

Implementing The Prison Rape Elimination Act: A Toolkit for Juvenile Agencies and Facilities



The Moss
Group, Inc.

CENTER FOR
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Introduction

Welcome to *Implementing the Prison Rape Elimination Act: A Toolkit for Juvenile Agencies and Facilities* (the Toolkit)! The goal of this Toolkit is to provide juvenile agencies and facilities of all sizes, political divisions, and geographic locations with a step-by-step guide for preventing, detecting, and eliminating sexual abuse of residents¹ in their custody – and for responding effectively to abuse when it does occur. Prison rape includes all forms of resident sexual abuse within any correctional facility, including state and federal prisons, county and municipal jails, police lock-ups, holding facilities, resident transportation vehicles, juvenile facilities, and community corrections facilities.

The topic of sexual abuse of inmates is important and 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
- A discussion of the current state of the PREA Standards
- 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-Evaluation Checklist and supporting forms to provide a step-by-step process for juvenile facilities 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 “resident” is used throughout the Toolkit and is used to denote any person confined in a juvenile facility.

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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 agencies, but rather analyze their own agency/facility's operations as new or revised policies to address PREA are developed. States have different laws² that will affect development of policy and procedures; facilities have unique designs, staffing, and budget issues influence procedures. Agencies are encouraged to use the Policy Guide and Self-Evaluation 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>)

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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 no longer available through this grant program.

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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 juvenile facilities 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.

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1.3—Definitions and Terms

The following definitions are included in the National Standards to Prevent, Detect and Respond to Sexual Abuse (www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf). In your agency's review of operations, policies and procedures, consider including these definitions. Please 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 the 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;
- (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;

⁴ See The Project on Addressing Prison Rape. *Fifty State Survey of Official Misconduct Statutes* (<http://www.wcl.american.edu/endsilence/statesurveys.cfm>)

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- (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.

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.

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.

General Definitions

§ 115.5 General definitions.

For purposes of this part, the term—

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 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

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search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential 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.

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

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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.

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.

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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.

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1.4—Developing Strategies to Comply with PREA Standards

Compliance

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 these are directly available to juvenile correctional agencies that are operated by counties, municipalities, or private companies.⁵

As a result, some juvenile agencies and facilities may find themselves not impacted by the financial incentive structure that the PREA law establishes and therefore, *technically*, are not required to comply with the standards. However, affected agencies and facilities will include:

- state juvenile correctional agencies;
- those who contract with their state’s juvenile correctional agency to house juveniles under the jurisdiction of the state juvenile correctional agency, or
- those who contract with a Federal agency to house juveniles under the supervision of a Federal agency.

In these circumstances, local juvenile agencies can expect language regarding compliance with the PREA standards to be included in future contracts.

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

- (1) ensuring the sexual safety of youth and staff;
- (2) recognizing that prevention of youth sexual assault and abuse is a core component of facility 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 youth; and/or
- (6) ensuring that staff are appropriately trained in sexual assault prevention and response.

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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Zero-Tolerance; PREA Coordinator

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

PREA standard 115.311 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 Residents

Standard 115.312 requires that if an agency contracts with outside entities to hold the agency's residents it includes in any new contract or contract renewal that organization's obligation to comply with the PREA standards.

Supervision and Monitoring

Standard 115.313 requires that each agency develop, implement, and document a staffing plan that provides adequate levels of staffing and video monitoring (where applicable). Facilities must comply with the staffing plan except during limited and discrete exigent circumstances, must fully document times when they deviate from the plan, and must assess the plan on an annual basis. All secure facilities must maintain security staff ratios of a minimum of 1:8 during waking hours and 1:16 during resident sleeping hours by October 1, 2017. 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 115.317 prohibits the agency from hiring, promoting, or contracting with anyone (that will have direct contact with residents) 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, conduct a check of the state's child abuse registry, 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 115.318 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 residents 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).

Resident Access to Outside Confidential Support Services

Standard 115.353 expects the agency to provide residents 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 residents and these organizations as well as inform residents (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. Additionally, facilities should also provide residents with reasonable and confidential access to their attorneys, and parents or legal guardians. Finally, agencies are required to maintain or attempt to enter into agreements with community service providers to provide residents with confidential emotional support services related to the resident'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 resident'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 Residents from Contact with Abusers

Standard 115.366 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 residents 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 115.376 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 115.377 states that any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents 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 residents when appropriate.

Resources

- National Institute of Corrections and The Moss Group—*Prison Rape Elimination Act (PREA) Considerations for Policy Review* (<http://www.mossgroup.us/policy.html>)
- 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>)
- 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												
<p>1. Is there a written policy that does the following?</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%;">YES</th> <th style="width: 10%;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Mandates zero tolerance toward all forms of 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. Outlines the agency’s approach to preventing, detecting, and responding to 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	A. Mandates zero tolerance toward all forms of sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	B. Outlines the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if both A & B are Yes)</i></p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><i>(Go to next section)</i></p>	<p>§ 115.311</p>			
	YES	NO													
A. Mandates zero tolerance toward all forms of sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>													
B. Outlines the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>2. If the answer to (1) is YES, does the policy include the following?</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%;">YES</th> <th style="width: 10%;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Definitions of prohibited behaviors.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Sanctions for participation in prohibited behaviors.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Other agency strategies and responses to sexual abuse and sexual harassment of residents.</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. Definitions of prohibited behaviors.	<input type="checkbox"/>	<input type="checkbox"/>	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 residents.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>	<p>Best Practice</p>
	YES	NO													
A. Definitions of prohibited behaviors.	<input type="checkbox"/>	<input type="checkbox"/>													
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 residents.	<input type="checkbox"/>	<input type="checkbox"/>													

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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>	§115.311
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 of its facilities?	<input type="checkbox"/>	<input type="checkbox"/>	§115.311
2. Does the agency operate more than one facility?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>	§115.311
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"/>	§115.311
3. Does each secure facility in the agency maintain security staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances? <u>NOTE:</u> Facilities that are not already obligated by law, regulation or judicial consent decree to maintain these staffing ratios have until October 1, 2017 to achieve compliance.	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.313
A. If the answer to (3) is YES , does each facility fully document those limited and discrete exigent circumstances?	<input type="checkbox"/>	<input type="checkbox"/>	§115.313
4. Has the agency ensured that each facility develops, documents and implements a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to protect residents against sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 5)</i>	§115.313

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Questions	Yes	No	Standard Reference																																				
<p>A. If the answer to (4) 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" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #c00000; color: white;"> <th style="width: 70%;"></th> <th style="width: 15%; text-align: center;">YES</th> <th style="width: 15%; text-align: center;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Generally accepted juvenile detention and correctional/secure residential practices.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Any judicial findings of inadequacy.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Any findings of inadequacy from Federal investigative agencies.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. Any findings of inadequacy from internal or external oversight bodies.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>E. All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated).</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>F. The composition of the resident population.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>G. The number and placement of supervisory staff.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>H. Institution programs occurring on a particular shift.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>I. Any applicable State or local laws, regulations, or standards.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>J. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>K. Any other relevant factors.</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. Generally accepted juvenile detention and correctional/secure residential practices.	<input type="checkbox"/>	<input type="checkbox"/>	B. Any judicial findings of inadequacy.	<input type="checkbox"/>	<input type="checkbox"/>	C. Any findings of inadequacy from Federal investigative agencies.	<input type="checkbox"/>	<input type="checkbox"/>	D. Any findings of inadequacy from internal or external oversight bodies.	<input type="checkbox"/>	<input type="checkbox"/>	E. 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"/>	F. The composition of the resident population.	<input type="checkbox"/>	<input type="checkbox"/>	G. The number and placement of supervisory staff.	<input type="checkbox"/>	<input type="checkbox"/>	H. Institution programs occurring on a particular shift.	<input type="checkbox"/>	<input type="checkbox"/>	I. Any applicable State or local laws, regulations, or standards.	<input type="checkbox"/>	<input type="checkbox"/>	J. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>	K. Any other relevant factors.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.313
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<p>B. If the answer to (4) is YES, does the agency comply with the staffing plan except during limited and discrete exigent circumstances?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.313																																				

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Questions	Yes	No	Standard Reference															
C. If the answer to (4) is YES , does the agency fully document deviations from the plan during such circumstances?	<input type="checkbox"/>	<input type="checkbox"/>	§115.313															
5. Does the agency, in consultation with the PREA coordinator, conduct an assessment at least once each year to determine whether adjustments are needed to the following? <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr style="background-color: #c00000; color: white;"> <th></th> <th style="text-align: center;">YES</th> <th style="text-align: center;">NO</th> </tr> </thead> <tbody> <tr> <td>A. The staffing plan.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Prevailing staffing patterns.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. The facility's deployment of video monitoring systems and other technologies.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. The resources the facility has available to commit to ensure adherence to the staffing plan.</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 staffing plan.	<input type="checkbox"/>	<input type="checkbox"/>	B. Prevailing staffing patterns.	<input type="checkbox"/>	<input type="checkbox"/>	C. The facility's deployment of video monitoring systems and other technologies.	<input type="checkbox"/>	<input type="checkbox"/>	D. The resources the facility has available to commit to ensure adherence to the staffing plan.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if A-D are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/>	§115.313
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D. The resources the facility has available to commit to ensure adherence to the staffing plan.	<input type="checkbox"/>	<input type="checkbox"/>																
6. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, does the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.318															
7. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, does the agency consider how such technology may enhance the agency's ability to protect residents from sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.318															

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Questions	Yes	No	Standard Reference												
<p>8. Does the agency prohibit hiring or promoting anyone who may have contact with residents who has done any of the following?</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr style="background-color: #800000; color: white;"> <th style="width: 80%;"></th> <th style="width: 10%;">YES</th> <th style="width: 10%;">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 style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><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 style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Been civilly or administratively adjudicated to have engaged the activity described in (B) above.</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. 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 the activity described in (B) above.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-C are Yes)</i></p>	<p><input type="checkbox"/></p> <p><i>(Go to 9)</i></p>	<p>§115.317</p>
	YES	NO													
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C. Been civilly or administratively adjudicated to have engaged the activity described in (B) above.	<input type="checkbox"/>	<input type="checkbox"/>													
<p>D. If the answer to (8) is YES, does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct in the following?</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr style="background-color: #800000; color: white;"> <th style="width: 80%;"></th> <th style="width: 10%;">YES</th> <th style="width: 10%;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Written applications for hiring OR interviews conducted as a part of hiring.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Written applications for promotions OR interviews conducted as part of promoting employees.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Any interviews OR written self-evaluations conducted as part of reviews of current employees.</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. Written applications for hiring OR interviews conducted as a part of hiring.	<input type="checkbox"/>	<input type="checkbox"/>	ii. Written applications for promotions OR interviews conducted as part of promoting employees.	<input type="checkbox"/>	<input type="checkbox"/>	iii. Any interviews OR written self-evaluations conducted as part of reviews of current employees.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i-iii are Yes)</i></p>	<p><input type="checkbox"/></p>	<p>§115.317</p>
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Questions	Yes	No	Standard Reference
15. Does the agency conduct criminal background checks of current employees and contractors who may have contact with residents at least every five years?	<input type="checkbox"/>	<input type="checkbox"/>	§115.317
<i>(Go to 16)</i>			
A. If the answer to (15) is NO , does the agency have a system in place for otherwise capturing such information on current employees?	<input type="checkbox"/>	<input type="checkbox"/>	§115.317
16. Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct?	<input type="checkbox"/>	<input type="checkbox"/>	§115.317
17. 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"/>	§115.317
18. Does the agency provide information on substantiated allegations of sexual abuse and 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"/>	§115.317
19. 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"/>	§115.376
20. Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.376
21. 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"/>	<i>(Select only if A-C are Yes)</i>
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"/>	
		<input type="checkbox"/>	§115.376
22. Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents and reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies?	<input type="checkbox"/>	<input type="checkbox"/>	§115.377

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Questions	Yes	No	Standard Reference
23. In the case of any other violation of agency sexual abuse or sexual harassment policy by a contractor or volunteer, does the facility take appropriate remedial measures and consider whether to prohibit further contact with residents?	<input type="checkbox"/>	<input type="checkbox"/>	§115.377

3) Agreements with External Entities

Questions	YES	NO	Standard Reference
1. Does the agency contract with private entities or other government agencies for the confinement of residents?	<input type="checkbox"/>	<input type="checkbox"/>	
		<i>(Go to 2)</i>	
A. If the answer to (1) is YES , does the agency require new contracts and contract renewals to include the contracting entity's obligation to adopt and comply with the PREA standards?	<input type="checkbox"/>	<input type="checkbox"/>	§115.312
2. Are new contracts and contract renewals required to provide for contract monitoring to ensure that the contractor is complying with the PREA standards?	<input type="checkbox"/>	<input type="checkbox"/>	§115.312
3. Is the agency, or any other governmental agency entity responsible for collective bargaining on the agency's behalf, prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to do the following?			
	YES	NO	
A. Remove alleged staff sexual abusers from contact with residents pending an investigation.	<input type="checkbox"/>	<input type="checkbox"/>	
B. Determine whether and to what extent discipline is warranted.	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	§115.366
<p>NOTE: This standard does not restrict the entering into or renewal of agreements governing the conduct of the disciplinary process (consistent with 115.372 and 376) or whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.</p>			

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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 residents with emotional support services related to sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.353
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"/>	§115.353
B. If the answer to (A) 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"/>	§115.353
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"/>	§115.376

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1.5—Resident Management, Services, Cross-Gender Searches, Transgender Residents

Limits to Cross-Gender Viewing and Searches

Standard 115.315 provides extensive guidance regarding the conduct of searches. Cross-gender strip and visual body cavity searches are prohibited except in exigent circumstances⁷ or when performed by medical practitioners. Cross-gender pat-down searches are prohibited except in exigent circumstances. Facilities should document and justify all such searches.

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

The standard also requires facilities to implement policies and procedures that allow residents 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 a housing unit or an area where residents are likely to be showering, performing bodily functions, or changing clothing.

DOJ provides further guidance for this standard by noting that the prohibition against staff viewing residents of the opposite sex includes staff members that monitor cameras (p. 40). The DOJ addresses many concerns related to the housing and treatment of transgender and intersex residents (pp. 55-59).

Evidence Protocol and Forensic Medical Examinations

Standard 115.321 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 residents who experience sexual abuse access to forensic medical examinations (whether on-site or at an outside facility) without cost to the resident. 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.

⁷ *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 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 115.382 requires that resident 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 115.383 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 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 resident 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 residents who committed a sex offense in the community or staff who have abused residents (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

- Arizona Department of Juvenile Corrections—*Secure Facility Vulnerability Assessment* (<http://www.azdjc.gov/FactsNews/PREA/851C072D.pdf>)
- Oregon Youth Authority Youth Safety Follow-Up Surveys (<http://www.oregon.gov/OYA/prea/prearesources.shtml>)
- 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/>)
- The Project on Addressing Prison Rape. *Policy Guide: LGBTI Policies* [draft on file with The Project on Addressing Prison Rape. Email nic@wcl.american.edu for more information]

Section 1.5.1 – Resident Management and Services Self-Assessment Checklist

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

1) Supervising Residents

Questions	YES	NO	Standard Reference
1. Is there a policy that requires 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>	§115.313
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"/>	§115.313
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"/>	§115.313
2. 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 3)</i>	§115.315
A. If the answer to (2) is YES , does the agency require that all cross-gender strip searches and cross-gender body cavity searches be documented and justified?	<input type="checkbox"/>	<input type="checkbox"/>	§115.315
3. Does the agency prohibit cross-gender pat-down searches except in exigent circumstances?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.315
A. If the answer to (3) is YES , does the agency require that all cross-gender pat-down searches be documented and justified?	<input type="checkbox"/>	<input type="checkbox"/>	§115.315

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Questions	YES	NO	Standard Reference										
<p>4. Does the agency have policies and procedures that enable residents 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?</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. Shower</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Perform bodily functions</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Change clothing</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. Shower	<input type="checkbox"/>	<input type="checkbox"/>	B. Perform bodily functions	<input type="checkbox"/>	<input type="checkbox"/>	C. Change clothing	<input type="checkbox"/>	<input type="checkbox"/>	<p style="color: red; text-align: center;"><i>(Select only if A-C are Yes)</i></p> <p style="text-align: center;"><input type="checkbox"/></p>
	YES	NO											
A. Shower	<input type="checkbox"/>	<input type="checkbox"/>											
B. Perform bodily functions	<input type="checkbox"/>	<input type="checkbox"/>											
C. Change clothing	<input type="checkbox"/>	<input type="checkbox"/>											
5. Are transgender and intersex residents given the opportunity to shower separately from other residents?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342										
6. Does the facility have discrete housing units?	<input type="checkbox"/>	<input type="checkbox"/>											
A. If the answer to (6) is YES , do the policies and procedures mentioned in question (4) of this section require staff of the opposite gender to announce their presence when entering a resident housing unit?	<input type="checkbox"/>	<input type="checkbox"/>	§115.315										
B. If the answer to (6) is NO , do the policies and procedures mentioned in question (4) of this section require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing?	<input type="checkbox"/>	<input type="checkbox"/>	§115.315										

2) Victim Services: General

Questions	YES	NO	Standard Reference
1. Does the facility provide resident victims of 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"/>	§115.383
2. Does the facility provide residents with access to outside victim advocates for emotional support services related to sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.353

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Questions	YES	NO	Standard Reference													
<p>A. If the answer to (2) is YES, does the facility do 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>i. Provide, post, or otherwise make accessible the mailing addresses and telephone numbers (including toll-free hotline numbers where available) of local, State, or national victim advocacy or rape crisis organizations.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Provide, post, or otherwise make accessible the mailing addresses and telephone numbers (including toll-free hotline numbers where available) of immigrant service agencies for persons 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>iii. Enable reasonable communication between residents and these organizations, in as confidential a manner as possible.</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. Provide, post, or otherwise make accessible the 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. Provide, post, or otherwise make accessible the 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"/>	iii. Enable reasonable communication between residents and these organizations, in as confidential a manner as possible.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>((Select only if i-iii are Yes))</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.353
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iii. Enable reasonable communication between residents and these organizations, in as confidential a manner as possible.	<input type="checkbox"/>	<input type="checkbox"/>														
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"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.353											
C. If the answer to (2) is YES , does the facility inform residents, 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"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.353											
3. Does the facility provide residents with reasonable and confidential access to their attorney or other legal representation and reasonable access to parents or legal guardians?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.353											

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 § 115.362 and immediately notify the appropriate medical and mental health practitioners?	<input type="checkbox"/>	<input type="checkbox"/>	§115.382

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Questions	YES	NO	Standard Reference
2. Do resident 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"/>	§115.382
3. Are treatment services provided to victims of sexual abuse without financial cost?	<input type="checkbox"/>	<input type="checkbox"/>	§115.382
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"/>	§115.382
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"/>	§115.382
6. Does the agency offer all residents 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>	§115.321
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"/>	<input type="checkbox"/>	§115.321
B. 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"/>	§115.321
C. Does the agency document its efforts to provide SAFEs or SANEs?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321
7. Are resident victims of sexual abuse while incarcerated offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate, in accordance with professionally accepted standards of care?	<input type="checkbox"/>	<input type="checkbox"/>	§115.382
8. Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? 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.	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to next section)</i>	§115.321

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Questions	YES	NO	Standard Reference
A. If the answer to (8) is YES , and the rape crisis center is part of a governmental unity, 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?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321
B. If the answer to (8) is YES , does the agency document efforts to secure services from rape crisis centers?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321
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?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to D)</i>	§115.321
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?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321
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?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321
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?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321

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 residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?	<input type="checkbox"/>	<input type="checkbox"/>	§115.383
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"/>	§115.383

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Questions	Yes	No	Standard Reference												
3. Are resident victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests?	<input type="checkbox"/>	<input type="checkbox"/>	§115.383												
4. If pregnancy results from a resident 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"/>	§115.383												
5. Are resident victims of sexual abuse while incarcerated offered tests for sexually transmitted infections, as medically appropriate?	<input type="checkbox"/>	<input type="checkbox"/>	§115.383												
<p>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> <table border="1" data-bbox="139 848 927 1050"> <thead> <tr> <th></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. Follow-up services</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Treatment plans</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Referrals for continued care (when necessary)</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. 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"/>	<p><i>(Select only if A-C are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.383
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1.6—Resident Screening

Obtaining Information from Residents

Standard 115.341 requires that facilities obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident. The facility should perform this assessment within 72 hours of the resident's arrival at the facility and periodically throughout a resident's confinement, and conduct the assessment using an objective screening instrument. The standard provides a number of areas that the agency should attempt to ascertain information about during the screening, and requires that these areas be addressed through conversations with the resident during the intake process and medical/mental health screenings; during classification assessments; and through the review of court records, case files, facility behavioral records, and other relevant documentation from the resident's files.

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).

Placement of Residents in Housing, Bed, Program, Education, and Work Assignments

Standard 115.342 requires that the agency use information obtained from standard 115.341 to inform a wide variety of assignments within the facility in order to keep all residents safe and free from sexual abuse.

The standard requires that residents be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until alternate means of keeping all residents safe can be arranged. During any period of isolation, agencies must ensure that residents have access to daily large-muscle exercise and any legally required educational programming or special education services. They should also receive daily visits from a medical or mental health care physician, and have access to other programs and work opportunities to the extent possible. If a resident is isolated pursuant to this section, the facility should document the basis of the facility's concern for the resident's safety, and the reason why no alternate means of separation can be arranged. The facility to afford each isolated resident a review every 30 days to determine if there is continuing need for isolation.

Housing and access to programming for lesbian, gay, bisexual, transgender, or intersex (LGBTI) residents 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 resident. LGBTI residents are not to be classified into facilities or housing units solely

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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 residents. Finally transgender and intersex residents shall be given the opportunity to shower separately from other residents.

Medical and Mental Health Screenings; History of Sexual Abuse

Standard 115.381 requires that any resident that is identified as a past sexual abuse victim or abuser (pursuant to the screening conducted in standard 115.341) 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 residents before reporting information about prior sexual victimization that did not occur in an institutional setting (unless the resident 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. This is distinct from the requirement in standard 115.383 for a mental health evaluation in 60 days, which is a comprehensive mental health assessment intended to inform future treatment plans. 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

- Arizona Department of Juvenile Corrections—*Reception Screening for Assaultive and Sexually Aggressive Behavior and Risk for Sexual Victimization* (<http://www.azdjv.gov/FactsNews/PREA/FF88A4DC.pdf>)
- National Institute of Justice (USDOJ) - *Mental Health Screens for Corrections* (www.nij.gov/pubs-sum/216152.htm)
- National Institute of Corrections – *Cross-Gender Supervision Training* ([nicic.gov/Library/006806](http://www.nicic.gov/Library/006806))
- National Institute of Corrections – *Developing Gender Specific Classification Systems for Women* (static.nicic.gov/Library/018931.pdf)

Section 1.6.1 – Resident Screening Self-Assessment Checklist

- 1) Intake
- 2) Obtaining Information from Residents
- 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 resident for the sole purpose of determining the resident’s genital status?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to next section)</i>	§115.315
2. In situations where the genital status of a resident is unknown, does the facility attempt to determine the genital status through the following?	<i>(Select only if i-ii are Yes)</i>		
	YES	NO	
A. Conversations with the resident	<input type="checkbox"/>	<input type="checkbox"/>	§115.315
B. Review of medical records	<input type="checkbox"/>	<input type="checkbox"/>	
3. If all other attempts to determine the resident’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"/>	§115.315

2) Obtaining Information from Residents

Questions	YES	NO	Standard Reference
1. Does the agency obtain information about each resident’s personal history and behavior within 72 hours of the resident’s arrival at the facility (and periodically throughout the resident’s confinement) and use it to reduce the risk of sexual abuse by or upon the resident?	<input type="checkbox"/>	<input type="checkbox"/>	§115.341

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Questions			YES	NO	Standard Reference
2. Does the agency attempt to gain information about, at a minimum, the following criteria?					
	YES	NO			
A. Prior sexual victimization or abusiveness.					
B. Any gender non-conforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse.	<input type="checkbox"/>	<input type="checkbox"/>			
C. Current charges and offense history.					
D. Age.	<input type="checkbox"/>	<input type="checkbox"/>			
E. Level of emotional and cognitive development.	<input type="checkbox"/>	<input type="checkbox"/>			
F. Physical size and stature.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
G. Mental illness or mental disabilities.	<input type="checkbox"/>	<input type="checkbox"/>			
H. Intellectual or developmental disabilities.					
I. Physical disabilities.					
J. The residents own perception of vulnerability.	<input type="checkbox"/>	<input type="checkbox"/>			
K. Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.	<input type="checkbox"/>	<input type="checkbox"/>			
			<i>(Select only if A-K are Yes)</i>		§115.341

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3. Is the information discussed in (2) ascertained in the following ways?					
	YES	NO	<i>(Select only if A-C are Yes)</i>	<input type="checkbox"/>	<input type="checkbox"/>
A. Through conversations with residents during the intake process and medical and mental health screenings.	<input type="checkbox"/>	<input type="checkbox"/>			
B. During classification assessments.	<input type="checkbox"/>	<input type="checkbox"/>			
C. By reviewing court records, case files, facility behavioral records, and other relevant documentation from the residents' files.	<input type="checkbox"/>	<input type="checkbox"/>			
4. Is resident screening conducted using an objective screening instrument?			<input type="checkbox"/>	<input type="checkbox"/>	§115.341

3) Use of Information

Questions	YES	NO	Standard Reference
1. Does the agency use all information obtained pursuant to §115.341 (and subsequently) to make the following decisions for each resident with the goal of keeping all residents safe and free from sexual abuse?			
	YES	NO	<i>(Select only if A-E are Yes)</i>
A. Housing	<input type="checkbox"/>	<input type="checkbox"/>	
B. Bed	<input type="checkbox"/>	<input type="checkbox"/>	
C. Program	<input type="checkbox"/>	<input type="checkbox"/>	
D. Education	<input type="checkbox"/>	<input type="checkbox"/>	
E. Work assignments	<input type="checkbox"/>	<input type="checkbox"/>	
2. Is the agency prohibited from placing lesbian, gay, bisexual, transgender, and intersex residents in particular housing, bed, or other assignments solely on the basis of such identification or status?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342

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Questions	YES	NO	Standard Reference																		
3. Does the agency consider on a case-by-case basis whether assigning a transgender or intersex resident to a facility for male or female residents (and in making other housing and programming assignments) would ensure the resident's health and safety, and whether the placement would present management or security problems?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342																		
4. Are placement and programming assignments of each transgender or intersex resident reassessed at least twice each year to review any threats to safety experienced by the resident?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342																		
5. Are a transgender or intersex resident's own views with respect to his or her own safety given serious consideration?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342																		
6. Does the agency prohibit considering lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342																		
7. Does the agency isolate residents from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342																		
8. During any period of isolation, do residents receive the following?																					
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9. If a resident is isolated pursuant to question (7) of this section, does the facility clearly document the following?																					
<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. The basis for the facility's concern for the resident's safety.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. The reason why no alternative means of separation can be arranged.</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 basis for the facility's concern for the resident's safety.	<input type="checkbox"/>	<input type="checkbox"/>	B. The reason why no alternative means of separation can be arranged.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A and B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.342									
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A. The basis for the facility's concern for the resident's safety.	<input type="checkbox"/>	<input type="checkbox"/>																			
B. 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
10. Does the facility afford a review every 30 days to each resident described in question (9) of this section to determine whether there is a continuing need for separation from the general population?	<input type="checkbox"/>	<input type="checkbox"/>	§115.342
11. If the screening pursuant to §115.341 indicates that a resident has experienced prior victimization, whether it occurred in an institutional setting or in the community, does staff ensure that the resident 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"/>	§115.381
12. If the screening pursuant to §115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, does staff ensure that the resident 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"/>	§115.381
13. Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health practitioners?	<input type="checkbox"/>	<input type="checkbox"/>	§115.383

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4) Information Management

Questions	YES	NO	Standard Reference
1. Has the agency implemented appropriate controls on the dissemination of responses to intake screening questions within the facility in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents?	<input type="checkbox"/>	<input type="checkbox"/>	§115.341
2. Is any information related to sexual victimization or abusiveness that occurred in an institutional setting subject to the following requirements?			
	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"/>	§115.381
C. Strictly limited to other staff as otherwise required by Federal, State or local law.	<input type="checkbox"/>	<input type="checkbox"/>	
<i>(Select only if A-C are Yes)</i>			
3. Do medical and mental health practitioners obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18?	<input type="checkbox"/>	<input type="checkbox"/>	§115.381

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1.7—Reporting

Resident Reporting

Standard 115.351 requires that agencies provide multiple ways for residents to report sexual abuse and harassment, and at least one way for residents to report to an entity that is not part of the agency. The standard also requires that agencies provide contact information to residents detained solely for civil immigration purposes for relevant consular officials and officials at the Department of Homeland Security. Residents must be provided with the tools necessary to make a written report. Finally, staff must have a method to privately report sexual abuse and harassment of residents, 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).

Residents with Disabilities and Residents who are Limited English Proficient

Standard 115.316 requires agencies to ensure that residents 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 residents 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 residents with disabilities and residents who are limited English proficient, and formatting or communicating written materials to residents with disabilities.

Finally, the standard requires that the agency not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under standard 115.364, or the investigation of the resident’s allegations.

The DOJ specifies that this final standard does not, nor is it intended to, go beyond the relevant Federal civil rights laws⁸ and it intends to protect all residents 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. 64-67).

⁸ 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>).

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Exhaustion of Administrative Remedies

Standard 115.352 outlines agency requirements for the resident administrative grievance procedures. This standard does not apply if an agency does not have administrative procedures to address resident 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 residents may consider their requests to be denied at that level, and similar timelines for emergency grievances. It also addresses residents' 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 residents, staff members, family members, attorneys and outside advocates) to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and to allow third parties to file such requests on behalf of residents. The facility may require the alleged victim to agree to have the request filed on his or her behalf and, if the request is filed by a third party other than a parent or guardian, 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 residents to report abuse (p. 107).

Third-Party Reporting

Standard 115.354 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 a resident.

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 115.361 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 residents 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 residents 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 to the alleged victim's parents or legal guardians (unless the facility has official documentation showing the parents or legal guardians should not be notified); to the caseworker if the alleged victim is under the guardianship of the child welfare system; and to the juvenile's attorney or other legal representative if a juvenile court retains jurisdiction over the alleged victim. Facilities must also 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).

Agency Protection Duties

Standard 115.362 requires agencies to take immediate action to protect a resident upon learning that the resident is subject to a substantial risk of imminent sexual abuse.

Protection Against Retaliation

Standard 115.367 requires agencies to establish a policy to protect all residents 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 residents, 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 resident 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>)
- Arizona Department of Juvenile Corrections—Posters (<http://www.azdjc.gov/FactsNews/PREA/PREA.asp>)
- Louisiana Office of Juvenile Justice—Poster (<http://ojj.la.gov/ojj/files/PREA.pdf>)
- Oregon Youth Authority—Posters (<http://www.oregon.gov/OYA/prea/docs/PostersHandout.pdf>)

Section 1.7.1 – Reporting of Allegations Self-Assessment Checklist

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

1) Resident Reporting of Allegations

Questions	YES	NO	Standard Reference												
<p>1. Does the agency provide multiple internal ways for residents to privately report 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. 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>§115.351</p>
	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>2. Does the agency also provide at least one way for residents 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 resident reports of sexual abuse and sexual harassment to agency officials?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.351												
<p>A. If the answer to (2) is YES, does the public or private entity or office allow residents to remain anonymous upon request?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.351												
<p>3. Are residents 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"/>	§115.351												

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Questions			YES	NO	Standard Reference
4. Does the facility provide residents with reasonable and confidential access to the following?					
	YES	NO	(Select only if A-B are Yes)		§115.353
A. Their attorneys or other legal representation.	<input type="checkbox"/>	<input type="checkbox"/>			
B. Their parents or legal guardians.	<input type="checkbox"/>	<input type="checkbox"/>			
5. Does the agency take appropriate steps to ensure that residents with disabilities (including, for example, residents 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?					
	YES	NO	(Select only if A and B are Yes)		§115.316
A. When necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.	<input type="checkbox"/>	<input type="checkbox"/>			
B. Ensuring that written materials are provided in formats and through methods that ensure effective communication with residents with disabilities, including residents with intellectual disabilities, limited reading skills, or who are blind or low vision.	<input type="checkbox"/>	<input type="checkbox"/>			
NOTE: 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 .					

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Questions	YES	NO	Standard Reference																		
<p>6. 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 residents 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"/>	§115.316																		
<p>7. Does the agency prohibit reliance on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first responder duties under §115.364, or the investigation of the resident’s allegations?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.316																		
<p>8. Does each facility provide residents with the tools necessary to make a written report?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.351																		
<p>9. Are staff instructed to do the following?</p> <table border="1" data-bbox="154 978 927 1545"> <thead> <tr> <th></th> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td>A. To 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. To 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. To 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. To 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. To 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. To accept sexual assault reports that are made verbally.	<input type="checkbox"/>	<input type="checkbox"/>	B. To accept sexual assault reports that are made in writing.	<input type="checkbox"/>	<input type="checkbox"/>	C. To accept sexual assault reports that are made anonymously.	<input type="checkbox"/>	<input type="checkbox"/>	D. To accept sexual assault reports that are made by third parties.	<input type="checkbox"/>	<input type="checkbox"/>	E. To promptly document any verbal reports.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-E are Yes)</i></p> <input type="checkbox"/>	<p><i>(Go to 10)</i></p> <input type="checkbox"/>	§115.351
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E. To promptly document any verbal reports.	<input type="checkbox"/>	<input type="checkbox"/>																			
<p>F. If the answers to (9) are YES, are these instructions given in writing, through policy or other written directive?</p>	<input type="checkbox"/>	<input type="checkbox"/>	Best Practice																		

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Questions	YES	NO	Standard Reference																		
10. Does the agency have administrative procedures to address resident grievances regarding sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 11)</i>																			
<p>A. If the answer to (10) is YES, does the agency NOT impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse?</p> <p><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.</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.352																		
B. If the answer to (10) is YES , does the agency NOT require a resident 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"/>	§115.352																		
<p>C. If the answer to (10) 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. A resident 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. Such 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. A resident 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. Such grievance is not referred to a staff member who is the subject of the complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i and ii are Yes)</i></p> <p>§115.352</p>									
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Questions	YES	NO	Standard Reference																		
<p>E. If the answer to (10) is YES, does the agency allow the following third parties to file requests for administrative remedies relating to allegations of sexual abuse on behalf of residents?</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. Fellow residents</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 other than a parent or guardian files such a request on behalf of a resident, 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 residents	<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"/>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to F)</i>	§115.352
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v. Outside advocates	<input type="checkbox"/>	<input type="checkbox"/>																			
vi. If the answer to (E) is YES , does the facility allow the resident to decline such a grievance from third parties (excluding parents or legal guardians)?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to ii)</i>	§115.352																		
(a) If the answer to (i) is YES , does the agency document when the resident chooses to decline?	<input type="checkbox"/>	<input type="checkbox"/>	§115.352																		
vii. If the answer to (E) is YES , does the facility allow a parent or legal guardian of a resident to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such resident <u>regardless</u> of whether or not the resident consents?	<input type="checkbox"/>	<input type="checkbox"/>	§115.352																		
F. If the answer to (10) is YES , does the agency issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to G)</i>	§115.352																		
i. If the answer to (F) is YES , does the agency exclude the time consumed by residents in preparing any administrative appeal from the computation of the 90-day time period?	<input type="checkbox"/>	<input type="checkbox"/>	§115.352																		
ii. If the answer to (F) is YES , can the agency claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision?	<input type="checkbox"/>	<input type="checkbox"/>	§115.352																		

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Questions	YES	NO	Standard Reference												
iii. If the answer to (F) is YES , does the agency notify the resident in writing of any such extension and provide a date by which a decision will be made?	<input type="checkbox"/>	<input type="checkbox"/>	§115.352												
G. If the answer to (10) is YES , has the agency established procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to H)</i>	§115.352												
i. If the answer to (G) is YES , does the procedure require the agency, after receiving such an emergency grievance, to do the following? <table border="1" data-bbox="191 709 922 1291" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th></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) Immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>b) Provide an initial response within 48 hours.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>c) Provide a completed final agency decision within 5 calendar days.</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) Immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken.	<input type="checkbox"/>	<input type="checkbox"/>	b) Provide an initial response within 48 hours.	<input type="checkbox"/>	<input type="checkbox"/>	c) Provide a completed final agency decision within 5 calendar days.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if a-c are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/>	§115.352
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ii. If the answer to (G) is YES , does the initial response and final agency decision document the following? <table border="1" data-bbox="191 1402 922 1724" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th></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 resident 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 resident 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"/>	<i>(Select only if a and b are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/>	§115.352			
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b) The action taken in response to the emergency grievance.	<input type="checkbox"/>	<input type="checkbox"/>													
H. If the answer to (9) is YES , does the agency restrict disciplining a resident for filing a grievance related to alleged sexual abuse only to situations where the agency demonstrates that the resident filed the grievance in bad faith?	<input type="checkbox"/>	<input type="checkbox"/>	§115.352												

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Questions	YES	NO	Standard Reference
<p>I. If the answer to (10) 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 resident to consider this absence of a response to be a denial at that level?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.352
<p>11. When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.362
<p>12. Apart from reporting to designated supervisors or officials and designated State or local services agencies, are staff prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary?</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 11)</i>	§115.361
<p>A. If the answer to (12) 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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.361
<p>13. Are medical practitioners required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality unless otherwise precluded by Federal, State, or local law?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.361

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 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. 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 style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Retaliation against residents or staff who reported such an incident.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><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 style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><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 residents 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"/>	<input type="checkbox"/>	<p>§115.361</p>
	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 residents 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"/>														
2. Does the agency require all staff to comply with any applicable mandatory child abuse reporting laws?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.361											
3. Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.351											
4. Does the facility provide a method to receive third-party reports of sexual abuse and sexual harassment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.354											
A. If the answer to (4) is YES , does the facility publicly distribute information on how to report sexual abuse and sexual harassment on behalf of residents?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.354											

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5. Does the agency require all medical and mental health practitioners to report immediately and according to agency policy the following?					
	YES	NO	<i>(Select only if A-C are Yes)</i>	<input type="checkbox"/>	<input type="checkbox"/>
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 residents 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"/>			
6. 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, as well as to the designated State or local services agency where required by mandatory reporting laws?			<input type="checkbox"/>	<input type="checkbox"/>	§115.361

3) Protection from Retaliation

Questions	YES	NO	Standard Reference
1. Does the agency have a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff?	<input type="checkbox"/>	<input type="checkbox"/>	§115.367
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"/>	§115.367

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Questions	YES	NO	Standard Reference																		
<p>2. Does the agency employ multiple protection measures for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations?</p> <p><u>NOTE:</u> Protection measures may include the following:</p> <ul style="list-style-type: none"> • Housing changes or transfers for resident victims or abusers • Removal of alleged staff or resident abusers from contact with victims • Emotional support services 	<input type="checkbox"/>	<input type="checkbox"/>	§115.367																		
<p>3. Does the agency monitor the conduct or treatment of residents or staff who have reported sexual abuse and of residents 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 residents or staff?</p> <p><u>NOTE:</u> An agency's obligation to monitor terminates if the agency determines that the allegation is unfounded.</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 4)</i>	§115.367																		
<p>A. If the answer to (3) is YES, and the agency detects changes that may suggest possible retaliation by residents or staff, does the agency act promptly to remedy any such retaliation?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.367																		
<p>B. If the answer to (3) is YES, does agency monitoring include the following?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;"></th> <th style="width: 15%; background-color: #c00000; color: white;">YES</th> <th style="width: 15%; background-color: #c00000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Any resident disciplinary reports</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Any resident housing changes</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Any resident program changes</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iv. Negative staff performance reviews</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>v. Staff reassignments</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. Any resident disciplinary reports	<input type="checkbox"/>	<input type="checkbox"/>	ii. Any resident housing changes	<input type="checkbox"/>	<input type="checkbox"/>	iii. Any resident 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"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.367 <i>(Select only if i-v are Yes)</i>
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v. Staff reassignments	<input type="checkbox"/>	<input type="checkbox"/>																			
<p>C. If the answer to (3) is YES, in the case of residents, does such monitoring include periodic status checks?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.367																		
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.367																		
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.367																		

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1.8—Investigations

Policies to Ensure Referrals of Allegations for Investigations

Standard 115.322 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 115.334 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).

Reporting to Other Confinement Facilities

In the event that a resident alleges that sexual abuse occurred at another facility, standard 115.363 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 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).

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Staff First Responder Duties

Standard 115.364 outlines requirements for security staff members who are the first to respond to a report that a resident 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 115.365 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 115.368 requires the agency to comply with the requirements of 115.342 (see Section 1.6) in any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse.

Criminal and Administrative Agency Investigations

Standard 115.371 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. Such agencies must also remain informed about the progress of the investigation that is conducted by the outside entity.

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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 115.372 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 Residents

Standard 115.373 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 resident 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 resident'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 resident of indictments or convictions of alleged resident 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 resident 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).

Interventions and Disciplinary Sanctions for Residents

Standard 115.378 states that agencies may subject residents who are found guilty of engaging in resident-on-resident sexual abuse, either through an administrative investigation or criminal investigation, to disciplinary sanctions. The standard establishes requirements to determine the type and level of sanction that can be imposed. Additionally, if the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons for sexual abuse, the standard requires the facility to consider offering participation in such interventions to the offending resident.

The standard prohibits disciplining a resident 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 a resident 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 residents is sexual abuse unless it is determined that the activity was coerced.

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

Sexual Abuse Incident Reviews

Standard 115.386 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 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) – *Crime Scene Investigation: A Reference for Law Enforcement* (www.ncjrs.gov/pdffiles1/nij/200160.pdf)
- 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 Criteria
- 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>	
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>	§115.321
i. If the answer to (A) is YES , is the protocol developmentally appropriate for youth?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321
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"/>	§115.321
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"/>	§115.371
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 §115.321?	<input type="checkbox"/>	<input type="checkbox"/>	§115.321

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Questions	Yes	No	Standard Reference															
<p>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 115.371?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.371															
<p>2. Does the agency conduct its own investigations into allegations of sexual abuse and sexual harassment?</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to next section)</i>																
<p>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?</p> <table border="1" data-bbox="142 831 927 1115"> <thead> <tr> <th></th> <th style="background-color: #800000; color: white;">YES</th> <th style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>i. Promptly</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>ii. Thoroughly</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iii. Objectively</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>iv. Using investigators who have received special training in sexual abuse investigations pursuant to § 115.334</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. 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 § 115.334	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if i-iv are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	§115.371
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2) Response to Reports of Allegations:

Questions	Yes	No	Standard Reference																		
<p>1. Does any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse meet the following requirements?</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. Isolation is used only as a last resort when other less restrictive measures are inadequate.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Daily large-muscle exercise is provided.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Legally required educational programming and special education services are provided.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. While isolated, residents receive daily visits from a medical or mental health care clinician.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>E. Residents have access to other programs and work opportunities to the extent possible.</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. Isolation is used only as a last resort when other less restrictive measures are inadequate.	<input type="checkbox"/>	<input type="checkbox"/>	B. Daily large-muscle exercise is provided.	<input type="checkbox"/>	<input type="checkbox"/>	C. Legally required educational programming and special education services are provided.	<input type="checkbox"/>	<input type="checkbox"/>	D. While isolated, residents receive daily visits from a medical or mental health care clinician.	<input type="checkbox"/>	<input type="checkbox"/>	E. Residents have access to other programs and work opportunities to the extent possible.	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-E are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.368</p>
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2. 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"/>	§115.322																		
3. 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"/>	§115.322																		
A. If the answer to (3) is YES , does the agency document all such referrals?	<input type="checkbox"/>	<input type="checkbox"/>	§115.322																		
B. If the answer to (3) 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"/>	§115.322																		
C. If the answer to (3) 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"/>	§115.322																		

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Questions	Yes	No	Standard Reference
4. 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"/>	§115.322
5. 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"/>	§115.322
6. Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the appropriate agency office and the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians shall not be notified?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 7)</i>	§115.361
A. If the answer to (6) is YES , and if the alleged victim is under the guardianship of the child welfare system, does the agency report to the alleged victim's caseworker instead of the victim's parents or legal guardians?	<input type="checkbox"/>	<input type="checkbox"/>	§115.361
B. If the answer to (6) is YES , and if a juvenile court retains jurisdiction over the alleged victim, does the facility head or designee also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.361
7. 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"/>	§115.361
8. If a facility receives an allegation that a resident 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 9)</i>	§115.363
A. If the answer to (8) 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"/>	§115.363
B. If the answer to (8) is YES , does the agency document that it has provided such notification?	<input type="checkbox"/>	<input type="checkbox"/>	§115.363

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Questions	Yes	No	Standard Reference
9. 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 10)</i>	§115.365
A. If the answer to (9) is YES , do the following actions occur (at minimum)?			
	YES	NO	
i. Assessment of 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. Explanation 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"/>	
B. If the answer to (9) is YES , does the policy specify which entities within the facility are responsible for which action, how actions should be sequenced, and which actions can occur concurrently with other actions?	<input type="checkbox"/>	<input type="checkbox"/>	USDOJ PREA Standards Preamble¹ Best practice

¹ Discussion of the eight coordination actions can be found within the discussion of §115.365 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
10. Does the agency prohibit the termination of an investigation solely because the source of the allegation recants the allegation?	<input type="checkbox"/>	<input type="checkbox"/>	§115.371
11. Does the agency conduct internal investigations?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>	
A. If the answer to (11) is YES , following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, does the agency inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded?	<input type="checkbox"/>	<input type="checkbox"/>	§115.373
B. If the answer to (11) is NO , does the agency request the relevant information from the investigative agency in order to inform the resident?	<input type="checkbox"/>	<input type="checkbox"/>	§115.373
12. Except when an allegation has been determined to be unfounded, following a resident's allegation that a staff member has committed sexual abuse against the resident, does the agency subsequently inform the resident whenever the following situations exist?			
<i>(Select only if A-D are Yes)</i>			
	YES	NO	
A. The staff member is no longer posted within the resident'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"/>	§115.373 <i>(Go to 13)</i>
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"/>	
NOTE: An agency's obligation to report under this standard terminates if the resident is released from the agency's custody.			
E. If the answer to (12) is YES , does the agency document all such notifications or attempted notifications?	<input type="checkbox"/>	<input type="checkbox"/>	§115.373

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Questions	Yes	No	Standard Reference									
<p>13. Following a resident's allegation he or she has been sexually abused by another resident, does the agency subsequently inform the resident whenever either of the following occur?</p> <table border="1" data-bbox="142 426 927 831"> <thead> <tr> <th></th> <th>YES</th> <th>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 resident 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-B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 14)</i>	<p>§115.373</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>C. If the answer to (13) is YES, does the agency document all such notifications or attempted notifications?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.373									
<p>14. Should the agency or a facility in the agency receive notification from another facility or agency that a resident was sexually abused while confined at a facility within the agency, does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.363									

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Questions	Yes	No	Standard Reference															
<p>15. Upon learning of an allegation that a resident was sexually abused, is the first staff member to respond to the report required to 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: #800000; color: white;">YES</th> <th style="width: 10%; background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Separate the alleged victim and abuser.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>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.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>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.</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. 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"/>	<p><i>(Select only if A-D are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.364</p>
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<p>16. If the first staff member to respond to an allegation that a resident was sexually abused is not a security staff member, is the first responder required to 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: #800000; color: white;">YES</th> <th style="width: 10%; background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td>A. Request that the alleged victim not take any actions that could destroy physical evidence.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Notify security staff.</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. 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"/>	<p>§115.364</p>						
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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"/> <i>(Go to 2)</i>	
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 § 115.331?	<input type="checkbox"/>	<input type="checkbox"/>	§115.334
B. If the answer to (1) is YES , does this specialized training include the following?			
	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"/>	<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"/>	<input type="checkbox"/>
		<i>(Select only if i-iv are Yes)</i>	§115.334
C. If the answer to (1) 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"/>	§115.334
D. 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"/>	§115.371

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Questions	YES	NO	Standard Reference												
<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"/>	§115.371
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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"/>	§115.371												
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 resident or staff?	<input type="checkbox"/>	<input type="checkbox"/>	§115.371												
5. Does the agency prohibit requiring a resident 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"/>	§115.371												
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"/>	§115.371												
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"/>	§115.372												

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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"/>	§115.371													
2. Are administrative investigations documented in written reports that include the following?																
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3. Are criminal investigations documented in a written report that contains the following?																
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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"/>	§115.371													
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, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention?	<input type="checkbox"/>	<input type="checkbox"/>	§115.371													

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5) Disciplinary Sanctions:

Questions	Yes	No	Standard Reference																		
1. Are residents subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.378																		
2. Are any disciplinary sanctions commensurate with the nature and circumstances of the abuse committed, the resident’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories?	<input type="checkbox"/>	<input type="checkbox"/>	§115.378																		
3. In the event that a disciplinary sanction results in the isolation of a resident, does the agency provide the resident with the following? <table border="1" data-bbox="142 1003 927 1549" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th></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. Daily large-muscle exercise.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>B. Access to any legally required educational programming or special education services.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>C. Daily visits from a medical or mental health care clinician.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>D. Access to other programs to the extent possible.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>E. Access to work opportunities to the extent possible.</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. Daily large-muscle exercise.	<input type="checkbox"/>	<input type="checkbox"/>	B. Access to any legally required educational programming or special education services.	<input type="checkbox"/>	<input type="checkbox"/>	C. Daily visits from a medical or mental health care clinician.	<input type="checkbox"/>	<input type="checkbox"/>	D. Access to other programs to the extent possible.	<input type="checkbox"/>	<input type="checkbox"/>	E. Access to work opportunities to the extent possible.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§115.378
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E. Access to work opportunities to the extent possible.	<input type="checkbox"/>	<input type="checkbox"/>																			
4. Does the disciplinary process consider whether a resident’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"/>	§115.378																		

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5. 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 6)</i>	
A. If the answer to (5) is YES , does the facility consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits? <i>NOTE:</i> The agency may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives.	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 6)</i>	§115.378
i. If the answer to (A) is YES , does the facility require participation in such interventions as a condition of access to general programming and education?	<input type="checkbox"/>	<input type="checkbox"/>	§115.378
6. Does the agency discipline a resident 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"/>	§115.378
7. Does the agency prohibit any resident-on-resident sexual activity?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 8)</i>	
A. If the answer to (7) is YES , does agency policy clearly outline the entity that is authorized to determine whether or not resident-on-resident sexual activity is consensual?	<input type="checkbox"/>	<input type="checkbox"/>	Best Practice
B. If the answer to (7) is YES , does the prohibition acknowledge that sexual activity between residents that was not coerced does not constitute sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/>	§115.378
8. 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 <u>not</u> 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"/>	§115.378

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"/>	§115.386

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<p>A. If the answer to (1) is YES, does such review ordinarily occur within 30 days of the conclusion of the investigation?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.386																					
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.386																					
<p>3. Does the sexual abuse incident review team do the following?</p> <table border="1" data-bbox="142 554 927 1824"> <thead> <tr> <th data-bbox="142 554 740 590"></th> <th data-bbox="740 554 834 590" style="background-color: #800000; color: white;">YES</th> <th data-bbox="834 554 927 590" style="background-color: #800000; color: white;">NO</th> </tr> </thead> <tbody> <tr> <td data-bbox="142 590 740 795"> <p>A. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.</p> </td> <td data-bbox="740 590 834 795" style="text-align: center;"> <input type="checkbox"/> </td> <td data-bbox="834 590 927 795" style="text-align: center;"> <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="142 795 740 1136"> <p>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.</p> </td> <td data-bbox="740 795 834 1136" style="text-align: center;"> <input type="checkbox"/> </td> <td data-bbox="834 795 927 1136" style="text-align: center;"> <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="142 1136 740 1308"> <p>C. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.</p> </td> <td data-bbox="740 1136 834 1308" style="text-align: center;"> <input type="checkbox"/> </td> <td data-bbox="834 1136 927 1308" style="text-align: center;"> <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="142 1308 740 1413"> <p>D. Assess the adequacy of staffing levels in that area during different shifts.</p> </td> <td data-bbox="740 1308 834 1413" style="text-align: center;"> <input type="checkbox"/> </td> <td data-bbox="834 1308 927 1413" style="text-align: center;"> <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="142 1413 740 1551"> <p>E. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.</p> </td> <td data-bbox="740 1413 834 1551" style="text-align: center;"> <input type="checkbox"/> </td> <td data-bbox="834 1413 927 1551" style="text-align: center;"> <input type="checkbox"/> </td> </tr> <tr> <td data-bbox="142 1551 740 1824"> <p>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.</p> </td> <td data-bbox="740 1551 834 1824" style="text-align: center;"> <input type="checkbox"/> </td> <td data-bbox="834 1551 927 1824" style="text-align: center;"> <input type="checkbox"/> </td> </tr> </tbody> </table>		YES	NO	<p>A. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>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.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>C. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>D. Assess the adequacy of staffing levels in that area during different shifts.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>E. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>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.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>(Select only if A-F are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/> <p><i>(Checklist complete)</i></p>	§115.386
	YES	NO																						
<p>A. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.</p>	<input type="checkbox"/>	<input type="checkbox"/>																						
<p>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.</p>	<input type="checkbox"/>	<input type="checkbox"/>																						
<p>C. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.</p>	<input type="checkbox"/>	<input type="checkbox"/>																						
<p>D. Assess the adequacy of staffing levels in that area during different shifts.</p>	<input type="checkbox"/>	<input type="checkbox"/>																						
<p>E. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.</p>	<input type="checkbox"/>	<input type="checkbox"/>																						
<p>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.</p>	<input type="checkbox"/>	<input type="checkbox"/>																						
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	§115.386																					

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1.9—Training and Education

Employee Training

Standard 115.331 lists the training topics for all employees⁹ who have contact with residents. The standard specifies that the training must be tailored to the unique needs and attributes of residents of juvenile facilities and to the gender of the residents at the employee's facility, and that employees should receive additional training if transferring between facilities that house residents 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 residents. 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 115.332 requires agencies to ensure that all volunteers and contractors (who have contact with residents) 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 residents.

Resident Education

Standard 115.333 requires agencies to educate residents on certain topics during the intake process, and to provide further information to residents within 10 days of intake. The standard also specifies the timeline for agencies to educate residents who have not received such education, and requires agencies to further educate residents 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 residents, including those with disabilities and those who are limited English proficient, and to document resident participation in these education sessions. Finally, the standard requires agencies to provide key information to residents 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).

⁹ "Employee" means a person who works directly for the agency or facility.

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Specialized Training: Medical and Mental Health Care

Standard 115.335 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 Juvenile Corrections—Resident Brochure (English: <http://www.azdjc.gov/FactsNews/PREA/PREA%20brochure-orig-1212.pdf>; Spanish: <http://www.azdjc.gov/FactsNews/PREA/PREA%20brochure-orig-1212Spanishfinal.pdf>)
- Texas Youth Commission—Resident Brochure (<http://www.tyc.state.tx.us/programs/prea/youthrightsbrochure.pdf>)
- Louisiana Office of Juvenile Justice—Youth Safety Guide (http://ojj.la.gov/ojj/files/PreaMay_2011.pdf)
- Oregon Youth Authority—Youth Safety Guide (<http://www.oregon.gov/OYA/prea/docs/YA9530YouthSafetyGuide.pdf>)
- Arizona Department of Juvenile Corrections—Staff Training Presentation (<http://www.azdjc.gov/FactsNews/PREA/PREA-Staff-Training.pdf>)
- Arizona Department of Juvenile Corrections—Youth Orientation (<http://www.azdjc.gov/FactsNews/PREA/PREAYouth2008R.pdf>)
- Louisiana Office of Juvenile Justice—Resident Orientation (<http://ojj.la.gov/ojj/files/PREA%20ORIENTATION.pdf>)
- Arizona Department of Corrections – Sexual Assault Prevention Card for Staff (<https://www.onlinefilefolder.com/2sdR9DWmaB4ad9>)
- Oregon Youth Authority—PREA Training Powerpoint (<http://www.oregon.gov/OYA/prea/docs/PREAPowerPoint.pdf>)
- American University, Washington College of Law – Breaking the Code of Silence, Correctional Officers Handbook (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.org>)

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- Visit the National Institute of Corrections (www.nicic.org), 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 residents (including PREA and Staff Sexual Misconduct).

Section 1.9.1 – Training and Education Self-Assessment Checklist

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

1) Resident Orientation and Education:

Questions	YES	NO	Standard Reference												
<p>1. During the intake process, do residents receive information explaining the following in an age-appropriate fashion?</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 A-B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.333</p>			
	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>2. Within 10 days of intake, does the agency provide comprehensive education to residents 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 rights 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 rights 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 rights to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	B. Their rights 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>§115.333</p>
	YES	NO													
A. Their rights to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>													
B. Their rights 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>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>§115.333</p>												
<p>3. Does the agency have a plan to educate current residents 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>§115.333</p>												

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Questions	YES	NO	Standard Reference
4. Does the agency have a plan to provide education to residents upon transfer to a different facility to the extent that the policies and procedures of the resident's new facility differ from those of the previous facility?	<input type="checkbox"/>	<input type="checkbox"/>	§115.333
5. Does the agency maintain documentation of resident participation in these education sessions?	<input type="checkbox"/>	<input type="checkbox"/>	§115.333
6. Does the agency provide resident orientation and all subsequent education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills?	<input type="checkbox"/>	<input type="checkbox"/>	§115.333
7. In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats?	<input type="checkbox"/>	<input type="checkbox"/>	§115.333

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2) Employee Training:

Questions			YES	NO	Standard Reference
1. Does the agency train all employees who may have contact with residents 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. Residents' right to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
D. The right of residents 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 juvenile victims.	<input type="checkbox"/>	<input type="checkbox"/>	<i>(Select only if A-K are Yes)</i> <input type="checkbox"/>	<input type="checkbox"/>	§ 115.331
G. How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents.	<input type="checkbox"/>	<input type="checkbox"/>			
H. How to avoid inappropriate relationships with residents.	<input type="checkbox"/>	<input type="checkbox"/>			
I. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex or gender non-conforming residents.	<input type="checkbox"/>	<input type="checkbox"/>			
J. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.	<input type="checkbox"/>	<input type="checkbox"/>			
K. Relevant laws regarding the applicable age of consent.	<input type="checkbox"/>	<input type="checkbox"/>			

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Questions			YES	NO	Standard Reference
6. 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. Residents' right to be free from sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>			
D. The right of residents 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 juvenile victims of sexual abuse and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.335
G. How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents.	<input type="checkbox"/>	<input type="checkbox"/>			
H. How to avoid inappropriate relationships with residents.	<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"/>			
K. Relevant laws regarding the applicable age of consent.	<input type="checkbox"/>	<input type="checkbox"/>			

(Select only if A-K are Yes)

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Questions	YES	NO	Standard Reference
7. 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 (7) is YES , do medical staff receive the appropriate training to conduct such examinations?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.335
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"/>	§ 115.335

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"/>	§ 115.331
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"/>	§ 115.331
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"/>	§ 115.331
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"/>	§ 115.331

4) Contractor/Volunteer Training Content:

Questions	YES	NO	Standard Reference
1. Does the agency ensure that all volunteers and contractors who have contact with residents 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>	§ 115.332

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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 residents 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"/>	§ 115.332												
B. If the answer to (1) is YES , is level and type of training provided to volunteers and contractors based on the services they provide and level of contact they have with residents?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.332												
C. If the answer to (1) is YES , does the agency maintain documentation confirming that volunteers and contractors understand the training they have received?	<input type="checkbox"/>	<input type="checkbox"/>	§ 115.332												
2. Does the agency utilize contract medical or mental health care practitioners?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 3)</i>													
<p>A. Do contract medical and mental health care practitioners receive the following training and information (consistent with § 115.332)?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;"></th> <th style="width: 15%; background-color: #800000; color: white;">YES</th> <th style="width: 15%; 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"/>													
	<i>(Select only if i-iii are Yes)</i>	<input type="checkbox"/>	§ 115.335												

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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 § 115.332)?				
		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"/>	§ 115.335
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"/>	
		<i>(Select only if i-iii are Yes)</i>		
		<input type="checkbox"/>	<input type="checkbox"/>	

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1.10—Data Collection

Data Collection

Standard 115.387 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 residents. 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)¹⁰. 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 115.388 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 115.389 requires agencies to securely retain the data collected pursuant to 115.387 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).

¹⁰ See the Resources section for the BJS website that contains this information.

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Resources

- Bureau of Justice Statistics Form SSV-5 – Survey of Sexual Violence 2009 – State Juvenile Systems Form (also available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/ssv509.pdf>)
- Bureau of Justice Statistics Form SSV-IJ – Survey of Sexual Violence 2009 – Juvenile Incident Form (also available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/ssvij09.pdf>)
- Vera Institute of Justice--Juvenile Justice Data Improvements Project (<http://www.vera.org/project/juvenile-justice-data-improvements-project>)

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"/>	§115.387
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"/>	§115.387
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"/>	§115.387
4. Does the agency aggregate the incident-based sexual abuse data at least annually?	<input type="checkbox"/>	<input type="checkbox"/>	§115.387
5. Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents?	<input type="checkbox"/>	<input type="checkbox"/>	§115.387

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"/>	§115.387

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Questions	YES	NO	Standard Reference									
<p>2. Does the agency review data collected and aggregated pursuant to §115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including 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. 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"/>	<p><i>(Select only if A-B are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.388</p>
	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"/>										
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to next section)</i>	<p>§115.388</p>									
<p>A. If the answer to (3) is YES, does the agency's annual report include 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>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"/>	<p><i>(Select only if i-ii are Yes)</i></p> <input type="checkbox"/>	<input type="checkbox"/>	<p>§115.388</p>
	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"/>										
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.388</p>									
<p>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?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§115.388</p>									

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3) Data Management

	Yes	No	Standard
1. Does the agency ensure that data collected pursuant to § 115.387 are securely retained?	<input type="checkbox"/>	<input type="checkbox"/>	§115.389
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"/>	§115.389
A. If the answer to (2) is NO , does it make it available through other means?	<input type="checkbox"/>	<input type="checkbox"/>	§115.389
3. Before making aggregated sexual abuse data publicly available, does the agency remove all personal identifiers?	<input type="checkbox"/>	<input type="checkbox"/>	§115.389
4. Does the agency maintain sexual abuse data collected pursuant to § 115.387 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"/>	§115.389

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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 checklist:

1. Provides 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 facilities;
2. Identifies areas in policy, procedure, and practice where **revision and additional considerations are needed**; and
3. Provides a means for agencies and facilities 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 designate an employee or team to complete the checklist questions.
2. When completing the assessment, checking “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” is 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
A. If the answer to (11) is YES , following an investigation into an resident’s allegation of sexual abuse suffered in an agency facility, does the agency inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? <i>(Go to 12)</i>	<input type="checkbox"/>	<input type="checkbox"/>	§115.373

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
1. Is the agency responsible for investigating allegations of sexual abuse?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to B)</i>	§115.321
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>	§115.321

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 to question A next.

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Example 3:

Questions			YES	NO	Standard Reference	
12. Except when an allegation has been determined to be unfounded, following an resident's allegation that a staff member has committed sexual abuse, does the agency subsequently inform the resident whenever:						
	YES	NO				
A. The staff member is no longer posted within the resident's unit;	<input type="checkbox"/>	<input type="checkbox"/>	(Select only if A-D are Yes)		§115.373	
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; or	<input type="checkbox"/>	<input type="checkbox"/>		<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"/>				

In this instance, the user should only answer "Yes" to question 12 if all of the answers selected to questions A through D are "Yes." If any of the answers to A-D are "No," then the answer to question 12 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 (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"/>	§115.321
		(Go to B)	

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

- 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.

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Questions	YES	NO	Standard Reference
4. Upon receiving any allegation of sexual abuse, does policy dictate that the facility head or his or her designee shall promptly report the allegation to the appropriate central office of the agency and the victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians shall not be notified?	<input type="checkbox"/>	<input type="checkbox"/> <i>(Go to 5)</i>	§115.361

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

7. For each standard entered under “Standards for Follow-Up”, the agency or facility 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 agency/facility in determining resources 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 is intended to have one page per standard for follow up.
3. Enter the date that the Checklist was completed at the top of the form in the space provided.
4. Enter the date that the Action Plan will be targeted for review in the space provided.
5. Copy the Standard over to the Action Plan.
6. Use the “Responsible Parties” section to note who has been assigned responsibility to follow up on each Standard.
7. Use the “Resources” section to note any resources that may be required in order to follow-up on the standard.
8. Use the “Notes” section for any internal notes that may be necessary.
9. 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 agency 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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2.3—Self-Assessment Checklist Action Plan

Using the Self-Assessment Checklist Summary, note each individual standard that needs follow-up on an 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: _____

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

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Part 3—Appendix—PREA Background Information

This appendix provides supplemental information on PREA and is intended for those juvenile justice professionals 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 ever 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 a resident, including abuse by fellow residents and staff.

Sexual abuse of residents in a juvenile facility has implications that extend beyond their release back 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.”¹¹ In custodial settings, sexual abuse of residents, by other residents 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. See Appendix Section 3.1.1 for a timeline of events that impacted the development of the Prison Rape Elimination Act and the development and promulgation of the national PREA standards.

¹¹ Public Law 108-79, see <http://www.ojjdp.gov/about/PubLNo108-79.txt>

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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 resident sexual abuse and rape; requires prevention of resident 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 resident 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 residents.
- **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 residents under their legal custody.

Section Four also establishes within the Department of Justice the **Review Panel on Prison Rape**. See 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 residents and to safeguard the communities to which residents 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 the receipt of Federal grants by facility accreditation organizations that fail to adopt accreditation standards for the detection, prevention, reduction, and punishment of prison rape.
- **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>.

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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 to all corrections agencies. 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 the 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 juvenile justice agencies, 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 — is providing 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.

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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 the extensive 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 resident 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 residents; 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

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[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, Office of Justice Programs, 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 help institutions comply 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.

The PRC also replaced NIC as the official provider of PREA-related training and technical assistance. Entities that formerly have looked to NIC to provide these services should contact the PRC.

Contact:

Michela Bowman - Co-director

Dr. Robert DeComo – Co-director

info@prearesourcecenter.org

www.prearesourcecenter.org