervisors, investigators, and medical or mental health practitioners?	<input type="checkbox"/>	<input type="checkbox"/>	§115.86

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3. Does the sexual abuse incident review team do the following?					
	YES	NO			
A. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>			
B. Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim's race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.	<input type="checkbox"/>	<input type="checkbox"/>			
C. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.86
D. Assess the adequacy of staffing levels in that area during different shifts.	<input type="checkbox"/>	<input type="checkbox"/>			
E. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.	<input type="checkbox"/>	<input type="checkbox"/>			
F. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to A-E above, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.	<input type="checkbox"/>	<input type="checkbox"/>			
G. If the answer to (3) is YES, does the facility implement the recommendations for improvement contained in the incident review team's report or document its reasons for not doing so?			<input type="checkbox"/>	<input type="checkbox"/>	§115.86

(Select only if A-F are Yes)

(Checklist complete)

1.9—Training and Education

Employee Training

Standard 115.31 lists the training topics for all employees¹² who have contact with inmates. The standard specifies that the training must be tailored to the gender of the inmates at the employee's facility, and that employees should receive additional training if transferring between facilities that house inmates of different genders. The standard provides information on when current employees who have not received this training should be trained following the release of the PREA standards, and the requirements for in-service training.

The DOJ explains that this standard implicitly includes training on relevant linguistic, ethnic, and cultural differences of inmates. Additionally, the DOJ recommends that agencies: (1) use the incident review process to make adjustments to training curricula; and (2) that agencies work with local rape crisis centers to ensure the training includes the most current information on sexual abuse, if possible (pp. 81-83).

Volunteer and Contractor Training

Standard 115.32 requires agencies to ensure that all volunteers and contractors (who have contact with inmates) are trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. This training is based on the services provided by volunteers and contractors and the level of contact they have with inmates.

Inmate Education

Standard 115.33 requires agencies to educate inmates on certain topics during the intake process, and to provide further information to inmates within 30 days of intake. The standard also specifies the timeline for agencies to educate inmates who have not received such education, and requires agencies to further educate inmates upon transfer to other facilities, in the event that policies and procedures change. The standard requires the agency to provide this education in formats accessible to all inmates, including those with disabilities and those who are limited English proficient, and to document inmate participation in these education sessions. Finally, the standard requires agencies to provide key information to inmates on a continuous basis through readily available or visible posters, handbooks, or other written formats.

The DOJ encourages in-person education and tailored trainings to the extent that resources allow (p. 85).

¹² "Employee" means a person who works directly for the agency or facility.

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Specialized Training: Medical and Mental Health Care

Standard 115.35 requires agencies to train all full- and part-time medical and mental health care practitioners who work regularly in its facilities on certain topic areas, including detecting signs of sexual abuse and sexual harassment, preserving physical evidence of sexual abuse, responding professionally to victims of sexual abuse and harassment, and proper reporting of allegations of sexual abuse and harassment. Additionally, if the agency employs any medical staff conducting forensic exams, those staff members are required to receive appropriate training.

The DOJ states that this standard is meant to direct agencies to obtain appropriate and proper training for in-house medical staff if they decide to perform forensic examinations on-site, but that this direction is not intended to encourage agencies to create in-house forensic programs (p. 88).

Resources

- Arizona Department of Corrections – Sexual Assault Prevention Card for Staff (<https://www.onlinefilefolder.com/2sdR9DWmaB4ad9>)
- Arlington County Detention Facility – Sexual Misconduct Brochure (<https://www.onlinefilefolder.com/2s5cejgEtfY5OI>)
- California Department of Corrections and Rehabilitation – Offender PREA Brochure (<https://www.onlinefilefolder.com/2sFpJqAggImLuP>)
- Rhode Island Department of Corrections – Inmate Brochure (English and Spanish) (<https://www.onlinefilefolder.com/2sEEK9p6ZSVOKw>)
- Wisconsin Department of Corrections – PREA Summary – Adult (English and Spanish) (http://www.wi-doc.com/MISC_pages/PREA.pdf)
- Colorado Department of Corrections – All PREA Posters (<https://www.onlinefilefolder.com/2s7XB5kRj6DnQc>)
- Wisconsin Department of Corrections – PREA Posters (English and Spanish) (<https://www.onlinefilefolder.com/2s5QxVd7qrqpas>)
- American University, Washington College of Law – Breaking the Code of Silence, Correctional Officers Handbook ([nicic.gov/Library/022473](http://www.nicic.gov/Library/022473))
- American University, Washington College of Law –Curriculum: Addressing Sexual Abuse of Youth in Custody (<http://www.wcl.american.edu/endsilence/>)
- National Institute of Corrections – *Your Role: Responding to Sexual Abuse* (<http://www.nicic.gov>)
- Visit the National Institute of Corrections (www.nicic.gov), the American University Washington College of Law’s NIC project on Prison Rape (www.wcl.american.edu/nic/), the Center for Innovative Public Policies (www.cipp.org) and The Moss Group (<http://www.mossgroup.us>) websites for numerous training curricula on the topic of sexual safety of inmates (including PREA and Staff Sexual Misconduct).

Section 1.9.1 – Training and Education Self-Assessment Checklist

- 1) Inmate Orientation and Education
- 2) Employee Training
- 3) Employee Training Design and Efficacy
- 4) Contractor/Volunteer Training Content

1) Inmate Orientation and Education

Questions	YES	NO	Standard Reference												
<p>1. During the intake process, do inmates receive information explaining the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #c00000; color: white;"></th> <th style="background-color: #c00000; color: white;">YES</th> <th style="background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. The agency’s zero-tolerance policy regarding sexual abuse and sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. How to report incidents or suspicions of sexual abuse or sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. The agency’s zero-tolerance policy regarding sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	B. How to report incidents or suspicions of sexual abuse or sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if both A & B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.33</p>			
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B. How to report incidents or suspicions of sexual abuse or sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>2. Within 30 days of intake, does the agency provide comprehensive education to inmates regarding the following:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #c00000; color: white;"></th> <th style="background-color: #c00000; color: white;">YES</th> <th style="background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Their right to be free from sexual abuse and sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Their right to be free from retaliation for reporting such abuse or harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Agency sexual abuse response policies and procedures.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Their right to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	B. Their right to be free from retaliation for reporting such abuse or harassment.	<input type="checkbox"/>	<input type="checkbox"/>	C. Agency sexual abuse response policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>	<p>§115.33</p>
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C. Agency sexual abuse response policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>D. If the answer to (2) is YES, is this education done either in person or via video?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.33</p>												
<p>3. Does the agency have a plan to educate current inmates who have not received such education within one year of the effective date of the PREA standards?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.33</p>												
<p>4. Does the agency have a plan to provide education to all inmates upon transfer to a different facility to the extent that the policies and procedures of the inmate’s new facility differ from those of the previous facility?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.33</p>												

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Questions	YES	NO	Standard Reference
5. Does the agency maintain documentation of inmate participation in these education sessions?	<input type="checkbox"/>	<input type="checkbox"/>	§115.33
6. Does the agency provide inmate orientation and all subsequent education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills?	<input type="checkbox"/>	<input type="checkbox"/>	§115.33
7. In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats?	<input type="checkbox"/>	<input type="checkbox"/>	§115.33

2) Employee Training

Questions			YES	NO	Standard Reference
1. Does the agency train all employees who may have contact with inmates on the following?					
	YES	NO			
A. Its zero-tolerance policy for sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
B. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>			
C. Inmates' right to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
D. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
E. The dynamics of sexual abuse and sexual harassment in confinement.	<input type="checkbox"/>	<input type="checkbox"/>			
F. The common reactions of sexual abuse and sexual harassment victims.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.31
G. How to detect and respond to signs of threatened and actual sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>			
H. How to avoid inappropriate relationships with inmates.	<input type="checkbox"/>	<input type="checkbox"/>			
I. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming inmates.	<input type="checkbox"/>	<input type="checkbox"/>			
J. How to comply with laws related to mandatory reporting of sexual abuse to outside authorities.	<input type="checkbox"/>	<input type="checkbox"/>			

(Select only if A-J are Yes)

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Questions	YES	NO	Standard Reference		
2. Does the agency train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible consistent with security needs?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.15		
3. Are employee trainings tailored to the gender of inmates at the employee's facility?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§ 115.31		
A. If the answer to (3) is YES, do employees receive additional training if they are reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.31		
4. Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in the following:	<i>(Select only if A-D are Yes)</i>		§ 115.35		
				YES	NO
A. How to detect and assess signs of sexual abuse and sexual harassment.				<input type="checkbox"/>	<input type="checkbox"/>
B. How to preserve physical evidence of sexual abuse.				<input type="checkbox"/>	<input type="checkbox"/>
C. How to respond effectively and professionally to victims of sexual abuse and sexual harassment.				<input type="checkbox"/>	<input type="checkbox"/>
D. How and to whom to report allegations or suspicions of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>			

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Questions			YES	NO	Standard Reference
5. Do medical and mental health care practitioners that are employed by the agency also receive the following training?					
	YES	NO			
A. The agency's zero-tolerance policy for sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
B. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>			
C. Inmates' right to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
D. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
E. The dynamics of sexual abuse and sexual harassment in confinement.	<input type="checkbox"/>	<input type="checkbox"/>			
F. The common reactions of sexual abuse and sexual harassment victims.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.35
G. How to detect and respond to signs of threatened and actual sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>			
H. How to avoid inappropriate relationships with inmates.	<input type="checkbox"/>	<input type="checkbox"/>			
I. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex or gender nonconforming inmates.	<input type="checkbox"/>	<input type="checkbox"/>			
J. How to comply with laws related to mandatory reporting of sexual abuse to outside authorities.	<input type="checkbox"/>	<input type="checkbox"/>			
			<i>(Select only if A-J are Yes)</i>		

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Questions	YES	NO	Standard Reference
6. Do medical staff employed by the agency conduct forensic examinations?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to next section)</i>	
A. If the answer to (5) is YES, do medical staff receive the appropriate training to conduct such examinations?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.35
i. If the answer to (A) is YES, does the agency maintain documentation that practitioners have received the training referenced in this standard either from the agency or elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.35

3) Employee Training Design and Efficacy

Questions	YES	NO	Standard Reference
1. Does the agency have a plan to ensure that all current employees who have not received such training will be trained within one year of the effective date of the PREA standards (August 20, 2012)?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.31
2. Does the agency have a plan to provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.31
3. In the years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.31
4. Does the agency document, via employee signature or electronic verification, employees' verification that they understand the training they have received?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.31

4) Contractor/Volunteer Training Content

Questions	YES	NO	Standard Reference
1. Does the agency ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Checklist complete)</i>	§ 115.32

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Questions	YES	NO	Standard Reference												
A. If the answer to (1) is YES, are all volunteers and contractors who have contact with inmates notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.32												
B. If the answer to (1) is YES, is the level and type of training provided to volunteers and contractors based on the services they provide and level of contact they have with inmates?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.32												
C. If the answer to (1) is YES, does the agency maintain documentation confirming that volunteer ^s and contractor ^s understand the training they have received?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.32												
2. Does the agency utilize contract medical or mental health care practitioners?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>													
A. If the answer to (2) is YES, do contract medical and mental health care practitioners receive the following training and information (consistent with § 115.32)?	<i>(Select only if i-iii are Yes)</i>		§ 115.35												
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; background-color: #800000; color: white;">YES</th> <th style="width: 10%; background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Training on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Notification of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Information on how to report sexual abuse and sexual harassment.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>					YES	NO	i. Training on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>	ii. Notification of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	iii. Information on how to report sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>
				YES	NO										
i. Training on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures.				<input type="checkbox"/>	<input type="checkbox"/>										
ii. Notification of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>													
iii. Information on how to report sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>													
	<input type="checkbox"/>	<input type="checkbox"/>													
	<input type="checkbox"/>	<input type="checkbox"/>													

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Questions			YES	NO	Standard Reference
3. Does the agency utilize volunteer medical or mental health care practitioners?			<input type="checkbox"/>	<input type="checkbox"/> <i>(Checklist complete)</i>	
A. If the answer to (3) is YES, do volunteer medical and mental health care practitioners receive the following training and information (consistent with § 115.32)?					
			YES	NO	
i.	Training on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if i-iii are Yes)</i>	§ 115.35
ii.	Notification of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>		
iii.	Information on how to report sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>		

1.10—Data Collection

Data Collection

Standard 115.87 specifies requirements for agencies to collect and retain data related to sexual abuse. The standard requires agencies to collect accurate, uniform data for every allegation of sexual abuse at all facilities under its direct control and every private facility with which it contracts for the confinement of inmates. This data must be aggregated at least annually and is required to include, at a minimum, the data necessary to answer all questions on the most recent version of the Survey of Sexual Violence conducted by the Bureau of Justice Statistics (BJS)¹³. The standard also requires agencies to provide all such data from the previous calendar year to the DOJ upon request.

The DOJ specifies that the required data collection for allegations which are unsubstantiated is minimal, as the most recent version of the BJA Survey of Sexual Violence requires only the number of each type of allegation, divided into sexual abuse and sexual harassment, for incidents that are unsubstantiated, unfounded, or subject to an ongoing investigation (pp. 156-7).

Data Review for Corrective Action

Standard 115.88 requires agencies to review their data and use it to assess and improve the effectiveness of their sexual abuse prevention, detection, and response policies, practices, and training by identifying problem areas, taking ongoing corrective action, and preparing an annual report. The agency's annual report should: (1) compare the current year's data and corrective action with prior year's; (2) assess the agency's progress in addressing sexual abuse; and (3) be approved by the agency head and made available to the public through a website or some other means.

The DOJ suggests that agencies without a website consider submitting the report to a legislative body as an alternate way to make the report available to the public (pp. 159-60).

Data Storage, Publication, and Destruction

Standard 115.98 requires agencies to securely retain the data collected pursuant to 115.87 for at least 10 years, or longer if required by state statute. Additionally, the agency is required to make the data readily available to the public at least annually through a website or through other means after removing all personal identifiers from the data.

The DOJ clarifies that this standard refers to statistical data collection rather than other types of reports (p. 161).

¹³ See the Resources section for the BJS website that contains this information.

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Resources

- Bureau of Justice Statistics Form SSV-3 – Survey of Sexual Violence 2009 – Local Jail Jurisdictions Summary Form (also available at <http://bjs.org/content/pub/pdf/ssv309.pdf>)
- Bureau of Justice Statistics Form SSV-IA – Survey of Sexual Violence 2009 – Incident Form (also available at <http://bjs.org/content/pub/pdf/ssvia09.pdf>)
- National Institute of Corrections – How to Collect and Analyze Jail Data (nicic.gov/Library/021826)

Section 1.10.1—Data Collection Self-Assessment Checklist

- 1) Data Collection Processes
- 2) Data Usage
- 3) Data Management

1) Data Collection Processes

Questions	YES	NO	Standard Reference
1. Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?	<input type="checkbox"/>	<input type="checkbox"/>	§115.87
2. Does the incident-based data collected include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice’s Bureau of Justice Statistics?	<input type="checkbox"/>	<input type="checkbox"/>	§115.87
3. Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?	<input type="checkbox"/>	<input type="checkbox"/>	§115.87
4. Does the agency aggregate the incident-based sexual abuse data at least annually?	<input type="checkbox"/>	<input type="checkbox"/>	§115.87
5. Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates?	<input type="checkbox"/>	<input type="checkbox"/>	§115.87

2) Data Usage

Questions	YES	NO	Standard Reference									
1. Upon request, can the agency provide all such data from the previous year to the Department of Justice no later than June 30?	<input type="checkbox"/>	<input type="checkbox"/>	§115.87									
2. Does the agency review data collected and aggregated pursuant to §115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including the following: <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="background-color: #c00000; color: white;"></th> <th style="background-color: #c00000; color: white;">YES</th> <th style="background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Identifying problem areas.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Taking corrective action on an ongoing basis.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	A. Identifying problem areas.	<input type="checkbox"/>	<input type="checkbox"/>	B. Taking corrective action on an ongoing basis.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if both A & B are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/>	§115.88
	YES	NO										
A. Identifying problem areas.	<input type="checkbox"/>	<input type="checkbox"/>										
B. Taking corrective action on an ongoing basis.	<input type="checkbox"/>	<input type="checkbox"/>										
3. Does the agency prepare an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole?	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Go to next section)</i> §115.88									
A. If the answer to (3) is YES, does the agency’s annual report include the following: <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="background-color: #c00000; color: white;"></th> <th style="background-color: #c00000; color: white;">YES</th> <th style="background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. A comparison of the current year’s data and corrective actions with those from prior years.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. An assessment of the agency’s progress in addressing sexual abuse?</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		YES	NO	i. A comparison of the current year’s data and corrective actions with those from prior years.	<input type="checkbox"/>	<input type="checkbox"/>	ii. An assessment of the agency’s progress in addressing sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if i & ii are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/>	§115.88
	YES	NO										
i. A comparison of the current year’s data and corrective actions with those from prior years.	<input type="checkbox"/>	<input type="checkbox"/>										
ii. An assessment of the agency’s progress in addressing sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>										
B. If the answer to (3) is YES, is the agency’s report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?	<input type="checkbox"/>	<input type="checkbox"/>	§115.88									
C. If the answer to (3) is YES, does the agency redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but indicate the nature of the material redacted?	<input type="checkbox"/>	<input type="checkbox"/>	§115.88									

3) Data Management

Questions	YES	NO	Standard Reference
1. Does the agency ensure that data collected pursuant to § 115.87 are securely retained?	<input type="checkbox"/>	<input type="checkbox"/>	§115.89
2. Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website?	<input type="checkbox"/> <i>(Go to 3)</i>	<input type="checkbox"/>	§115.89
A. If the answer to (2) is NO, does it make it available through other means?	<input type="checkbox"/>	<input type="checkbox"/>	§115.89
3. Before making aggregated sexual abuse data publicly available, does the agency remove all personal identifiers?	<input type="checkbox"/>	<input type="checkbox"/>	§115.89
4. Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise?	<input type="checkbox"/>	<input type="checkbox"/>	§115.89

Part 2—Self-Assessment Checklist Support Materials

2.1—Introduction and Instructions

The PREA Toolkit Self-Assessment Checklists serve a three-fold purpose in assisting agencies and facilities in their PREA-readiness. The checklists:

1. Provide a **step-by-step** format for evaluating existing policy, procedure, and practice for preventing, responding to, and eliminating sexual abuse and sexual harassment of those within jails;
2. Identify areas in policy, procedure, and practice where revision and additional considerations are needed; and
3. Provide a means for jails to track their progress in revising policy, procedure, and practice as they work toward compliance with the PREA Standards.

There are three phases of the self-assessment:

1. Complete the checklist and summary for each section;
2. Develop an action plan based on the summary sub-section results; and
3. Re-evaluate the agency or facility after a set timeframe to measure the progress on the action plan.

Phase 1—Completing the Checklist Questions

1. Agency or Facility Heads designates an employee or team to complete the checklist questions.
2. When completing the checklist, selecting “Yes” means the agency/facility is fully conducting the activity discussed in the question, or the agency can confirm that the activity is being conducted by an outside entity.
3. If the question is about an outside entity and the agency/facility does not know the answer, then “No” should be selected. If the staff member completing the section is unsure whether or not “Yes” or “No” is the appropriate answer, they can contact the PREA Resource Center for assistance (www.prearesourcecenter.org or email info@prearesourcecenter.org). See the below examples:

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Example 1:

Questions	YES	NO	Standard Reference
<p>A. If the answer to (11) is YES, following an investigation into an inmate’s allegation of sexual abuse suffered in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded?</p> <p style="text-align: right;">(Go to 12)</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.73

In this instance, the user should move to question 12 after completing question A, regardless of the answer to question A.

Example 2:

Questions	YES	NO	Standard Reference
<p>1. Is the agency responsible for investigating allegations of sexual abuse?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
<p>A. If the answer to (1) is YES, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.21

In this instance, the user should move to question B only if the answer to question one is “No.” If the answer to question one is “Yes,” then the user should go on to question A.

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Example 3:

Questions	YES	NO	Standard Reference		
1. Do administrative investigations include an effort to determine whether staff actions or failures to act facilitated the abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.71		
2. Are administrative investigations documented in written reports that include the following?	<div style="border: 2px solid red; padding: 5px; display: inline-block;"> <i>(Select only if A-C are Yes)</i> </div> <input type="checkbox"/>	<input type="checkbox"/>	§115.71		
YES				NO	
A. A description of the physical and testimonial evidence				<input type="checkbox"/>	<input type="checkbox"/>
B. The reasoning behind credibility assessments				<input type="checkbox"/>	<input type="checkbox"/>
C. Investigative findings	<input type="checkbox"/>	<input type="checkbox"/>			

In this instance, the user should only answer “Yes” to question two if all of the answers selected to questions A through C are “Yes.” If any of the answers to A-C are “No,” then the answer to question two should be “No.”

- When all the questions for each section of the Self-Assessment Checklist are answered, the user should complete the Self-Assessment Checklist Summary. In order to complete this section, it is recommended that the user refer to a copy of the U.S. Department of Justice PREA Standards (http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf).
- Some questions are placed in the checklist only for the purpose of determining which set of questions the user should answer. These questions are noted with a grey background, as shown in the example below:

Questions	YES	NO	Standard Reference
1. Is the agency responsible for investigating allegations of sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.21
		<i>(Go to B)</i>	

Questions with a grey background should not be included in the summary or the action plan.

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- 6. For all other questions that received a “No” answer, the user should look up the corresponding standard using the notation to the right of the question.

Questions	YES	NO	Standard Reference
6. In instances where the head of a facility receives a report of sexual abuse that allegedly occurred at another facility, does policy state that the facility head must notify the head of the facility or appropriate central office of the agency where the alleged abuse occurred in writing within 14 days of receiving the allegation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.62

The user may then enter the text of the draft PREA Standard in the summary under “Standards for Follow-Up.”

- 7. For each standard entered under “Standards for Follow-Up,” the jail’s leadership should determine the Priority Level (Low, Medium, or High) of the specific standard and note it on the summary document. Noting the Priority Level of each standard will assist the jail in determining next steps in the action planning phase of Self-Assessment.
- 8. After the Priority Level is assigned, the user should select an Implementation Level for each Standard based on where the agency/facility is in implementing the standard.
- 9. Copy the summary document as needed if there are more standards than can fit on one page.

Phase 2—Completing the Action Plan

- 1. When the Self-Assessment Checklist Summary is completed, the user should obtain copies of the Self-Assessment Checklist Action Plan.
- 2. The action plan allows for one standard per page. Enter the date that the Checklist is completed at the top of the form in the space provided.
- 3. Enter the date that the action plan will be targeted for review in the space provided.
- 4. Copy the standard over to the action plan.
- 5. Use the “Responsible Parties” section to note who has been assigned responsibility to follow up on each Standard.
- 6. Use the “Resources” section to note any resources that may be required in order to follow-up on the standard.
- 7. Use the “Notes” section for any internal notes that may be necessary.
- 8. Repeat Steps 2-6 for all Standards that require follow-up until complete. The action plan document is intended to be copied and used for as many standards as needed. The user can keep track of action plan sheets by filling in the sequential page number at the bottom-right of the page.

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Phase 3—Agency/Facility Re-Evaluation

Using the Target Review Date listed for each standard on the action plan, the jail should develop a schedule for reviewing the progress of standard implementation. If the implementation level for the standard has progressed, then the document can be revised (or a new document prepared) to reflect the new level of implementation. Standards should be reviewed until the implementation level for each standard is “Fully Implemented.”

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2.2—Self-Assessment Checklist Summary

Using the responses to each Self-Assessment question and the PREA Standards, list all the standards that will require follow-up. After listing the standards, assign a priority level and an implementation status to each.

Standards for Follow-Up	Priority Level			1. Not Currently Implemented	2. Partially Implemented	3. Fully Implemented
	Low	Medium	High			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2.3—Self-Assessment Checklist Action Plan

Using the Self-Assessment Checklist Summary, note each individual standard that needs follow-up on the action plan form. Enter the dates, implementation level, staff assigned to follow up, any resources needed, and any other notes.

Checklist Completion Date: _____ Target Review Date: _____

<p>Standard:</p>	<p>Priority Level:</p> <p><input type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High</p> <hr/> <p>Implementation Level</p> <p><input type="checkbox"/> Not Currently Implemented</p> <p><input type="checkbox"/> Partially Implemented</p> <p><input type="checkbox"/> Fully Implemented</p>
<p>Responsible Parties:</p> <p><u>Internal:</u></p> <p><u>External:</u></p>	
<p>Available Resources:</p> <p>Required Resources:</p>	
<p>Notes:</p>	

Part 3—Appendix—PREA Background Information

This appendix provides supplemental information on PREA and is intended for those jail officials that might be new to the Law and interested in a more comprehensive understanding of its history, content, and external federal stakeholders.

3.1—The Historical Perspective

Unanimously passed by Congress, the Prison Rape Elimination Act (PREA) was signed on September 4, 2003, by President George W. Bush and became the first federal legislation addressing the issue of sexual assault in correctional settings. The Act applies to sexual abuse in all custodial corrections settings, including prisons, jails, police lock-ups, juvenile detention facilities, and community residential settings. Moreover, the Act applies to all types of sexual misconduct against an inmate, including abuse by fellow inmates and staff.

Sexual abuse of inmates in a jail has implications that extend beyond their release into the community. During the debate of the Prison Rape Elimination Act, Congress found that “prison rape endangers the public safety by making brutalized inmates more likely to commit crimes when they are released—as 600,000 inmates are each year... [and that] victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison.”¹⁴ In custodial settings, sexual abuse of inmates by other inmates or staff seriously compromises the safety and security of all persons within the facility, impacts the professional stature of staff, poses serious medical and mental health risks, and impacts taxpayers who must pay for medical and mental health treatment of victims and, in some cases, the major financial cost of civil litigation.

¹⁴ Public Law 108-79, see <http://www.ojjdp.gov/about/PubLNo108-79.txt>

3.2—Summary of the PREA Law

PREA consists of ten sections:

- **Section One** provides the title of the Act and a Table of Contents.
- **Section Two** describes a variety of research findings and data (i.e., how under-reporting complicates estimates of prevalence, the relationship between rape and communicable diseases, etc.) and discusses the impact of rape and prison sexual abuse on public safety, public health, and institutional violence.
- **Section Three** establishes a zero-tolerance standard for the incidence of inmate sexual abuse and rape; requires prevention of inmate sexual abuse and rape a top priority in each corrections facility; requires the development and implementation of national standards for the detection, prevention, and punishment of prison rape; mandates an increase in available data and information on the incidence of inmate sexual abuse and rape; standardizes the definitions used for data collection; increases accountability of corrections officials who fail to detect, prevent, reduce, and punish prison rape; and protects the Eighth Amendment rights of federal, state and local inmates.
- **Section Four** directs the Bureau of Justice Statistics (BJS) to conduct annual comprehensive statistical reviews and analyses of the incidence and effects of prison rape. It requires: (1) the reviews and analyses to be based on a sample of not less than ten percent of all Federal, State, and county prisons, and a representative sample of municipal prisons that includes at least one prison from each State; and (2) Federal, State, or local officials or facility administrators that receive a request from the Bureau to participate in the national survey and provide access to any inmates under their legal custody.

Section Four also establishes within the Department of Justice the Review Panel on Prison Rape. See Appendix Section 3.4 for more information on the Review Panel's activities.

Additionally, Section Four requires the Attorney General to submit an annual report to Congress and the Secretary of Health and Human Services on Bureau and Panel activities regarding prison rape and authorizes appropriations for FY 2004 through 2010.

- **Section Five** establishes within the National Institute of Corrections (NIC) a national clearinghouse for the provision of information, assistance, and training to Federal, State, and local authorities for the prevention, investigation, and punishment of prison rape.

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- Section Six directs the Attorney General to provide grant funding to assist States in PREA implementation to ensure that budgetary circumstances do not compromise efforts to protect inmates and to safeguard the communities to which inmates return. Appropriations are authorized for FY 2004 through 2010, with a limitation.
- Section Seven establishes the National Prison Rape Elimination Commission. See Appendix Section 3.3 for more information.
- Section Eight directs the Attorney General, within one year after receiving these recommended standards, to publish a final rule adopting national standards. This section provides for a five percent reduction of any amount of grant funds to prisons that a State would otherwise receive for a fiscal year, unless the chief executive of the State submits to the Attorney General: (1) a certification that the State has adopted, and is in full compliance with, the national standards; or (2) an assurance that not less than five percent of such amount shall be used only to enable the State to adopt and achieve full compliance with such standards, so as to ensure that such certification may be submitted in future years. This section also requires the Attorney General to publish an annual report listing each grantee that is not in compliance with the standards.
- Section Nine prohibits accreditation organizations that fail to adopt accreditation standards for the detection, prevention, reduction, and punishment of prison rape from receiving Federal funding.
- Section Ten defines sexual assault and rape to include: (a) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will; (b) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or (c) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

The text of Public Law 108-79 can be found in many places on the Internet. One such location is <http://www.ojjdp.gov/about/PubLNo108-79.txt>.

3.3—Federal Partners and Their Roles in Implementing PREA

The United States Department of Justice

The U.S. Department of Justice has many different components that have responsibilities under PREA for the implementation of the standards, compliance monitoring, operational reviews, and provision of assistance. Below is a brief summary of those partners and their roles.

The Office of the United States Attorney General (OAG)

The Office of the U.S. Attorney General is responsible for issuing a final set of National Standards to Prevent, Detect, and Eliminate Prison Rape. The OAG also manages the Review Panel on Prison Rape.

The Office of Justice Programs (OJP)

Within the Office of Justice Programs, the following agencies play major roles in PREA-related areas, as well many other areas within the criminal justice field.

The Bureau of Justice Statistics (BJS)

BJS is required to carry out an annual comprehensive statistical review and analysis of the incidence and effects of prison rape. This statistical review will identify the common characteristics of both victims and perpetrators of prison rape and the prisons and prison systems with a high incidence of prison rape through scientifically appropriate sampling methods. The review is also required to study the characteristics of current and former inmates. Finally, the review is to provide a listing and ranking of institutions according to the incidence of prison rape as well as a list of institutions that did not cooperate with the survey.

To this end, BJS has published a number of reports since 2004. All of these reports can be found on the BJS website, <http://bjs.ojp.usdoj.gov>.

The Bureau of Justice Assistance (BJA)

BJA (www.ojp.gov/BJA) provides funding and technical assistance to assist criminal justice agencies' in the development of policy and training materials. BJA has provided several years of funding to state departments of corrections to assist them in responding to PREA.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP)

OJJDP (www.ojjdp.gov) assists with development of policy, training, and coordination among all juvenile justice agencies across the United States. OJJDP manages technical assistance and provides a network for communication across the country.

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The National Institute of Corrections (NIC)

NIC (www.nicic.gov), provides jails, community corrections agencies, and prisons with training, technical assistance and resources.

The National Institute of Justice (NIJ)

NIJ (www.nij.gov) — the research, development, and evaluation arm of the Department of Justice — provides grants for research on a variety of topics including prisoner rape, encouraging academics and research-based agencies to expand further the breadth of knowledge regarding the prevalence of sexual violence in detention, vulnerable populations, and best practices for prevention and response efforts.

3.4—The National Prison Rape Elimination Commission (NPREC)

In July 2004, Congress appointed members to the National Prison Rape Elimination Commission to begin the task of developing national standards with the purpose to prevent, detect, and eliminate prison rape. The law also mandated that the Commission consider the impact of cost, current political structures, and the innumerable differences between different types of facilities and systems across the country. The work of the Commission resulted in a set of standards that served as a basis for the draft PREA standards that were issued in 2011.

At the conclusion of four years of hearings, data collection, and public forums, the Commission issued their Final Report of Findings and standards. The final Commission report can be located at: <https://www.ncjrs.gov/pdffiles1/226680.pdf>.

The following is a summary of their findings, the complete discussion of which can be found in their Final Report published in June 2009.

- FINDING 1** Protecting prisoners from sexual abuse remains a challenge in correctional facilities across the country. Too often, in what should be secure environments, men, women, and children are raped or abused by other incarcerated individuals and corrections staff.
- FINDING 2** Sexual abuse is not an inevitable feature of incarceration. Leadership matters; corrections administrators can create a culture within facilities that promotes safety instead of one that tolerates abuse.
- FINDING 3** Certain individuals are more at risk of sexual abuse than others. Corrections administrators must routinely do more to identify those who are vulnerable and protect them in ways that do not leave them isolated and without access to rehabilitative programming.
- FINDING 4** Few correctional facilities are subject to the kind of rigorous internal monitoring and external oversight that would reveal why abuse occurs and how to prevent it. Dramatic reductions in sexual abuse depend on both.
- FINDING 5** Many victims cannot safely and easily report sexual abuse, and those who speak out often do so to no avail. Reporting procedures must be improved to instill confidence and protect individuals from retaliation without relying on isolation. Investigations must be thorough and competent. Perpetrators must be held accountable through administrative sanctions and criminal prosecution.

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- FINDING 6** Victims are unlikely to receive the treatment and support known to minimize the trauma of abuse. Correctional facilities need to ensure immediate and ongoing access to medical and mental health care and supportive services.
- FINDING 7** Juveniles in confinement are much more likely than incarcerated adults to be sexually abused, and they are particularly at risk when confined with adults. To be effective, sexual abuse prevention, investigation, and treatment must be tailored to the developmental capacities and needs of youth.
- FINDING 8** Individuals under correctional supervision in the community, who outnumber prisoners by more than two to one, are at risk of sexual abuse. The nature and consequences of the abuse are no less severe, and it jeopardizes the likelihood of their successful reentry.
- FINDING 9** A large and growing number of detained immigrants are at risk of sexual abuse. Their heightened vulnerability and unusual circumstances require special interventions.

At the conclusion of their work, the National Prison Rape Elimination Commission was sunsetted in June 2009. More information on the NPREC can be found at the University of North Texas Libraries Archive: <http://cybercemetery.unt.edu/archive/nprec/20090820154824/http://nprec.us/home/>

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3.5—The Review Panel on Prison Rape

In accordance with PREA, the Attorney General, in consultation with the Secretary of the Department of Health and Human Services, appoints the members of the Review Panel on Prison Rape (Review Panel).

The Review Panel is responsible for conducting annual hearings to collect evidence to assist the Bureau of Justice Statistics in identifying common characteristics, not only of victims and perpetrators of rape in confinement, but also common characteristics of facilities and correctional systems with high and low incidences of inmate rape. Public hearings are held with the institutions in each of the categories specified under PREA, including: state Departments of Correction; municipal and county jails; juvenile corrections facilities; former inmates; victim advocates; and researchers and experts in the field. Criteria for selection of an institution to go before the review panel are based on the data collected by the Bureau of Justice Statistics (BJS), which identifies institutions with the highest and lowest prevalence of sexual abuse. This analysis aids in the development of recommendations to improve agencies' response to these incidents, and identifying sound policy and practice.

At the conclusion of hearings, the Review Panel publishes a report of findings and recommendations. These can be found on the Review Panel website at <http://ojp.usdoj.gov/reviewpanel/reviewpanel.htm>.

SAMPLE AGENDA - APRIL 2011

Review Panel on Prison Rape Hearings on
Sexual Victimization in Adult Prison Facilities
US Department of Justice
Office of Justice Programs
April 26-27, 2011

Tuesday, April 26

8:30 – 8:45: Panel Members Opening Remarks

Convene hearings on facilities with a high incidence of sexual assault

8:45 – 9:45: Dr. Allen Beck, Bureau of Justice Statistics

Dr. Barbara Owen, Professor of Criminology, California State University - Fresno

Former inmate, Fluvanna Correctional Center for Women

Helen Trainer, former Director, Virginia Institutionalized Persons Project, Legal Aid Justice Center, Charlottesville, VA;

10:45 – 10:50: Break

10:50 – 1:00 pm: Fluvanna Correctional Center for Women

Recess hearings on high incidence facilities

Convene hearings on facilities with a low incidence of sexual assault

3.6—The National Resource Center for the Elimination of Prison Rape

In 2011, The National Council on Crime and Delinquency, under a cooperative agreement with the U.S. Department of Justice, Bureau of Justice Assistance, established the National Resource Center for the Elimination of Prison Rape, also referred to as the PREA Resource Center or the PRC. The PRC serves as the national resource for online and direct support, training, technical assistance, and research to assist adult and juvenile corrections, detention, and law enforcement professionals in their ongoing work to eliminate sexual abuse in confinement. The PRC is a critical resource to assist the field in complying with the PREA Standards.

The PRC website can be found at <http://www.prearesourcecenter.org>, and all requests for training and technical assistance should be sent to the PRC by using the email address info@prearesourcecenter.org.

Contact:

Michela Bowman - Co-director

Dr. Robert DeComo – Co-director

info@prearesourcecenter.org

www.prearesourcecenter.org