

Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls, and Gender Nonconforming Youth Notification of Curriculum Use
April 2014

The enclosed Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls, and Gender Nonconforming Youth curriculum was developed by the Project on Addressing Prison Rape at American University, Washington College of Law as part of contract deliverables for the National PREA Resource Center (PRC), a cooperative agreement between the National Council on Crime and Delinquency (NCCD) and the Bureau of Justice Assistance (BJA). The Prison Rape Elimination Act (PREA) standards served as the basis for the curriculum's content and development with the goal of the Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls, and Gender Nonconforming Youth curriculum being to satisfy specific PREA standard requirements.

It is recommended that the Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls, and Gender Nonconforming Youth curriculum be reviewed in its entirety before choosing which modules to use. Any alterations to the original materials require either acknowledgement during their presentation or removal of the PRC and Project on Addressing Prison Rape logos.

BJA is currently undergoing a comprehensive review of the enclosed curriculum for official approval, at which point the BJA logo may be added.

Note: Use of the enclosed curriculum, either in part or whole, does not guarantee that an auditor will find a facility "meets standards." Rather, an auditor will take into consideration the curriculum used as part of their overall determination of compliance.

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TRAINING CURRICULUM:

Responding to Sexual Abuse of Youth in Custody:

Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth

FEBRUARY 2014

The Project on Addressing Prison Rape
American University Washington College of Law
4801 Massachusetts Ave, NW
Washington, DC 20016
202-274-4385

endsilence@wcl.american.edu

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The Project on Addressing Prison Rape
American University Washington College of Law
4801 Massachusetts Ave, NW
Washington, DC 20016
202-274-4385
endsilence@wcl.american.edu



<http://www.wcl.american.edu/endsilence>

Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth

Facilitator's Guide

February 2014♦

♦ All materials and information provided in this publication (e.g. state laws, civil case law examples, BJS statistics) are accurately represented as of November 2013.

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American University Washington College of Law
4801 Massachusetts Ave, NW
Washington, DC 20016
202-274-4385
<http://www.wcl.american.edu/endsilence>

Professor Brenda V. Smith
Professor of Law and Director

Jaime M. Yarussi, M.S.
Assistant Director

Rebecca Heinsen, J.D.
Research Fellow

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A special thanks to the Project Team:

Brenda V. Smith
Melissa C. Loomis
Caleb J. Bess
Lisa Capers
Takiya Wheeler

Jaime M. Yarussi
Rebecca Heinsen
Tonya Davis
Kevin DuBose
Dr. Robert Bidwell

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Introduction

The *Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth* is a 24-hour training covering the national Prison Rape Elimination Act Standards and implications for responding to the different needs of boys, girls and gender non-conforming youth who are sexually abused in custody.

The following are the goals of the training:

1. Review the applicable PREA Standards for responding to sexual abuse in custody and their gender impact
2. Review the dynamics of custodial sexual abuse for boys, girls and gender non-conforming youth
3. Identify the components of adolescent development and sexuality and understand their impact on sexual abuse of youth
4. Discuss immediate and long-term medical and mental health care needs of youthful victims of sexual abuse
5. Identify legal, investigative and other implications and strategies of responding to custodial sexual abuse

Using the Curriculum

Content:

This curriculum consists of 14 modules. We have arranged the modules in the manner that we believe makes most sense. Agencies and trainers can arrange the modules to meet the specific training needs of participants.

Time:

The time allotted to conduct the training is 24 hours or three days. We list the total time for each module at the beginning of each module. Agencies and trainers are welcome to shorten the training by conducting the training over a longer period of time e.g. a module per week or by shortening the materials. Please make sure to keep a record of the modifications you make to the training in the event you need to show the information that staff received.

Curriculum Layout:

The lesson plans appear in in three columns. The first column has topic headings and is a quick reference for the presenter. The second column has the text of the PowerPoint slide. The third column has speaking notes. Trainers are free to use that information on the speaking notes and add additional information. As before, make sure that you keep a record of any deviations from the training curriculum for future inquiries.

Any **bolded** text denotes points that trainers should emphasize. .

The method of presentation for the training includes lecture with visual aids (using videos and a PowerPoint® slide format). Pictures of the actual slides are a part of the instructor's guide so that the curriculum is easier to update and so that groups or jurisdictions can customize the curriculum to fit their needs. PowerPoints and handouts listed in each section can be found online at:

http://www.wcl.american.edu/endsilence/juvenile_training.cfm or at the PREA Resource Center training page (<http://www.prearesourcecenter.org/node/1912>)

The word "**Activity**" or "**Discussion**" appears whenever there is an individual or group exercise. These are only suggested activities or discussions based on our experiences training this material. You should feel free to substitute your own activities and discussion questions where you are comfortable doing so.

Presentation Tips:

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Do not read or talk “to” the slides. Use a remote control or ask a co-trainer to forward the slides so you are not forced to remain by the equipment the whole time you are teaching. Trainers should practice using the equipment before the training.

Often we encourage trainers to use hypotheticals to operationalize certain concepts. We do not provide hypotheticals in this curriculum because it is most useful for staff to have hypotheticals from your facility, agency and or state. Good sources of hypotheticals are completed investigations—substantiated or unsubstantiated, facts of cases found in civil case law and news stories.

Trainer Expertise and Preparation

This curriculum is not a script. We expect that trainers who deliver this material will be knowledgeable and will review and prepare for the training prior to delivering it. Additionally, several sections, especially those with legal content, require a trainer who is familiar with the law such as an agency’s general counsel or human resources professional.

Group Work:

There are group activities included in each module where appropriate. Group interactions with the trainer involving mutual inquiry, shared experiences and personal observations help keep the training interesting and relevant. These activities can assist in meeting that goal

Accommodating Different Learning Styles:

Adult learning theory recommends that instructors use “non-lecture” activities approximately every ten minutes; this strategy increases attention and aids in students’ gaining knowledge. The curriculum includes non-lecture activities including instructor-generated questions, small group discussion and group activities.

People learn in different ways – some are visual learners, some need to be more “hands on”, while others prefer a lecture format. Mix up your teaching style to reach the maximum number of people. Explain things in different ways and monitor your audience for comprehension through verbal interaction - watching their behavior and feedback.

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Training Agenda♦

START	END	SUBJECT
Day 1		
8:00 a.m.	8:30 a.m.	Check In/ Registration
8:30 a.m.	9:30 a.m.	Welcome Conventions Introductions Pre-test
9:30 a.m.	9:45 a.m.	<i>Activity: Identification of Critical Issues</i>
9:45 a.m.	10:00 a.m.	Module 1: Training Objectives
10:00 a.m.	10:15 a.m.	Break
10:15 a.m.	11:15 a.m.	Module 2: The Prison Rape Elimination Act PREA's Trajectory Statistics Final PREA Standards
11:15 a.m.	12:00 p.m.	Module 3: Vectors of Sexual Abuse in Custody--Gender, Sexuality and Victimization The history of youth in custody Victimization and gender identity Title VII and the entrance of women in custodial settings Custodial settings as sexualized living and working environments Gender and staff involvement in sexual abuse of youth
12:00 p.m.	1:00 p.m.	Lunch
1:00 p.m.	2:15 p.m.	Module 4: Adolescent Development Behavioral Development Cognitive Development Sexual Development
2:15 p.m.	3:15 p.m.	Module 5: Adolescent Sexuality Human Sexuality Sexual Behavior of Youth Sexual Behavior of Youth in Institutional Settings Special Concerns of Sexual Minority Youth
3:15 p.m.	3:30 p.m.	Break
4:15 p.m.	5:15 p.m.	Module 6: Impact of Culture—Agency and Youth Components of culture Factors that influence agency culture

♦ **NOTE:** This is a sample agenda for a 24 hour, three-day training. Agencies and groups can change the order, train over a different time period, or may add or delete modules. Please keep a record of the changes you make.

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START	END	SUBJECT
		Factors that influence staff culture Factors that influence youth culture The impact of codes of silence—staff and youth Why youth may engage in sexual behavior in custody Impact of culture on responses to sexual abuse in custody Tools for changing culture
5:15 p.m.	5:30 p.m.	Wrap Up Day 1 <i>Homework: what is one way you can change culture in your agency—staff culture and youth culture?</i>
Day 2		
8:00 a.m.	8:30 a.m.	Check In/ Registration
8:30 a.m.	8:45 a.m.	Review of Day 1 Logistics Overview of Day 2
8:45 a.m.	9:30 a.m.	Module 7: Gender, Victimization and Vulnerable Youth Gender-influenced socialization, communication and behaviors Abuse histories and implications Responses to victimization Vulnerable populations and victimization Contributors to victimization
9:30 a.m.	10:30 a.m.	Module 8: State Criminal Laws State Criminal Laws Mandatory Reporting Vulnerable Persons Staff Sexual Misconduct Sexual Abuse Sex Offender Registration Licensing Malfeasance
10:30 a.m.	10:45 a.m.	Break
10:45 a.m.	12:00 p.m.	Module 9: Policy Elements of PREA Guided Policies Policy considerations, challenges and dilemmas Measuring the effectiveness of policy Why gender matters in policy <i>Activity and Report Out</i>
12:00 p.m.	1:00 p.m.	Lunch
1:00 p.m.	2:15 p.m.	Module 10: Medical and Mental Health of Victims in Custody

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START	END	SUBJECT
		Immediate medical concerns Patient centered care Victimization histories of youth Vulnerable victims Gender Differences Reactions to trauma Impact of victimization in correctional settings The impact of being a survivor and being in custody Need for ongoing mental health care interventions Gender- based resources Building relationships with community crisis services Confidentiality issues
2:15 p.m.	3:15 p.m.	Module 11: Operational Practices Operationalizing PREA standards as they relate to gender responsivity Limits to cross-gender viewing and searches Training and education Screening Medical health care Mental health care Reporting Investigations Disciplinary sanctions for youth <i>Activity and Report Out</i>
3:15 p.m.	3:30 p.m.	Break
4:00 p.m.	5:15 p.m.	Module 12: Gender Implications for Investigations Gender specific investigative tools and techniques Questioning victims
5:15 p.m.	5:30 p.m.	Wrap Up Day 2
Day 3		
8:00 a.m.	8:30 a.m.	Check In/ Registration
8:30 a.m.	8:45 a.m.	Review of Day 2 Logistics Overview of Day 3
8:45 a.m.	9:30 a.m.	Module 12 Continued
9:30 a.m.	10:30 a.m.	Module 13: Human Resources and the Impact of Gender <i>Activity: Is this okay?</i> Employee rights during an investigation Promotion Union and Non-union settings

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START	END	SUBJECT
		Arbitration and Negotiations Resignations and Termination Off duty conduct/ anti-fraternization Claims by Staff Discrimination Defamation
10:30 a.m.	10:45 a.m.	Break
10:45 a.m.	11:15 a.m.	Module 13 Continued
11:15 a.m.	12:00 p.m.	Module 14: Legal Liability and Gender Constitutional challenges State Tort Law Types of civil liability Elements of liability
12:00 p.m.	1:00 p.m.	Lunch
1:00 p.m.	2:15 p.m.	Module 14 Continued
2:15 p.m.	2:45 p.m.	Addressing Unanswered Questions
2:45 p.m.	3:30 p.m.	Wrap-up Post-test Evaluations

Teaching Tips

Selecting Trainers:

Those in charge of selecting trainers should use the following criteria to ensure a consistently representative faculty:

- Content expertise
- Effectiveness as a speaker
- Diversity (race, gender, age, ideas)
- Credibility
- Availability
- Reliability
- Competency with presentation technology (e.g., PowerPoint® slides)
- Someone from the local site in addition to national presenters
- Commitment to and interest in the topic

Have speakers provide current “bios” for their introductions and for inclusion in the participant materials to highlight speakers’ relevant experience and qualifications.

Recommended Trainers for this curriculum include: (1) agency leadership; (2) agency training staff; (3) agency PREA Coordinator; (2) legal counsel; (3) lead human resources professionals; (4) directors of operations; and or (5) trained investigators.

In addition to the primary trainers, you may include local guest speakers for some of the modules. Talk with selected faculty members and representatives from the host site for suggestions and assessment of relative strengths of the proposed speakers.

Have personal contact with all trainers and guest speakers well in advance of the training event to: (1) articulate your expectations and needs; (2) answer any questions they may have; and (3) to describe the training class so that their presentation is targeted appropriately.

Make sure all trainer handouts are copied and distributed in advance of his/her presentation.

Knowing Your Audience:

The target audience for this training is high-level correctional administrators who hold positions of leadership and have the ability to initiate change within their agency such as Deputy Commissioners, lead human resources personnel, lead

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administrative investigators, PREA Coordinators, Jail Administrators, and Division Directors.

Trainers need to know the audience they are training. They need to find out who they are, what they want to know and learn, their level of experience, and any politics or particular group dynamics among the players.

Some trainers may wish to develop pre-training questionnaires to help gather this information. Trainers need to understand and learn as much as they can ahead of time about participants' issues, concerns and profile data.

Training to Maximize Effectiveness:

Arrive at the training room at least 45 minutes before the session begins. This allows time for you to be sure all the audio-visual equipment is there and functioning and that the appropriate room arrangements have been made and that all handouts are ready for participants.

Tape on the wall two or three large blank pages from the easel pad for "Critical Issues" and questions participants want to address throughout the training.

Ask participants to turn off the ringers on their cell phones and other devices (encourage the use of less disruptive notification systems such as vibration or digital display) and remind them there are plenty of breaks built into the training so they can check their messages.

As a trainer, review your own commitment and passion for the topic. In other words, project that you are ready to train.

Move around the room as you talk. Make eye contact with the participants. Convey your energy about the work to your audience.

Help quiet participants speak up and be included.

Be supportive, non-judgmental, and give compliments to participants: (e.g., "That's a good question. I am glad you raised that...")

Keep language simple and avoid jargon; be clear. If you use acronyms or abbreviations, explain them (BJA, NIC, WCL, HIPAA, etc.).

Encourage participants to share their own experiences at the appropriate places, but keep the class moving along.

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Help participants who have difficulty presenting information by asking, "Is this an accurate summary of what you are saying...?" or state their position and ask, "Did I get it right?"

After you answer a question from a participant, ask, "Does that answer your question?"

Challenge participants to speak up and be engaged. Always try to get clear answers from participants and make sure that you fully understand their comments. Ask for clarification if necessary and encourage participants to be succinct in voicing comments and concerns.

Continually remind participants that the information presented during this training is a combination of specific strategies and concrete examples as well as a philosophical change in the "way of doing business." This training is not "cookie-cutter." Each agency is unique, with particular issues, demographics, crime characteristics, personalities and existing structures. Pose "what if" scenarios, for the jurisdictions, agencies or entities.

Do not take comments personally or become defensive. Encourage participants to think critically and to challenge how policy affects programs and how correctional programs do what they do. Participants may challenge and ask questions about what is contained in the curriculum or examples you use.

During the first break, informally seek feedback from an audience member or co-presenter. Ask for his or her perception of how the training is going including room temperature, pace, appropriateness of information, presentation style, level of participants' interest and engagement. Make adjustments as needed.

Allow adequate time for moving into small group exercises and make certain there is adequate, pre-arranged space for the small groups.

Many activities involve writing ideas on an easel pad. Be sure you can do this easily and still facilitate/instruct. Also, write large and legibly. You may also want to ask a participant or co-presenter to write the responses for you.

Be flexible-- issues arise, coffee is late, cell phones go off, audio-visual equipment stops working, people cough, egos emerge, guest speakers get stuck in traffic, someone forgets the name tags and participants have their own agendas. When you anticipate these things before they occur, some can be avoided but some simply cannot. Just keep going, recognizing that the best-laid plans sometimes have to be adjusted. Always have a back-up plan. A prepared trainer can go with the flow and

still successfully present the materials.

Handling Challenging Participants:

Be sure your values and emotions are in check prior to teaching. This is not about you! Anticipate emotionally charged and/or challenging questions and develop a response that is clear, reasonable and non-judgmental. Specific examples of responses appear in the lesson plans. Choose words that are not “hot buttons” for people, but rather help further communication and understanding.

Encourage participants to be creative and non-traditional in their approach to problems— this will bring about better results. Help participants to use the training as an opportunity to reflect on desired outcomes and how best to reach them.

During the training, manage the discussion and do not let one or two people dominate. Start a session by saying “I would like to start this discussion by inviting people who have not spoken to share their thoughts.” It is important that different viewpoints get expressed.

A good instructor allows everyone a chance to speak and facilitates opportunities for less vocal people in all parts of the room to be heard. If people do not participate in discussions or appear to have their minds elsewhere, call on them by name to give an answer, opinion or recount an experience.

If a participant is belligerent or rude, walk closer to the person, even standing next to them.

If a discussion escalates and becomes highly emotional, divert the conversation away from the people participating before it gets out of hand. Use it as a learning moment for everyone. Intense emotions can also be a good indicator of major issues in the system (which is made up of people and values). You may want to give extra time for discussion to see if some clarity or understanding can come out of it.

Another option with heated discussions is to move the discussion along; indicate that we can agree to disagrees; take a break; talk to the person on the break in private; and be clear but polite with expectations about respect for others’ opinions.

As you go along, register steps of agreement and disagreement with participants. “Am I correct in assuming we all agree (or disagree) on this point?” or “you may simply agree to disagree on certain issues since each jurisdiction is unique.”

If you need to control the person who “knows it all,” acknowledge the person’s contribution and then ask others in the group for their opinion of the person’s

statement.

If you have a person who “knows their job and doesn’t want to be told how to do it,” explain that s/he is just the individual you are looking for, that the training is to exchange ideas and points of view that will benefit everyone and that their experience will be valuable to all.

You may choose to allow fellow participants to respond to difficult or confrontational people in the class

Generally, try not to interrupt participants. Be respectful and listen. Be open, yet firm, and manage the discussion keeping in mind what is best for the whole group.

Responding to Questions:

Anticipate the types of questions participants might ask and plan how to address them. Before you begin the training, prepare a list of questions you are most likely to get and prepare your answers. You can also use these questions to stimulate group discussions throughout your presentation. Make sure your questions are designed to get thoughtful reactions to specific points. Open-ended questions generate the best audience participation.

Questions from participants are a good indication of the level of their awareness, attention and interest in your subject. Questions have value in helping you to clarify, modify or fortify points or to test an idea for its potential. Remember that answering a question is impromptu. Pause if you need to, relax, maintain your poise, keep your answers short and to the point, and give the short answer first (e.g., yes/no) then explain why.

Some correctional issues or questions may border on giving legal advice. Be clear about when it is appropriate to refer a question to a lawyer in the group if he or she is willing to answer or suggest the questioner check with his or her own agency’s legal staff.

If you do not know the answer to a question, acknowledge that fact and offer to find the information or check with the audience to see if anyone knows the answer. Not all questions have to be answered. Sometimes the most effective response is one that allows the audience to keep thinking about the issue or concern. Some instructors keep a running list of questions or issues on a displayed easel pad then come back to the questions throughout the training.

When a person asks a question, restate the question for the entire group and direct your answer to the audience, not the individual questioner. Make sure everyone has

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heard the question. Rephrase questions that are unclear or rambling. Try to diffuse emotional questions by politely asking for clarification.

Avoid a one-to-one conversation/argument with a participant.

Welcome and Introductions

Topic	Speaking Points/ Notes
Welcome	<p>Welcome training participants. Introduce yourself. Other trainers will be introduced later during faculty introductions.</p> <p>Welcome local dignitaries (local DOC director, administrators, etc.). Ask them to welcome training participants so they know this is an important issue and to reinforce organizational support for addressing this issue.</p>
History of Work	<p>Have your agency's representative give his welcome and describe the agency's role, history and support addressing this topic. A good example of a representative to welcome the group would be the DOC Commissioner, Jail Administrator, Sheriff or Agency Chief.</p>
Logistics	<p>Indicate the location of restrooms, telephones, where people should be parking and address any special needs. Ask participants to turn off their cell phones or other electronic devices. Indicate that there will be frequent breaks that will allow time for making phone calls.</p>
Feedback	<p>Throughout the training, we would appreciate hearing from you – what you liked or didn't like, "creature comfort" issues like it is too hot or cold in the room, issues, questions you might have and so on. Please write your comments on the 3" x 5" cards you will find on your tables. These are confidential. You do not have to list your name. Put them [indicate location] at any time during the training.</p>
Participant Materials	<p>Describe all the sections of the participant notebook and indicate that they contain paper copies of all PowerPoint® presentations and handouts for the training. Suggest participants write their names on their notebooks. The notebooks are for them to keep.</p> <p>Invite participants to add materials from their programs to the resource table. Ask if anyone brought information for the table and allow them to announce what they brought.</p>
Faculty Introductions	<p>Let each faculty member do a self-introduction. Tell participants that faculty biographies are located in their participant notebooks.</p>

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Topic	Speaking Points/ Notes
Participant Introductions	<p>Go around the room and do self-introductions. In addition to the usual name, title and agency, add an icebreaker to the introductions—some examples include:</p> <ol style="list-style-type: none"> 1. It is important for us to proceed in a positive and powerful. I would like each of you to give me your word of power for the training. [write the words down; repeat them from time to time; and notice patterns] 2. Tell us something about yourself that others would not know by looking at you. In a joking manner, caution to not reveal anything illegal or embarrassing. Generally individuals will talk about what they enjoy or sometimes reveal interesting things that neither you nor their co-workers know. 3. If you had to make a dish – cook something – to save your life, what would it be? 4. Substitute your own. <p>Let participants know there is a formal participant list in their materials.</p>
Pre-test	Hand out the pre-test and give participants 10-15 minutes to complete it

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Lesson Plans

Module 1: Training Objectives

Time: 30 minutes

Recommended Faculty:

Lead Trainer or PREA Coordinator or Monitor

Resources Needed:

LCD projector, computer and media screen

Easel pad, markers, tape

Participant Handouts:

- PowerPoint®

PowerPoint® Programs:

Module 1: Training Objectives

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objective 1	Review the Prison Rape Elimination Act of 2003 (PREA) and the final national standards and identify why gender responsive strategies are important in responding to sexual abuse of youth.	
Objective 2	Acquire vocabulary to discuss gender and its impacts on sexual abuse in custody.	
Objective 3	Understand how gender affects legal remedies for sexual abuse of youth – state criminal laws, human resource law and civil litigation.	
Objective 4	Discuss the impact of gender on culture, policy development and operational practice and its relationship to the implementation of the PREA standards	
Objective 5	Understand the vectors of sexual abuse of youth– gender, sexuality, sexual behavior and victimization.	
Activity: Identification of Critical Issues	What are the critical issues you face in implementing PREA and gender responsive policies in your agency?	<p>Discuss in the large group and write examples on easel pad. Allow the participants to generate the list.</p> <p>The list of participants' critical issues should be placed on the wall around the room. Let people know they can add to the list throughout the training. Check the list at the end of week to be sure all issues have been addressed.</p> <p>Evaluation: Remind participants to fill</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		out this section of their evaluation of the materials covered, activities and the performance of the instructor.

Module 2: The Prison Rape Elimination Act: Overview and Update

Time: 1 hour

Recommended Faculty:

PREA Coordinator or Monitor

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- The National Prison Rape Elimination Act Standards
- Data Collection Reports from the Bureau of Justice Statistics
- Final report from the National Prison Rape Elimination Commission
- Reports from the Review Panel on Prison Rape
- The Prison Rape Elimination Act: Implementation and Unresolved Issues

PowerPoint® Programs:

Module 2: The Prison Rape Elimination Act

Training Curriculum: Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth
The Project on Addressing Prison Rape

TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Review the Prison Rape Elimination Act of 2003 (PREA) and the final national standards.</p> <p>Identify why gender responsive strategies are important in responding to sexual abuse of youth.</p> <p>Develop ways to proceed in light of PREA.</p>	
What is PREA?	<p>Prison Rape Elimination Act (PREA).</p> <p>The aim of the Act is to create “zero tolerance” for prison rape by using a variety of tools</p> <p>The initial version of PREA only sought to address male rape. In the initial congressional hearing, most of the survivor witnesses were male. Initial legislation failed to include sexual violence against women, which was more likely to be staff initiated.</p> <p>In its second iteration, PREA included staff sexual misconduct, but continued to focus heavily on male-on-male rape.</p> <p>PREA passed unanimously in both houses of Congress in 2003.</p>	
PREA Purposes	<p>Increase accountability of prison officials who fail to detect, prevent, reduce and punish prison rape</p> <p>Protect 8th amendment rights of</p>	These are the purposes outlined in the Report of the National Prison Rape Elimination Commission.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>federal, state and local prisoners</p> <p>Establish grant programs</p> <p>Reduce costs of prison rape on interstate commerce</p>	
PREA Purposes	<p>Establish zero tolerance</p> <p>Make prevention a top priority</p> <p>Develop national standards for detection, prevention, reduction and punishment</p> <p>Increase available data and information on incidence in order to improve management and administration</p> <p>Standardize definitions used for collecting data on the incidence of rape in custody</p>	
Major Sections	<p>Section 4: Collection of prison rape statistics, data and research (BJS)</p> <p>Section 5: Prison Rape Prevention and Prosecution (NIC)</p> <p>Section 6: Grants to Protect Inmates and Safeguard Communities (BJA)</p> <p>Section 7: National Prison Rape Elimination Commission</p> <p>Section 8: Adoption and Effect of National Standards</p> <p>Section 9: Accreditation organizations must adopt standards</p>	<p>These are the major sections of PREA. Each has an important role to play in addressing sexual abuse in custody.</p> <p>Discussion: What do you think each section does to address the problem of sexual abuse in custody?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	or lose federal funds	
Key Milestones	<p>2003: PREA legislation passes</p> <p>2004: First meeting of the National Prison Rape Elimination Commission (NPREC)</p> <p>2004-2009: Information gathering and hearings held by the NPREC</p> <p>June 2009: Report and draft standards published by NPREC</p> <p>2009-2012 Establishment and Convening of PREA Work Group</p>	These are the key milestones for PREA.
Key Milestones	<p>May 17, 2012: Final DOJ standards released</p> <p>June 20, 2012: Final standards published in the Federal Register</p> <p>August 20, 2012: Standards applicable to BOP</p> <p>2013-2014: First audit cycle</p> <p>May 15, 2014: Governor certification due to the PREA Compliance Office</p>	
Key Principles	<p>PREA encompasses <u>any</u> federal confinement facility whether run by the government or a private organization on behalf of the government</p> <p>These standards are the floor - they are minimum standards</p> <ul style="list-style-type: none"> States <u>can and are encouraged to</u> do more 	<p>Some states already have stronger state laws than the protections the current standards provide.</p> <p>For example: Florida and South Carolina: staff in adult custodial settings are mandatory reporters by law</p>

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	<p>particularly if your state has set higher requirements</p> <p>Must protect the constitutional rights of those in custody</p>	
	WHAT WE KNOW: BJS DATA and NPREC FINDINGS	The next set of slides discussed findings from the Bureau of Justice Statistics and the National Prison Rape Elimination Commission
BJS Data	<p>Administrative survey collections: Juveniles</p> <p>2004 (reported with adult numbers) http://www.wcl.american.edu/endsilence/documents/BeckandHughes_BJSReport2004.pdf?rd=1</p> <p>2005-6 http://www.wcl.american.edu/endsilence/documents/sexviolencejuvenilecorrauth2005-6.pdf?rd=1</p> <p>Victim self-reports: Juveniles</p> <p>2007 http://www.wcl.american.edu/endsilence/documents/SexualVictimizationinJuvenileFacilitiesReportedbyYouth2008-9.pdf?rd=1</p> <p>2012 http://www.wcl.american.edu/endsilence/documents/2012YouthBJSReport.pdf</p>	<p>Three kinds of data collection have occurred since PREA was passed:</p> <ol style="list-style-type: none"> 1. Data reported by correctional authorities 2. Victim self-reports 3. Surveys of former prisoners <p>Only the first two kinds of data have been collected for juveniles.</p>
BJS FINDINGS: Sexual Victimization	More than 2,000 allegations of sexual violence reported each year in juvenile facilities	

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Reported by Juvenile Correctional Authorities, 2005-6	<p>The estimated total number of allegations for the nation was:</p> <ul style="list-style-type: none"> • 2,047 in 2005 (16.7%) • 2,025 in 2006 (16.8%) <p>About 1 in 5 allegations of sexual violence were substantiated</p>	
BJS Findings: Sexual Victimization Reported by Youth, 2012	<p>An estimated 9.5% of adjudicated youth in state juvenile facilities and state contract facilities reported experiencing one or more incidents of sexual victimization by another youth or staff in the past 12 months or since admission, if less than 12 months.</p> <ul style="list-style-type: none"> • About 2.5% of youth reported an incident involving another youth • About 7.7% reported an incident involving facility staff <p>Youth who identified their sexual orientation as gay, lesbian, bisexual, or other reported a substantially higher rate of youth-on-youth victimization (10.3%) than heterosexual youth (1.5%).</p> <p>Among youth who reported victimization by staff 89.1% were males reporting sexual activity with female staff and 3.0% were males reporting sexual activity with both male and female staff.</p>	<p>Some additional data points to be aware of</p> <p>2008-9 data:</p> <p>12% of adjudicated youth reported 1 or more incidents of sexual victimization (in the past 12 months or since admission, if less than 12 months)</p> <ul style="list-style-type: none"> • 2.6% of youth reporting incidents involved other youth • 10.3% of youth reporting incidents involved staff <p>Youth with a sexual orientation other than heterosexual reported significantly higher rates of sexual victimization by another youth (12.5%) compared to heterosexual youth (1.3%).</p> <p>Approximately 95% of all youth reporting staff sexual misconduct said they were victimized by female staff</p> <ul style="list-style-type: none"> • 92% were males reporting activity with

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		<p>female staff</p> <ul style="list-style-type: none"> • 2.5% were males reporting sexual activity with both male and female staff
BJS Findings: Sexual Victimization Reported by Youth, 2012	<p>Thirteen facilities were identified as high-rate based on the prevalence of sexual victimization by youth or staff.</p> <ul style="list-style-type: none"> • Rates in each of these facilities had rates at least 35% higher than the average rate of sexual victimization among facilities nationwide • Two of the high-rate facilities had sexual victimization rates of 30% or greater. <p>14 facilities were identified as low-rate where less than half the average rate among all facilities listed in the survey.</p>	<p>Two of the high-rate facilities from the 2012 survey had sexual victimization rates of 30% or greater.</p> <p>13 facilities were identified as high-rate based on the prevalence of sexual victimization by youth or staff.</p> <p>14 facilities were identified as low-rate (all 0%)</p>
Prevalence and RIA Findings: Final PREA Standards (p 10-11)	<p>In 2008, more than 209,400 persons were victims in prison, jails and juvenile facilities</p> <p>At least 78,500 prison and jail inmates and 4,300 youth in juvenile facilities were victims of the most serious forms of sexual abuse</p>	<p>Discussion:</p> <p>Lead a short group discussion to gauge participant's reaction to the findings. Some questions to get the discussion started are:</p> <ul style="list-style-type: none"> • Are you surprised by any of the findings? • What surprised you most and why? <p>Make sure to discuss the Former state prisoner report statistics from slide 45---9.6% of former state prisoners reported sexual victimization in custody.</p>

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		Discussion: Why is this number so much larger than the number reported by correctional authorities?
The National Prison Rape Elimination Commission (NPREC)	9 members authorized (8 served) <u>Charge:</u> Conduct legal and factual study of the effects of prison rape in the US Recommend national standards <ul style="list-style-type: none"> • Consultation with accreditation organizations • Can't impose something that would mandate substantial increased costs to agency • Hold hearings Issue report w/in 2 years of initial meeting	
Findings	Protecting inmates from sexual abuse remains a challenge correctional facilities across the country. Sexual abuse is not an inevitable feature of incarceration -- leadership matters. Certain individuals are more at risk of sexual abuse than others.	These are the Commission's findings after several years of research, hearings and study.
Findings	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.	

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	<p>Many victims cannot safely and easily report sexual abuse, and those who speak out often do so to no avail.</p> <p>Victims are unlikely to receive the treatment and support known to minimize the trauma of abuse.</p>	
Findings	<p>Juveniles in confinement are much more likely than incarcerated adults to be sexually abused, and they are particularly at risk when confined with adults.</p> <p>Individuals under correctional supervision in the community are at risk for sexual abuse.</p> <p>A large and growing number of detained immigrants are in danger of sexual abuse.</p>	<p><u>Activity:</u> Discuss the following news stories (or similar cases from your jurisdiction) and have participants identify risk factors and PREA policy/procedure violations</p> <p>Probation officer says she had sex with teen <i>The Eagle</i> By Holly Huffman October 2, 2007 A Brazos County juvenile probation officer was charged Monday with sexual assault after she admitted to having a sexual relationship with a 16-year-old boy who was on probation, police said. http://archive.theeagle.com/stories/100207/local_20071002025.php</p> <p>Fifth man accuses Josephine County of turning blind eye to sexual abuse by probation officer (May 1, 2013) A fifth man is accusing Josephine County juvenile Justice Department of allowing Raymond X. Luckey and other probation officers to regulate their own behavior with children in their custody and</p>

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		<p>"looking the other way when allegations of sexual abuse of minors under Luckey's supervision or control were made known."</p> <p>http://www.oregonlive.com/pacific-northwest-news/index.ssf/2013/05/fifth-man_accuses_josephine_co.html</p>
Adoption and Effect of National Standards	<p>One year after National Prison Rape Elimination Commission issued report-- AG will publish its final rule with standards</p> <p>90 days after publication -- transmission to state departments of correction</p> <p>FBOP immediately covered by rule</p> <p>Possible reduction of 5% each year for failure to meet the standard</p> <p>DOJ to publish annual report on non-compliance</p>	<p>This is what the law required. The reality has been different. Everything took more time than initially thought.</p> <p>Rather than 2 years, the commission took 5 to do its report</p> <p>AG took 3 years rather than 1 year to publish final standards</p> <p>That was because the issues are complicated and because of the tremendous diversity in custodial arrangements.</p>
Initial Agency Prep -- Before Final Standards	<p>Self-assessments of current practices</p> <p>Training for staff</p> <p>Requests for technical assistance</p> <p>Culture surveys and assessments</p> <p>Early adoption of NPREC draft standards</p>	

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DOJ Standards	<p>Differences -- DOJ standards and NPREC standards:</p> <ul style="list-style-type: none"> • Immigration detention, probation and parole, cross gender supervision, consensual sex, audit and compliance <p>Final standards released May 17, 2012</p> <p>Published in Federal Register June 20, 2012</p> <p>Applicable August 20, 2012</p>	
Where We Are Now: The National PREA Standards		<p>We outlined the titles of the standards in each section and then give one example standard in that particular section for discussion. Trainers should feel free to use other standards as discussion points as necessary.</p> <p>Trainers should also feel free to turn this section into an activity.</p> <p>Activity: You can split the group into 10 groups and assign each group a standard to review. Have the groups discuss and report out the following:</p> <ul style="list-style-type: none"> • What is the content of the standard • Do your policies and procedures provide you with guidance on meeting this standard?

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		<ul style="list-style-type: none"> • Are there gaps in your policies and procedures in meeting the standard? • Are there questions you have about what you should do to comply with the standard? <p>Have each group do a short report out to the larger group.</p>
Standards on Prevention Planning [115.311-115.318]	<p>Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.</p> <p>Contracting with other entities for the confinement of residents.</p> <p>Supervision and monitoring.</p> <p>Limits to cross-gender viewing and searches.</p> <p>Residents with disabilities and residents who are limited English proficient.</p> <p>Hiring and promotion decisions. Upgrades to facilities and technologies.</p>	<p>This is a list of standards in the prevention planning section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Supervision and Monitoring (115.313)	(c) Each secure juvenile facility shall maintain 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, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not	Security staff includes anyone who is doing supervision. It includes anyone who is trained in "take-down" methods. If teachers or volunteers in your setting can do this then they could be considered security staff, if not then they would not count in the supervision

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	already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.	ratio. Exigent circumstances are extreme and unanticipated emergencies—anything you can predict happening would not be considered exigent. For example, staff calling in sick is not exigent. Something like Hurricane Katrina could be considered exigent. Discussion Questions: Do you think this standard will be difficult for your facility to meet? How are you working to meet it? Is there anything about the standard that concerns you either operationally or in policy?
Standards on Responsive Planning [115.321-115.322]	Evidence protocol and forensic medical examinations. Policies to ensure referrals of allegations for investigations.	This is a list of standards in the responsive planning section of the juvenile standards. Now let's look at an example.
Policies to Ensure Referrals of Allegations for Investigations (115.322)	(a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. (b) The agency shall have in place	All allegations have to be referred for investigation unless they are not criminal behavior You have to know what is criminal behavior—

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	<p>a policy 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. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.</p>	<p>specialized training for investigators and a knowledge of state criminal laws will be essential .</p> <p>Keep records of every referral for investigation as well as all incident reports and document why case was not referred for investigation.</p>
Policies to Ensure Referrals of Allegations for Investigations (115.322)	<p>(c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.</p> <p>(d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations.</p> <p>(e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations.</p>	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Training and Education	<p>Employee training.</p> <p>Volunteer and contractor training.</p>	<p>This is a list of standards in the training and education section of the juvenile</p>

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[115.331-115.335]	<p>Resident education.</p> <p>Specialized training: Investigations.</p> <p>Specialized training: Medical and mental health care.</p>	<p>standards.</p> <p>Now let's look at an example.</p>
Resident Education (115.333)	<p>(a) During the intake process, residents shall receive information explaining, in an age appropriate fashion, the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.</p> <p>(b) Within 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.</p> <p>(c) Current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education 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.</p>	
Resident Education (115.333)	(d) The agency shall provide resident education in formats accessible to all residents ,	<p>Discussion Questions:</p> <p>Do you think this standard</p>

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	<p>including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.</p> <p>(e) The agency shall maintain documentation of resident participation in these education sessions.</p> <p>(f) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.</p>	<p>will be difficult for your facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Screening for Risk of Sexual Victimization and Abusiveness [115.341-115.342]	<p>Screening for risk of victimization and abusiveness</p> <p>Use of screening information</p> <p>Protective custody</p>	<p>This is a list of standards in the screening section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Obtaining Information from Residents (115.341)	<p>(a) Within 72 hours of the resident's arrival at the facility and periodically throughout a resident's confinement, the agency shall obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident.</p> <p>(b) Such assessments shall be conducted using an objective screening instrument.</p>	

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Obtaining Information from Residents (115.341)	<p>(c) At a minimum, the agency shall attempt to ascertain information about:</p> <ul style="list-style-type: none"> (1) Prior sexual victimization or abusiveness; (2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse; (3) Current charges and offense history; (4) Age; (5) Level of emotional and cognitive development; (6) Physical size and stature; (7) Mental illness or mental disabilities; (8) Intellectual or developmental disabilities; (9) Physical disabilities; (10) The resident's own perception of vulnerability; and (11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents. 	
Obtaining Information from Residents (115.341)	<p>(d) This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files,</p>	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to</p>

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	<p>facility behavioral records, and other relevant documentation from the resident's files.</p> <p>(e) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents</p>	<p>meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Reporting [115.351-115.354]	<p>Resident reporting.</p> <p>Exhaustion of administrative remedies.</p> <p>Resident access to outside support services and legal representation.</p> <p>Third-party reporting.</p>	<p>This is a list of standards in the reporting section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Third-party Reporting (115.354)	<p>The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident.</p>	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Official Response [115.361-115.368]	<p>Staff and agency reporting duties.</p> <p>Agency protection duties.</p> <p>Reporting to other confinement</p>	<p>This is a list of standards in the official response section of the juvenile standards.</p> <p>Now let's look at an example.</p>

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	<p>facilities.</p> <p>Staff first responder duties.</p> <p>Coordinated response.</p> <p>Preservation of ability to protect inmates/ residents from contact with abusers.</p> <p>Agency protection against retaliation.</p> <p>Post-allegation protective custody.</p>	
Coordinated Response (115.365)	The facility shall develop 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.	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Investigations [115.371-115.373]	<p>Criminal and administrative agency investigations.</p> <p>Evidentiary standard for administrative investigations.</p> <p>Reporting to residents.</p>	<p>This is a list of standards in the investigations section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Reporting to Residents (115.373)	(a) Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident	

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	<p>as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.</p> <p>(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.</p>	
Reporting to Residents (115.373)	<p>(c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:</p> <ul style="list-style-type: none"> (1) The staff member is no longer posted within the resident's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. 	
Reporting to Residents (115.373)	<p>(d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:</p> <ul style="list-style-type: none"> (1) The agency learns that the alleged abuser has been indicted on a charge related to 	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to</p>

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	<p>sexual abuse within the facility; or</p> <p>(2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.</p> <p>(e) All such notifications or attempted notifications shall be documented.</p> <p>(f) An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.</p>	<p>meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Discipline [115.376-115.378]	<p>Disciplinary sanctions for staff.</p> <p>Corrective action for contractors and volunteers.</p> <p>Interventions and disciplinary sanctions for residents.</p>	<p>This is a list of standards in the discipline section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Interventions and Disciplinary Sanctions for Residents (115.378)	<p>(a) A resident may be 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.</p> <p>(b) Any disciplinary sanctions shall be 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</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	similar histories. In the event a disciplinary sanction results in the isolation of a resident, agencies shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.	
Interventions and Disciplinary Sanctions for Residents (115.378)	<p>(c) The disciplinary process shall 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.</p> <p>(d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. 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, but not as a condition to access to general programming or education.</p>	
Interventions and Disciplinary Sanctions for	(e) The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Residents (115.378)	<p>such contact.</p> <p>(f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.</p> <p>(g) An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced</p>	<p>facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Medical and Mental Health Care [115.381-115.383]	<p>Medical and mental health screenings; history of sexual abuse.</p> <p>Access to emergency medical and mental health services.</p> <p>Ongoing medical and mental health care for sexual abuse victims and abusers.</p>	<p>This is a list of standards in the medical and mental health section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Access to Emergency Medical and Mental Health Services (115.382)	<p>(a) Resident victims of sexual abuse shall 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.</p> <p>(b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.	
Access to Emergency Medical and Mental Health Services (115.382)	<p>(c) Resident victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.</p> <p>(d) Treatment services shall be 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.</p>	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Standards on Data Collection and Review [115.386-115.389]	<p>Sexual abuse incident reviews.</p> <p>Data collection.</p> <p>Data review for corrective action.</p> <p>Data storage, publication, and destruction.</p>	<p>This is a list of standards in the data collection and review section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Data Review for Corrective Action (115.388)	<p>(a) The agency shall 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:</p> <p>(1) Identifying problem areas;</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>(2) Taking corrective action on an ongoing basis; and</p> <p>(3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.</p>	
Data Review for Corrective Action (115.388)	<p>(b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.</p> <p>(c) The agency's report shall be 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> <p>(d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted</p>	<p>Discussion Questions:</p> <p>Do you think this standard will be difficult for your facility to meet?</p> <p>How are you working to meet it?</p> <p>Is there anything about the standard that concerns you either operationally or in policy?</p>
Audit	<p>June 20, 2012 Publication in federal register begins public comment period for select standards.</p> <p>August 20, 2012 Begins audit clock</p> <p>2012- 2013 Develop audit tool; develop audit training; train auditors; and certify auditors</p> <p>August 2013</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Audits term begins (one year)</p> <p>August 2014 Complete audits of 1/3 of all facilities</p>	
Standards on Audit and Compliance	<p>Frequency and scope of audits. (115.401)</p> <p>Auditor qualifications. (115.402)</p> <p>Audit contents and findings. (115.403)</p> <p>Audit corrective action plan. (115.404)</p> <p>Audit appeals. (115.405)</p> <p>State determination and certification of full compliance. (115.501)</p>	<p>This is a list of standards in the audit and compliance section of the juvenile standards.</p> <p>Now let's look at an example.</p>
Audit Contents and Findings (115.403)	<p>(a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.</p> <p>(b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.</p> <p>(c) For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each level.	
Audit Contents and Findings (115.403)	<p>(d) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.</p> <p>(e) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.</p> <p>(f) The agency shall ensure that the auditor's final report is published on the agency's website if it has one, or is otherwise made readily available to the public.</p>	
	What Now?	<p>Activity</p> <p>Break participants into small groups and ask them to brainstorm gaps in PREA compliance and list two to three things the facility/ agency needs to do first. Have each group list steps to take on a paper with a marker and plan to report out to the large group.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
How to Proceed	<p>Understand that everyone has work to do, don't get discouraged if you are just beginning</p> <p>Get the right people at the table as you would when any other big issue to address comes up</p> <ul style="list-style-type: none"> • Critical to have buy in from top to bottom <p>Have an understanding of what PREA does and does not do and what your obligations are</p>	
How to Proceed	<p>Read the standards and go through them carefully</p> <p>List the standards and compare to your current practice</p> <p>What if anything do you need to do</p> <p>Note any questions</p> <p>Get guidance from other experts in your agency and field</p>	
Get Started	<p>Do your own work– you know your agency best</p> <p>Reach out for help</p> <p>PRC will triage you to resources and people</p>	
Where You Can Get Assistance	<p>Grants and cooperative agreements from BJA</p> <p>National PREA Resource Center</p> <ul style="list-style-type: none"> • http://www.prearesourcecenter.org • Training, technical assistance, regional meetings, PREA 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>institute(s), webinars, general information, office hours</p> <p>Work of other agencies in this area</p> <ul style="list-style-type: none"> NIC http://nicic.gov/ OJJDP http://www.ojjdp.gov/ 	
Where You Can Get Assistance	<p>Other Work</p> <ul style="list-style-type: none"> Posters Curricula Pamphlets Handbooks 	
Notes of Caution	<p>Before you pay for something see what is already out there or what you can do in house</p> <p>NO ONE but a certified DOJ PREA auditor can certify that what you are doing complies with the standards</p>	
Summary	<p>PREA's Purpose</p> <ul style="list-style-type: none"> Zero tolerance Increase ability to safely report Outside trauma counseling <p>Prevalence of sexual victimization in correctional facilities</p> <ul style="list-style-type: none"> Allegations against female staff Especially vulnerable populations (gender non-conforming, very young etc.) <p>Responsibilities & obligations of the agency</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 3: Vectors of Sexual Abuse in Custody—Gender, Sexuality and Victimization

Time: 45 minutes

Recommended Faculty:

Lead Trainer, PREA Coordinator or Monitor

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Uncomfortable Places, Close Spaces: Female Correctional Workers' Sexual Interactions With Men and Boys in Custody Introduction: The History of Prison Sex Research

PowerPoint® Programs:

Module 3: Vectors of Sexual Abuse in Custody—gender, Sexuality and Victimization

Training Curriculum: Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth
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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Discuss and analyze the history of the juvenile justice system.</p> <p>Identify the prevalence of sexual abuse among youth in custody.</p> <p>Describe the staff and youth relationship in correctional facilities and identify the gender dynamic.</p>	
History of Juveniles in Custody: Entry	<p>Early Punishment</p> <ul style="list-style-type: none"> Punishment of children in homes and communities <p>Late 1800s</p> <ul style="list-style-type: none"> Rise of penal institutions Punishment of youth as adults Youth in adult institutions <p>1960s and 70s</p> <ul style="list-style-type: none"> Greater protection for juveniles via the parens patriae doctrine In re Gault, 387 U.S. 1 (1967) (affording due process protections to juveniles) Juvenile Justice Delinquency Prevention Act 	<p>1980 and 1990s conservative politicians ridiculed the juvenile system and pointed to high recidivism rates as evidence that rehabilitation was a failure– moved to more punitive policies.</p> <p>The age of judicial transfer was lowered in many states to allow the criminal prosecution of teens aged fourteen and younger.</p> <p>As you can see from the slides, the pendulum is shifting and the PREA Standards are part of that.</p> <p>For example, the PREA Standards require that youth under 18 in adult prisons, jails and lockups must be sight and sound separated from adults.</p>
History of Juveniles in Custody: Entry	<p>1980s and 90s</p> <ul style="list-style-type: none"> Rise of state statutes permitting youth to be prosecuted and transferred to adult court 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> By 1999, nearly every state expanded legislation that allowed juveniles to be tried as adults. <p>2000s</p> <ul style="list-style-type: none"> Landmark court decisions Roper v. Simmons (543 U.S. 551 (2005) (no capital punishment for those under 18) Graham v. Florida, 130 S. Ct. 2011 (2010) (no life imprisonment for juveniles who committed non-homicide offenses) Miller v. Alabama, 132 S. Ct. 2455 (2012) (mandatory life without parole for those under the age of 18 at the time of their crimes is cruel and unusual) <p>Present</p> <ul style="list-style-type: none"> Acknowledgment of importance of adolescent development States turning away from juvenile incarceration in adult facilities 	
History of Juveniles in Custody: Supervision	<p>Earliest supervision of youth was by male staff</p> <p>After female correctional staff entry into adult male correctional facilities, male correctional workers appeared in female facilities</p> <p>Modern era -- male and female staff in youth facilities, though most limit contact male staff have with female</p>	<p>Discussion:</p> <p>In many juvenile agencies, female staff comprises the majority of staff. Why do you think that is the case?</p> <p>Sample responses:</p> <ul style="list-style-type: none"> Female staff are more likely to have educational requirements

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	youth.	<ul style="list-style-type: none"> • Women can pass the background check.
History of Juveniles in Custody	<p>Punishment, including institutional punishment, has always been gendered.</p> <p>Correctional institutions have always had incidents of sexual abuse.</p>	
Prevalence of Sexual Abuse in Youth Facilities	<p>Correctional Authorities reported more than 2,000 allegations of sexual violence reported each year in juvenile facilities totaling 4072 allegations for 2005 and 2006</p> <p>The estimated total number of allegations for the nation was</p> <ul style="list-style-type: none"> • 2,047 in 2005 (16.7%) • 2,025 in 2006 (16.8%) <p>About 1 in 5 allegations of sexual abuse of youth in custody were substantiated</p>	<p>You saw this data earlier when we discussed the data collection and BJS findings in Module 2, but let's look a little deeper into the data being mindful of gender.</p>
BJS, Sexual Victimization Reported by Youth, 2012	<p>An estimated 9.5% of adjudicated youth in state juvenile facilities and state contract facilities reported experiencing one or more incidents of sexual victimization by another youth or staff in the past 12 months or since admission, if less than 12 months.</p> <ul style="list-style-type: none"> • About 2.5% of youth reported an incident involving another youth • About 7.7% reported an incident involving facility staff <p>Youth who identified their sexual orientation as gay, lesbian, bisexual, or other reported a substantially</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>higher rate of youth-on-youth victimization (10.3%) than heterosexual youth (1.5%).</p> <p>Among youth who reported victimization by staff:</p> <ul style="list-style-type: none"> • 89.1% were males reporting sexual activity with female staff • 3.0% were males reporting sexual activity with both male and female staff. 	
BJS, Sexual Victimization Reported by Youth, 2012		This chart explains the overall prevalence numbers reported by youth in different types of facilities— facilities that house boys, girls or both boys and girls
Youth in Custody Statistics	<p>Males make up 86% of the population in juvenile detention centers</p> <p>Females make up 14% of the population in juvenile detention centers</p> <p>175,000 youth prosecuted as adults</p> <p>2,000,000 transferred for adult court prosecution from juvenile system</p>	<p>Source: OJJDP 2010 http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/display.asp</p>
Title VII	<p>"[i]t shall be an unlawful employment practice for an employer— (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color,</p>	<p>This is the common language used when talking about the prohibition on discrimination in employment.</p> <p>Discussion: Given what we discussed above why do you think we</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	religion, sex, or national origin." 42 U.S.C. § 2000e-2(a) (2012).	<p>need to talk about Title VII and women in corrections?</p> <p>Likely responses:</p> <ul style="list-style-type: none"> • More women are entering corrections • Majority of staff in juvenile agencies is female • Female staff most likely aggressor in sexual abuse in custody for juveniles • Standards limits cross gender supervision of juvenile residents
Bona Fide Occupational Qualification	<p>Escape clause to Title VII: the "bona fide occupational qualification" (BFOQ)</p> <p>Permits employers to discriminate in hiring or firing decisions.</p> <p>Specifically permits an otherwise discriminatory hiring practice when it is "reasonably necessary to the normal operation of that particular business or enterprise." 42 U.S.C. § 2000e-2(e)(1) (2012).</p>	<p>BFOQs:</p> <ol style="list-style-type: none"> 1) the job qualifications offered to justify the BFOQ must relate to the essence or central function of the facility, and 2) they must be "reasonably necessary" to the facility's business. <p>Courts have indicated the BFOQ defense is an "extremely narrow exception" to the general prohibition of discrimination on the basis of sex.</p>
Bona Fide Occupational Qualification	<i>Dothard v. Rawlinson</i> , 433 U.S. 321 (1977) (eliminating height and weight restrictions for positions within all male institution, while upholding	These are important decisions that paved the way for women to work in all positions in correctional facilities.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>male gender as a BFOQ for the Alabama Maximum Security Prison).</p> <p><i>Gunther v. Iowa State Men's Reformatory</i>, 462 F. Supp. 952 (N.D. Iowa 1979), <i>aff'd</i>, 612 F.2d 1079 (8th Cir. 1980) (holding that male gender cannot be used as a BFOQ to keep women out of contact positions in male institutions).</p>	
Women In Corrections	<p>2001: women made up 24.5 % of the correctional workforce in male custodial facilities.</p> <p>2007: female workers made-up 40% of all correctional staff in adult facilities.</p> <p>2008: women comprised 42% of juvenile facility staff.</p>	<p>Sources:</p> <p>MTC Inst., Women Professionals in Corrections: A Growing Asset 1 (2008), <u>available at</u> <u>http://mtctrains.com/institute/publications/WomenProfessionalsInCorrections-Aug08.pdf</u>.</p> <p>Joann Brown Morton, <i>ACA & Women Working in Corrections</i>, <i>Corrections Today</i>, Oct. 1, 2005, at 86, 87.</p>
Men in Corrections	<p>According to the last correctional census in 2005, male employees outnumbered female employees by a ratio of 2 to 1, while men in direct contact positions outnumbered women by a ratio of 3 to 1.</p> <p>Breakdown</p> <ul style="list-style-type: none"> • Federal Facilities <ul style="list-style-type: none"> ○ 87% men/ 13% women • Private Facilities <ul style="list-style-type: none"> ○ 52% men/ 48% women • State operated facilities <ul style="list-style-type: none"> ○ 74% men/ 26% women ○ Males make-up 52% of staff in juvenile facilities 	<p>As of last correctional census in 2005, an estimated 445,000 employees were working in state and federal correctional facilities</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Gender Non-Conforming Staff in Corrections	<p>Difficult to quantify at this time due to lack of data</p> <p>According to Supreme Court decisions, discrimination because of sexual orientation or gender identity may receive only intermediate scrutiny</p> <p>Title VII does not offer protection for sexual orientation or gender identity, but state civil rights statutes may. <i>See e.g.</i>, Sexual Orientation Non-Discrimination Act, Ch. 2, 2002 N.Y. Laws 46</p>	<p>Discrimination that affects race gets heightened scrutiny which means that the standard that you need to justify racial discrimination is the highest e.g. there must be an "exceedingly persuasive justification" for the discriminatory conduct.</p> <p>Allegations of gender discrimination receive "intermediate" or "heightened" scrutiny.</p> <p>The government must show that the challenged classification serves an important state interest and that the classification is at least substantially related to serving that interest.</p> <p>Lawrence v. Texas, the case striking down criminal prosecution of sodomy between consenting adults hints at intermediate scrutiny for sexual orientation, but does not come right out and say it.</p> <p>The Supreme Court recently mentioned a new standard in striking down DOMA – Defense Against Marriage Act -- called "careful consideration" while alluding in passing to a heightened scrutiny. So, in evaluating issues of sexual orientation courts must give</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		careful consideration to the challenged classification.
	Institutions as Sexualized Living and Working Environments	<p>Discussion: Discuss recent news concerning male inmates/ youth and female staff. Some samples include:</p> <p><i>Female prison guards impregnated by Baltimore male inmate.</i> http://www.cbsnews.com/8301-201_162-57581237/four-female-prison-guards-impregnated-by-same-inmate/</p> <p><i>Female prison guard impregnated by NYC male inmate.</i> http://www.nytimes.com/2013/02/06/nyregion/police-killers-jailer-now-pregnant-with-his-child-is-charged.html?_r=0</p> <p>Can these situations occur in juvenile facilities? Why or why not?</p>
Sexual Harassment	<p>Women working in male-dominated occupations like corrections are not necessarily received as equals</p> <p>Masculine atmosphere, where sexually explicit comments and derogatory language is the norm</p>	<p>Female staff is often subjected to sexual harassment even in places where they are the majority.</p> <p>Why? Because they rarely are the administrators or leaders.</p>
Sexual Harassment	<i>Neal v. Dir., D.C. Dep't of Corr.</i> , No. 93-2420, 1995 WL 517244, at *1 (D.D.C. Aug. 9, 1995) (memorandum opinion) (claiming	These are some sample cases that involve discrimination claims by female staff. Notice the

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	<p>the District of Columbia Department of Corrections permitted sexual harassment of female correctional workers)</p> <p><i>Negron v. Ulster Cnty.</i>, No. 1:08-CV-692, 2010 WL 4609296, at *8 (N.D.N.Y. Nov. 4, 2010) (denying defendants' motion for summary judgment of plaintiff's claim of sexual harassment and assault and retaliation)</p>	<p>claims about sexual harassment.</p> <p>Discussion: Do you think the environment is the same or different in juvenile agencies? If so, why/how is it different?</p>
Sexual Discrimination	<p>Women may experience paternalistic protection from male co-workers</p> <p>Difficulty assimilating into the male culture</p> <p>Women who report sexual harassment may be terminated</p>	<p>What do we mean by paternalistic?</p> <p>We mean men not allowing women to do their job because they think they are weaker, less intelligent or just incapable of doing the work.</p> <p>There is a "go along to get along" environment sometimes which can mask inappropriate, illegal and unconstitutional conduct.</p>
Sexual Assault	<p>Female staff may experience sexual assault from both co-workers and inmates/ youth</p> <p>Sexual behavior can include anything from light touching in an inappropriate way, to violent or aggressive behavior</p>	<p>Discussion: This is certainly the case in adult facilities.</p> <p>Is it different in juvenile facilities? If so, why/how?</p> <p>What do you see in juvenile facilities with regard to the treatment of female staff?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Sexual Assault	<p><i>United States v. Kutz</i>, 439 F. App'x 751, 753 (10th Cir. 2011) (affirming male inmate's assault conviction for inappropriately touching a female correctional officer)</p> <p><i>Jones-Bey v. Davis</i>, 80 F. App'x 472, 472 (7th Cir. 2003) (upholding a male inmate's conviction for assault of female officer, when inmate poked the officer in the buttocks with a piece of rolled-up newspaper).</p>	
Female Staff Commit Sexual Misconduct Disproportionate to their Numbers	<p>Women make up approximately 40% of all adult correctional staff, and approximately 42% of staff in juvenile facilities.</p> <p><u>Correctional authorities</u> reported that female staff commit 61 % of sexual staff misconduct and 21 % of staff harassment.</p> <p>69% of <u>jail and prison inmates</u> reporting victimization by staff sexual misconduct reported that it was perpetrated by female staff.</p> <p>A recent survey of <u>former state prisoners</u> found that female staff accounted for roughly 85 % of all incidents n of staff sexual misconduct.</p>	
Female Staff Commit Sexual Misconduct Disproportionate to their Numbers	<p>In a 2010 study, Janet Warren found that male inmates viewed themselves as being sexually predatory towards female correctional officers</p> <p>Of the male inmates interviewed:</p> <ul style="list-style-type: none"> • 8.7% reported perpetrating 	<p>Source: Janet I. Warren et al., Risk Markers for Sexual Predation and Victimization in Prison (2010), available at www.ncjrs.gov/pdffiles1/nij/grants/230522.pdf</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>noncontact coercive sexual conduct, while 2.8% reported contact sex acts.</p> <ul style="list-style-type: none"> 9.7% reported engaging in noncontact bartered sexual activity, while 8% reported contact bartered sexual activity. 24.3% reported engaging in noncontact consensual encounters, and 17.4% reported contact consensual activity. 	Warren pointed out that there was very little data about same sex interactions between correctional officers and inmates
Female Staff Commit Sexual Misconduct Disproportionate to their Numbers	<p>Surveys of juvenile correctional authorities and youth in custody reflect the same disparity</p> <p>Women account for 42 % of staff in juvenile facilities, yet youth implicate female staff in 95% of incidents of staff sexual abuse, where 92% of those abused youth are boys</p>	
Summary	<p>Boys are at greater risk of abuse from female staff</p> <p>Girls are sexually abused by staff disproportionate to their numbers in the juvenile correctional population</p> <p>Gender non-conforming youth are at high risk of victimization from both staff and other youth</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 4: Adolescent Development

Time: 1 hour and 15 minutes

Recommended Faculty:

Lead Trainer, PREA Coordinator or Monitor, Social Worker, Medical or Mental Health staff, Pediatrician or Community Advocate

Resources:

LCD projector, computer and media screen
Easel pad, markers, tape

Participant Handouts:

- PowerPoint®
- Facts for Families
- The Adolescent Brain and Cognitive Development
- Adolescent Emotional Development and Romantic Attachments
- The Complexities of Sexual Decision Making in Adolescence
- Stages of Adolescent Development Chart

PowerPoint® Programs:

Module 4: Adolescent Development

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	Identify and Discuss: The components of typical (normal) adolescent development Possible barriers to healthy adolescent development The ways in which confinement may hinder or support adolescent development	
The Growing Science of Adolescent Development	Its relevance to youth in the juvenile justice system, in how they are: <ul style="list-style-type: none"> • Judged • Tried • Sanctioned • Treated in confinement 	For a variety of reasons, juvenile justice practitioners are beginning to study adolescent development and its relation to juvenile justice issues. Developmental issues affect how kids are: <ul style="list-style-type: none"> • Judged • Tried • Sanctioned • Treated in confinement
The Tasks of Adolescence	Achieving independence from parents Developing a unique identity <ul style="list-style-type: none"> • “Who am I as an individual?” • Intellectually, emotionally, spiritually, morally, physically, sexually, ethnically/racially etc. Assuming an important and valued role in society <ul style="list-style-type: none"> • Career, relationships etc. 	These are the key tasks of adolescence: <ol style="list-style-type: none"> 1. Separating from parents 2. Developing an individual identity – identifying what you believe in and what are the major influences on those beliefs
The Stages of Adolescent	Early adolescence 11-13 years old	With some drift these are the stages of adolescence.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Development (A Convenient Fiction)	<p>Mid adolescence 14-16 years old</p> <p>Late adolescence 17-21 years old</p>	<p>Note that scientifically we know that adolescence goes beyond age 18</p> <p>We also know that development in decision making is still going on into the mid-twenties.</p>
Some Beginning Observations	<p>Adolescence is <u>not</u>, for most, a time of “storm, stress and rebellion”</p> <p>Development occurs at <u>different rates in different areas</u> of development</p> <p><u>Stops, starts and regression</u> are typical</p>	
Some Beginning Observations	<p>Development occurs at <u>different rates between different individuals</u></p> <p>But the <u>direction of development tends in the same direction</u> among most individuals</p>	<p>There are also gender differences.</p> <p>Girls mature earlier than boys.</p>
Areas of Adolescent Development	<p>Physical (including the all-important brain)</p> <ul style="list-style-type: none"> • Cognitive • Behavioral • Emotional • Social • Moral • Spiritual • Sexual 	
Physical Development	<p>“Puberty”</p> <p>The attainment of reproductive capacity</p>	

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Puberty in Girls	<p>Begins at 7-9 years old (invisible at first, beginning hormonal changes)</p> <p>Visible changes begin at 8-11 years old (breasts first)</p> <p>Peak height spurt at about age 11-12 (average growth 10-11inches)</p> <p>First menstrual period at about age 11-12</p> <p>"Early developers" at higher risk of engaging in risk behaviors.</p>	There is some indication that this is occurring earlier in girls.
Puberty in Boys	<p>Begins at 7-9 years old (invisible at first)</p> <p>Visible changes at age 9-10 years old (testes)</p> <p>First sperm production: ~ 12-13 years old</p> <p>Peak height spurt two years later than girls: ~ age 14</p> <p>"Early developers" get increased peer respect, increased self-esteem.</p>	This is why parents often send boys to school later than girls. They mature later than girls and may gain increased respect from peers if they are more developed.
Adolescent Brain Development		
BRAIN FACTS	<p>Weights approximately 3 pounds</p> <p>100 billion neurons and 1 trillion supporting cells</p>	<p>There is a new term-- neuroplasticity.</p> <p>It refers to the malleability of</p>

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	Controls all <u>feelings, thoughts and activities</u> It <u>and</u> the environment are involved in a very delicate balance Never stops adapting and changing	the brain and how new experiences can change the neural pathways in the brain.
Brain Changes in Adolescence	MRI studies document both <u>physical</u> and <u>functional</u> changes in the brain from childhood into adulthood Decreased "gray matter" (some neurons 'let go') A lot more "white matter" (represents increased sheathing of neurons, which speeds up messaging) Both are good things.	
	<u>MORE BLUE = MORE WHITE MATTER</u>	More blue matter translates into more white matter which means more cognition or intelligence or appreciation for consequences.
		This is a picture of the brain. The right side of the brain is the creative and artistic side. It can process things all at once and is in charge of mood, sensation, emotion. The left side of the brain is for language. It is in charge of spatial recognition and is organized and detailed. The following are descriptions of the sections of the brain.

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		<p>Frontal Lobe: higher level functioning, high level thinking, order, motivation, planning</p> <p>Temporal Lobe: Associated with hearing and smell but also emotional, regulates the drive for pleasure; fully developed by 18 or 19</p> <p>Parietal Lobe: Sensory input–touch, taste</p> <p>Occipital Lobe: Vision</p> <p>Stem: Most primitive- food, breathing, heart beat</p> <p>Parietal and Occipital Lobe- developed by adolescence</p> <p>Brain does function together and is affected by each part</p>
A Teen with a Developed Prefrontal Cortex Can be a Joy to Live With		<p>"The brain's CEO"-- Responsible for "<u>executive functioning</u>"</p> <p>This includes:</p> <ul style="list-style-type: none"> • planning • rational decision-making • inhibition of impulses • mood regulation • complex problem-solving • task switching • ability to remember and manipulate a variety of information over time

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BUT... there is a catch	<p>During adolescence, <u>some areas of the brain develop before others</u>.</p> <p>And, unfortunately, the prefrontal cortex isn't one of them.</p> <p>This helps explain why it's often easier to live with a 20 year old than a 15 year old.</p>	
Implications of Brain Development	<p>The <u>teenage brain</u> and the <u>adult brain</u> are <u>different</u></p> <ul style="list-style-type: none"> • The teen has a fully developed language and spatial ability and can look very mature • The areas of the brain that regulate emotion, decision making, risk assessment, and rational decision making do not develop until adulthood • And, although sometimes scary and often frustrating, <u>this is normal</u>. 	
The Environment and Adolescent Development	<p>Interacts with the brain changes The world surrounding the teen:</p> <ul style="list-style-type: none"> • Family • Peer groups • Neighborhood • Church, temple, mosque, synagogue • School • Broader society 	<p>Discussion</p> <p>Think about behaviors of the participants' children, grandchildren or even themselves.</p> <p>Ask for examples of the change between teenage behavior and adult behavior of loved ones.</p> <p>Talk about ways to develop neuroplasticity.</p>
Cognitive Development	<u>Cognition</u> : Thinking, planning, problem-solving . . .	

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Cognitive Development	<u>Early Adolescence</u> (11-13 years old) <ul style="list-style-type: none"> • Use of complex thinking focused on decision-making that is personal (egocentrism) and present-focused • Increased choices about home, school, peers and relationships • Beginning to question authority • Concerns about personal appearance • Little perception of long-range consequences of actions 	Choices about home, school, peers and relationships. This process is disrupted by custodial care, which removes adolescents from the home and mainstream school.
Cognitive Development	<u>Middle Adolescence</u> (14-16 years old) <ul style="list-style-type: none"> • Initiation of an individual code of ethics • Increased analysis of issues and concerns • Awareness of different possibilities for the development of individual identity (including gender orientation) • Better able to set goals and devise plans to reach them • Increased ability to think abstractly (for example, the meaning of life) • "Magical thinking" and "personal fables" 	
Cognitive Development	<u>Late Adolescence</u> (17 years old +) <ul style="list-style-type: none"> • Increased thoughts on more 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>global concepts</p> <ul style="list-style-type: none"> • Development of idealistic views • More sophisticate moral reasoning • Engaging in debate with peers and parents • Increased interest in the future: career, relationships, role in family and society 	
From Early through Late Adolescence	<p><u>Increased Abstract Thinking</u></p> <ul style="list-style-type: none"> • Can think about abstract concepts • Become able to understand "shades of gray" in situations • Able to examine, reflect on and express their inner experiences • Begin to consider possible outcomes and consequences of actions • This type of thinking is important in long-term planning 	
From Early through Late Adolescence	<p><u>Increased Problem-Solving Ability</u></p> <p>The ability to systematically solve a problem in a logical, methodical way emerges:</p> <ul style="list-style-type: none"> • quickly analyze a problem • quickly plan an organized approach • draw conclusions from the information available. 	
Behavioral Development	<p>"Growth consists of a series of challenges...Each successive step is a potential crisis because of a radical change in perspective..."</p>	

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	<p>Different capacities use different opportunities to become full-grown components of the ever-new configuration that is the growing personality."</p> <p>~ Erik Erikson, <i>Identity and the Life Cycle</i></p>	
Behavioral Development	<p><u>Goal:</u> To achieve a sense of coherent <u>identity</u> and <u>competence</u> across many domains of life</p> <ul style="list-style-type: none"> Concerned with the question of "Who am I in this world?", "Who am I when I'm alone?", "Who will I become?" <u>Shaped by life experiences</u> and by <u>those who surround them</u> in their lives: family, peers, teachers, pastors, the broader community and society. Facilitated by a <u>desire for independence</u> from parents and caregivers as they achieve physical and cognitive maturity 	
To Achieve an Identity, Adolescents Behaviorally will:	<p>Take risks</p> <p>Seek novelty and new sensations</p> <p>Hang out with friends more than family</p> <p>Resist authority</p> <p>Question accepted beliefs</p> <p>Test limits, break rules</p>	<p>Scary isn't it. But these are all the things that kids need to do in order to become you -- to become adults.</p> <p>Is it possible that some of your youth in custody are in the juvenile justice system because they were being kids? How can kids do this and not end up in custody?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Engage in arguments and debates</p> <p>"Try on" new identities and personas</p> <p>Get tattooed, pierced etc.</p> <p>Experiment (drugs, sex)</p> <p>Exhibit sense of invulnerability</p> <p>... And all this is normal adolescent behavior!</p>	
<p>Social-Emotional Development</p> <p>Early Adolescence</p> <p>11-13</p>	<p>Desire for increased independence from family</p> <p>Frustrated/embarrassed by parents' imperfections</p> <p>Increased importance of peers</p> <p>Greater desire for privacy (physical and emotional)</p> <p>Feeling awkward in a changing body</p> <p>Worried: "Am I normal?"</p> <p>Increased ability to express feelings</p> <p>Crushes, shyness, interest in sex</p>	
<p>Social-Emotional Development</p> <p>Middle Adolescence</p> <p>14-16</p>	<p>Sense of achievement in new skills/interests</p> <p>Puberty near-complete: "Am I attractive?"</p>	<p>There is that moment at 16 when something crazy happens, when they do something totally unbelievable and you wonder where that comes from?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Examination of inner experiences; intense self-involvement</p> <p>Increased independence: resists parental involvement in social life, peers even more important</p> <p>Conformity to peers in dress, values and codes of behavior</p> <p>More self-direction in studies, activities, setting goals</p> <p>Preoccupation with sexuality, feelings of love</p> <p>Mood swings</p>	<p>Activity: Let's think about ourselves at 16. Pull out an index card and answer the following questions:</p> <ol style="list-style-type: none"> 1. Have you ever involved in something when you were a kid– under 18– for which you could have been arrested? 2. Did it involve a peer? 3. Did you plan it or was it spur of the moment? 4. Was alcohol involved? 5. Was marijuana involved? 6. Was a car involved? 7. Did your parents know/ did you tell your parents you were going to do it? 8. Did it involve missing school? <p>Have a discussion with participants (anyone who cares to share) about that situation and how it may have been different if they were older and presented with the same scenario.</p> <p>Connect that today, kids are arrested and adjudicated for the same types of issues and find them in your custody every day and how that could have been you if not but for.....</p>
Social-Emotional Development Late	<p>Greater self-reliance, self-esteem</p> <p>Greater independence from <u>and</u></p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Adolescence 17+	<p>greater acceptance of family</p> <p>Greater ability to delay gratification and self-regulate emotions</p> <p>Greater concern for others</p> <p>Increasingly clear sexual identity</p> <p>Greater capacity for mutually loving, caring relationships</p> <p>Able to begin to individuate from peers</p> <p>Refinement of moral/ethical/religious/sexual values</p>	
Challenges to Healthy Adolescent Development	<p>Familial abuse and neglect</p> <p>School/neighborhood harassment and violence</p> <p>Other trauma</p> <p>“Toxic stress” in childhood and adolescence</p> <p>Isolation</p> <p>Stigma and discrimination</p> <p>Chronic illness / disability</p> <p>Mental health issues</p> <p>Confinement in detention and/or correctional settings</p>	<p>Discussion:</p> <p>What issues that may be prevalent with youth in custody as they are developing?</p> <p>Have participants share stories involving any of the challenges listed</p>
	Youth in Custody and Adolescent Development	

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Youth in Custody: Common Developmental Issues	<p>Developing a sense of belonging, based on trust, safety and closeness</p> <p>Differentiating self from others</p> <p>Self-regulation of behavioral and emotional responses: the ability to delay gratification</p> <p>Developing cognitive skills, including adaptive problem-solving</p> <p>Moral development</p> <p>Sexual development</p>	
Development and Youth in Custody	<p>Custody places limits on adolescent development in unique and specific ways:</p> <ul style="list-style-type: none"> • Family and family environment • Opportunities to assert independence, test limits, take risks, pursue interests and talents • Healthy sexual questioning and experimentation and development of physically and emotionally intimate relationships 	
Development and Youth in Custody	<p>In general, the kinds and variety of life experiences that promote growth, self-discovery and self-esteem are often very limited in confinement (almost by definition).</p>	<p>Discussion</p> <p>Why is this the case?</p> <p>What can juvenile justice professionals/ facilities do to give youth some of these life experiences while in custody?</p>
AND...	<p>Many, if not most, youth have significant <u>histories of complex</u></p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p><u>trauma and neglect</u>, both outside and within “the system”.</p> <p>Many <u>lack any supportive and nurturing adult role models</u> or healthy, trusted adults, either outside or inside “the system”.</p>	
Ways to Minimize Limits on Adolescent Development	<p>Custody <u>can</u> provide adolescents with highly-structured environments that can include <u>healthy pro-social adult role models</u></p> <p>In healthy correctional settings, adolescents have an opportunity to develop in ways that are <u>free from high-risk behaviors</u> (drugs, truancy, gang involvement etc) that otherwise interfere with their healthy development</p>	
AND...	<p>In healthy correctional settings, policies and programs recognize the developmental needs of adolescents and attempt to create an environment that is <u>provides safe and diverse opportunities to “be adolescent”</u></p> <p>In healthy correctional settings, policies and programs address the experience and needs of their diverse population of youth, <u>taking into account issues of gender, ability, language, race/ethnicity, religion, immigrant status, sexual orientation and other important aspects of identity.</u></p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Summary	<p>The components of typical (normal) adolescent development</p> <p>Possible barriers to healthy adolescent development</p> <p>The ways in which confinement may hinder or support adolescent development</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 5: Adolescent Sexuality

Time: 1 hour

Recommended Faculty:

Lead Trainer, PREA Coordinator or Monitor, Social Worker, Medical or Mental Health staff, Pediatrician or Community Advocate

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Sexuality Issues for Adolescents with Physical and/or Developmental Disabilities
- Adolescents and Non-consensual Sex
- Sexuality and Sexual Behaviors in Adolescence

PowerPoint® Programs:

Module 5: Adolescent Sexuality

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Define human sexuality</p> <p>Identify terms and concepts related to gender, gender identity, gender expression and sexual orientation</p> <p>Discuss features of healthy sexual development in adolescence</p> <p>Describe how confinement creates unique challenges in supporting healthy sexual development of adolescents</p>	<p>Sexual minority and gender non-conforming youth are part of a discussion about healthy sexual development because those are healthy choices as well.</p>
Aspects of Sexuality and Gender		
	Terminology diagram	<p>As a review, the paradigm of sexuality includes the intersection and overlap of multiple different identities.</p> <p>Biological sex, gender identity, and gender expression are intrinsic to human sexuality; however, they are also distinct.</p> <p>These identities do not always align with traditional gender roles and exploring gender and/or challenging binary concepts of gender is common.</p> <p>For instance, a woman may identify with her natal gender and be heterosexual yet have an aversion to</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>dressing in “feminine” clothes.</p> <p>Sometimes, though, people feel that they were born into the wrong gender and they do not feel at home in their own bodies. They may want to transition to another gender or to live without ascribing to any gender.</p> <p><u>Activity</u></p> <p>Have trainees individually jot down what each of the phrases in the diagram means to them on a piece of paper.</p> <p>At the start of discussion for each phrase, ask for a volunteer to share their definition. This will allow trainees to measure their knowledge in this topic.</p>
	Terminology diagram: Biological Sex	
Biological Sex	<p>It’s our “packaging”!</p> <p>Determined by our:</p> <ul style="list-style-type: none"> • Chromosomes • Hormones • Internal and external genitalia 	
	Terminology diagram: Sexual Behaviors	Ask for a volunteer to share their definition they wrote down earlier.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Sexual Behaviors	What we do sexually with others or by ourselves	
	Terminology diagram: Sexual Orientation	Ask for a volunteer to share their definition they wrote down earlier.
Sexual Orientation	The enduring pattern of <u>emotional</u> , <u>romantic</u> and <u>sexual</u> attraction to those of the <u>same</u> sex, <u>opposite</u> sex, or <u>both</u> sexes (or neither!)	
Terms Related to Sexual Orientation	<p><u>Heterosexual</u> : Opposite-sex attraction</p> <p><u>Homosexual</u>: Same-sex attraction</p> <p><u>Bisexual</u>: Attracted to both sexes</p>	
More Terminology Related to Sexual Orientation	Heterosexual = “Straight”	
And Finally, Related to Sexual Orientation...	<p>“<u>LGBQ</u>” = Lesbian, Gay, Bisexual, Questioning</p> <p>NOTE: “Homosexual” is a label that has fallen out of favor</p>	<p>Other terms include queer—a term that gender non-conforming youth have reclaimed in the same way the women and racial minorities often reclaim and use negative terms in a powerful way.</p> <p>Be sure to distinguish sexual orientation words with ‘transgender.’ Transgender has to do with a person’s feelings toward their own gender, not about who they are attracted to.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		However, many transgender individuals are also homosexual, but they do not have to be.
The Pediatric Position on LGB Orientations	<p>They are established by <u>early childhood</u> or perhaps even before birth</p> <p>They are <u>not a choice</u></p> <p>They are <u>normal and healthy</u> developmental outcomes</p>	<p>The American Medical Association, the American Academy of Pediatrics, and the Society for Adolescent Medicine recommend discussing sexual orientation as part of the health supervision of all adolescents.</p> <p>Little is known about whether lesbian, gay, and bisexual (LGB) youth hide their orientation from health care providers, which can potentially lead to missed opportunities in identifying individual health risks and provide appropriate screening and counseling.</p> <p>Source: http://tmedweb.tulane.edu/portals/files/open-access/fim-2/AMIM.Article-1.pdf</p>
	Terminology diagram: Gender	Ask for a volunteer to share their definition of gender.
Gender	<p>The set of qualities and behaviors expected from a female or male by society</p> <ul style="list-style-type: none"> Varies widely within and among cultures <u>Not</u> the same as biological sex 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	Terminology diagram: Gender Expression	Ask for a volunteer to share the definition s/he wrote down earlier.
Gender Expression	<p><u>Expression</u> of gender in terms of chosen name, clothing, hairstyle, jewelry, mannerisms, speech, interests, hobbies, magazines, room decor etc.</p> <p>This <u>may or may not conform</u> to cultural expectations attached to a person's biological sex</p>	
Gender Non-Conforming Youth	Youth who do not follow other people's ideas or stereotypes about how they should look or act based on the female or male sex they were assigned at birth.	
	Terminology diagram: Gender Identity	<p>This is a very big issue-- we are learning more about the fluidity of gender identity</p> <p>Ask for a volunteer to share their definition they wrote down earlier.</p>
Gender Identity	A person's basic sense of being <u>female</u> , <u>male</u> , <u>both</u> , or <u>another gender</u>	
We All Have a Gender Identity	For some, the <u>inner-experienced gender</u> or <u>expressed gender</u> differ from the gender assigned at birth	
LGBTQ	A common term that combines sexual orientation and gender identity	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Lesbian Gay Bisexual Transgender Questioning</p>	
Human Sexuality	<p>Involves the complex interplay of physical, psychological, social, emotional, and spiritual makeup of an individual</p> <p><u>Defined by</u> sexual thoughts, attraction, desires, fantasies, feelings of love and affection, and experiences</p> <p>One of the <u>most important parts</u> of adolescent identity</p>	
	Sexuality and Healthy Adolescent Behavior	
Age 5: Know	<p>Love and appropriate touch should make people feel good, safe, and wanted</p> <p>People's bodies are different sizes, shapes, and colors</p> <p>People's bodies belong to themselves</p> <p>A woman and a man are both involved in making a baby</p>	<p>For example, in explaining about where babies come from where two same gender individuals are involved, you might say.</p> <p>"Even if they don't make the baby together, it still takes genetic material from man and woman to make a baby."</p> <p>Kids at this age don't need to understand surrogacy, IVF, etc.</p>
Age 5: Ability to	Talk privately with trusted adults about sexual issues, questions, and concerns	For example, very common for young kids to touch their genitals because it makes them feel good and can

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Use correct terms for all sexual body parts</p> <p>Say "No" to unwanted or uncomfortable touch [even if from family]</p> <p>Report any inappropriate, unwanted or uncomfortable touch</p>	<p>either be stimulating or self-soothing.</p> <p>Adults have to be comfortable with that; not freak out; but set appropriate limits. It's okay to touch yourself but that has to happen during your private time in your space</p>
Age 6-9: Know	<p>Everyone has sexual thoughts and fantasies, and this is normal</p> <p>Some people are attracted to the same sex, some to the opposite sex, and some to both</p> <p>About sexual abuse and its dangers — that sexual predators may seem kind, giving, and loving, and may/can be friends or family members</p>	
Age 6-9: Ability to	<p>Take an active role in managing their body's health and safety</p> <p>Recognize and protect themselves from potential sexual abuse and its dangers</p> <p>Develop, maintain, and end friendships</p>	
Age 10-12: Know	<p>The range of times at which normal pubertal changes begin, including normal differences in the timing of these events for girls and boys</p> <p>How female and male bodies</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>grow and differ</p> <p>That emotional changes are common and to be expected during this time</p>	
Age 10-12: Know	<p>About pregnancy, and the importance of abstinence</p> <p>That masturbation is very common. It is normal to masturbate, but only in private</p> <p>About rape, what it is and ways to prevent it</p> <p>About sexually transmitted infections—transmission, prevention, and treatment</p>	
Age 10-12: Ability to	<p>Understand and expect that their bodies will be changing and know that the differences between themselves and their peers are normal</p> <p>Take care of their personal hygiene during menstruation or after having wet dreams</p> <p>Talk about pubertal and relationship concerns with parents, pediatricians or other trusted adults</p>	
Age 13-18: Know	<p>About the range of difference in sexual feelings, behaviors and relationships, including abstinence, marriage and domestic partnership, and opposite- and same-sex dating and partnering</p>	<p>For some of you, this may be new information and scary, but this is really based on a robust literature and medical best practice</p> <p>You have to arm yourself</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>About the potentially harmful consequences of sexual relationships if engaged in too soon and if unprotected</p> <p>That everyone has the right not to have sex</p>	<p>with knowledge or you are toast with the kids. They are younger, smarter and more adaptive than you, but remember you have more experience and ostensibly your pre-frontal cortex (may not have the right term here) is developed so you can outthink them.</p>
Age 13-18: Ability to	<p>Recognize sexuality as a positive aspect of one's personality</p> <p>Take responsibility for their choices and behaviors related to sexuality</p> <p>Recognize the probability of becoming or making someone pregnant or contracting an STI as a result of unprotected vaginal, oral or anal intercourse, and that safer sex helps but is no guarantee</p> <p>Understand the challenges of adolescent pregnancy</p>	
Age 13-18: Ability to	<p>Be comfortable in asking about and obtaining contraception</p> <p>Understand sexual exploitation among adolescents exists and what it looks like</p> <p>Avoid unwanted or inappropriate sexual experiences</p> <p>Assert oneself when declining to participate in sexual activities,</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>or when insisting on the use of birth control and safer sex</p> <p>Communicate clearly with one's actual or potential partner about sexual behavior</p>	
Concerns of Sexual Minorities	<p>5 -10% of high school aged youth identify as gay, lesbian, or bisexual (LGB)</p> <p>A smaller percentage identify as transgender</p>	<p>These numbers represent kids who identify as LGB. The numbers do not indicate kids who have feelings but don't or who have feeling or experiment sexually with same sex partner.</p> <p>Understand that kids identify at different stages, do not dismiss a kid in custody who decides to self-identify while in custody.</p> <p>Discussion: Andre, age 15, is in your custody, he has been in the custody of your facility for 3 months, but begins to ask for feminine clothing and tells your staff he'd like to be called Andrea. How would you respond?</p>
Growing Up Lesbian, Gay, Bisexual, or Transgender in America	Research shows that, despite many societal changes in acceptance, many LGBT youth still face.....	
Growing Up Lesbian, Gay, Bisexual, or Transgender in America	<p>Isolation</p> <p>Fear</p> <p>Violence</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Results of Isolation, Fear and Violence	<p>Family conflict</p> <ul style="list-style-type: none"> Running away or kicked out of home <p>School failure and drop-out</p> <p>Risk-taking Sex, drugs etc.</p>	
Results of Isolation, Fear and Violence	<p>Prostitution</p> <p>Involvement with juvenile justice system</p> <p>Depression and suicide</p>	
Results of Isolation, Fear and Violence	<p>These risks are <u>NOT</u> a necessary part of the script for growing up LGBT. They are the common experience for <u>any</u> youth who grows up stigmatized, victimized, afraid, and alone</p>	
Results of Isolation, Fear and Violence	<p>Research strongly suggests that it is <u>societal disapproval</u> and the resulting <u>victimization</u> and discrimination under which LGBTQ youth grow up that are the primary reasons for the physical, emotional, and social problems these teens face</p>	
Gender Non-Conforming Youth	<p>May be straight, gay, lesbian, bi, or transgender</p> <p>Research shows that it is these youth who are <u>most likely subjected to violence at school and at home</u>, especially boys</p> <p>Research also shows that they are at <u>increased risk</u> for suicide,</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	substance use, school failure, homelessness etc	
Growing up LGBT	LGBT youth, and particularly gender non-conforming youth, are often targeted for physical and sexual abuse in detention and correctional settings, for many different reasons	2012 BJS Report: Youth who identified their sexual orientation as gay, lesbian, bisexual, or other reported a substantially higher rate of youth-on-youth victimization (10.3%) than heterosexual youth (1.5%).
	How Can We Support LGBT Youth in Detention or Correctional Settings?	Discussion: Pose this question to participants and discuss.
1. Provide Validation, Support and Self-Acceptance		
2. Assure Safety		Agency policies and procedures
3. Provide and Facilitate Connections to Support		
4. Support Healthy Relationships and Sexual Decision-Making		
5. Encourage Optimism for the Future		
Recommendations Related to LGBT Youth	Have policies that specifically prohibit verbal and physical harassment of youth based on sexual orientation or gender	Discussion: Pose the question 'what does it mean to be sensitive?'

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>identity, either by staff or other youth</p> <p>Enforce policies swiftly and consistently</p> <p>Be sensitive in responding to expressions of same-sex affection or attraction</p>	
Recommendations Related to LGBT Youth	<p>Include respect for others, including others' around sexual orientation and gender identity, as part of orientation and as part of any human development classes</p> <p>Same-sex partnering present a challenge when youth are sharing a room and need to be separated. Address in a sensitive manner. The message you give is very important</p>	<p>Such situations must be handled in respectful, understanding ways in order to teach adolescents that they are not being punished for their sexuality, but rather enforcing a policy regarding no-sex between adolescents in custody and why enforcing that is best and important for all involved.</p> <p>Talk about for example that sexuality is along a continuum and that feelings change so it is important that there is safe space for all involved. Also, talk about what your obligations are not your feelings about the behavior.</p>
	Youth in Custody: Challenges and Opportunities	
Rules Related to Sexual Expression	<p>In settings of confinement, rules are necessary and important</p> <p>Rules help keep youths safe and provide opportunities to teach about boundaries and</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	appropriate behavior	
Restrictions on Sexual Behaviors	<p>Policies against sexual behavior are at odds with adolescent sexual development</p> <p>Each institution needs to have clear and <u>realistic</u> rules</p> <p>Rules must balance creating a safe, structured environment with the reality that teenagers may engage in benign, age-appropriate normative behaviors such as hand holding or giving a quick hug</p>	
Rules Related to Sexual Expression	<p>Every rule and every application of a rule <u>carries a message</u> for the youth, some intended and some not</p> <p>Rules, especially those that seek to limit normal adolescent behavior, including sexual behaviors, have the <u>potential to do harm</u> if they are applied without an understanding of their impact on an adolescent's development</p> <p>It is vital that we be aware of the messages we are giving our youths</p>	
History and Backgrounds of Youth	<p>Know each adolescent's history as it relates to sexual abuse, sexual acting-out, and sexual assault</p> <p>Speak with parents/caregivers, probation officers, social workers, or other people</p>	<p>Reinforce the standard § 115.381 Medical and mental health screenings; history of sexual abuse– it will assist you in getting key information about the youth.</p> <p>It will inform your actions</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	involved with the youth We must understand each youth and their individual experience, strengths, vulnerabilities and needs	and reactions to sexual behaviors in custody.
History and Backgrounds of Youth	When an individual has a concerning history <u>as a perpetrator</u> : <ul style="list-style-type: none"> • take action to make all caregivers aware of the risk • take steps to ensure that he or she is not given time or opportunity to act out against another adolescent • provide appropriate treatment for the behavior 	§ 115.381 Medical and mental health screenings; history of sexual abuse. § 115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.
History and Backgrounds of Youth	If an individual has a concerning history of <u>being victimized</u> : <ul style="list-style-type: none"> • he or she may be suffering from posttraumatic stress symptoms • may present with sleep disturbance • may refuse to shower • adopt other oppositional behaviors to keep safe • he or she may be more confused about boundaries and vulnerable to abuse 	

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Keeping Kids Safe– Red Flags	<p>Sexually-charged comments or come-ons</p> <p>Flirting or non-verbal signals</p> <ul style="list-style-type: none"> • staring • gaining and maintaining proximity to or frequent contact with a particular a youth • Rule violations– giving gifts or special favors, food, money; contact with youth post-custody <p>Unwanted touching or sexual contact takes</p>	
Keeping Kids Safe: Taking Action	<p>Harassment Policy</p> <ul style="list-style-type: none"> • Staff • Youth <p>Training</p> <ul style="list-style-type: none"> • Staff • Youth <p>Consistent Enforcement</p> <ul style="list-style-type: none"> • Staff • Youth 	<p>Facilities/ agencies must first, have a harassment policy in place and, second, make it very clear to adolescents and enforce it consistently.</p> <p>Adolescents should be monitored at all times. Youth should not have opportunities to sexually abuse other youth.</p> <p>Supervise bathrooms, showers, free/gym time, dorm rooms, and other areas identified as likely sites of potential abuse.</p> <p>Caregivers working in teams eliminate the time caregivers spend with adolescents one-on-one.</p> <p>Encourage youth to develop</p>

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		<p>trust with a caregiver this relationship should be encouraged so that each adolescent has someone he or she can speak with and report to if being harassed, touched, or sexually abused.</p> <p>Teach Sexuality. Teaching and talking about sexuality with adolescents provides them information with which they can make well-informed, thoughtful decisions about their own behaviors.</p> <p>Have a policy that allows adolescents to make their own choice to masturbate in private.</p> <p>Teach caregivers that this behavior is healthy and permissible.</p>
Discussion	Why is understanding adolescent development and sexuality <u>essential</u> in responding to sexual assault of youth in custody?	<p>Discussion Pose question to trainees to facilitate a discussion.</p>
Summary	<p>Defined human sexuality</p> <p>Identified terms and concepts related to gender, gender identity, gender expression and sexual orientation</p> <p>Discussed features of healthy sexual development in adolescence</p>	<p>Evaluation: Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	Described how confinement creates unique challenges in supporting healthy sexual development of adolescents	

Module 6: The Impact of Culture—Agency and Youth

Time: 1 hour

Recommended Faculty:

Lead Trainer, PREA Coordinator or Monitor, or agency leadership (deputy commissioner etc.)

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Culture Assessment Survey
- Ethical Decision Making
- The Daily Dozen
- Culture and Change Management

PowerPoint® Programs:

Module 6: Impact of Culture—Agency and Youth

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Define agency culture</p> <p>Identify the components of culture</p> <p>Identify influences on agency culture</p> <p>Describe specific issues related to juvenile justice agencies</p> <p>Discuss the impact of culture on juvenile justice agencies</p> <p>Identify strategies for changing culture</p>	
	What is Culture?	<p>Discussion:</p> <p>Ask participants to give their definition of culture.</p> <p>Some definitions include:</p> <p>Culture refers to the cumulative deposit of knowledge, experience, beliefs, values, attitudes, meanings, hierarchies, religion, notions of time, roles, spatial relations, concepts of the universe, and material objects and possessions acquired by a group of people in the course of generations through individual and group striving.</p> <p>Culture is the systems of knowledge shared by a relatively large group of people.</p>

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		<p>A culture is a way of life of a group of people--the behaviors, beliefs, values, and symbols that they accept, generally without thinking about them, and that are passed along by communication and imitation from one generation to the next.</p> <p>Culture is symbolic communication. Some of its symbols include a group's skills, knowledge, attitudes, values, and motives. The meanings of the symbols are learned and deliberately perpetuated in a society through its institutions.</p> <p>Culture is a collective programming of the mind that distinguishes the members of one group or category of people from another.</p>
Webster's Definition of Culture	<p>The integrated pattern of human knowledge, belief, and behavior that depends upon the capacity for learning and transmitting knowledge to succeeding generations</p> <p>The customary beliefs, social forms, and material traits of a racial, religious, or social group</p> <p>The set of shared attitudes, values, goals, and practices that characterizes an institution or</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>organization</p> <p>The set of values, conventions, or social practices associated with a particular field, activity, or societal characteristic.</p>	
NIC's Definition of Culture	Shared assumptions, values, beliefs, attitudes, norms, and practices of an organization or group	
Culture	Agency culture is a combination of many different things that help create and explain your agency	
Foundation of Culture	<p>Culture is communication, communication is culture</p> <p>It all begins with communication and it can all end with communication</p>	<p>Discussion:</p> <p>Is this statement true? Yes or No</p> <p>Why is communication the foundation of culture?</p>
Cultural Continuum	<p>Culture is how you do business daily. Where do you fall on the continuum?</p> <ul style="list-style-type: none"> • Zero Tolerance • Profanity • Bad Language • Horseplay • Crude Jokes • Body Language • Profane Gestures • Bullying • Racial Slurs • Hostile Work Environment • Coercion • Sexual Harassment • Sexually Charged Environment • Retaliation 	<p>At its most basic conceptual foundation, zero tolerance forces us to look at our language at the beginning of the continuum. What are the effects of this type of language?</p> <p><u>Effects of Profanity</u></p> <ul style="list-style-type: none"> • Degrading • Lack of Respect • Demeaning • Intimidating • Coercive • Victimizing <p><u>How to Establish Zero Tolerance Culture</u></p> <ul style="list-style-type: none"> • Lay the foundation

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> • Intimidation • Inappropriate Relationships • Abuse and Neglect • Sexual Assault • Assault • Criminal Acts • Violence 	<ul style="list-style-type: none"> • Dignity for all persons • Respect for all person • Recognize differences • Embrace differences • Respect authority and the law • Display positive attitudes <p><u>Be Purposeful in our Actions</u></p> <ul style="list-style-type: none"> • Speak with respect • No profanity • Respect each other's space • No inappropriate touching • No inappropriate horseplay <p>Zero tolerance does not mean we accept 5% bad behavior or 1% bad behavior...we accept 0% bad behavior to give real meaning to a zero tolerance culture.</p>
	Why is Culture Important?	<p>Discussion:</p> <p>Pose this question to participants.</p> <p>Culture defines your organization....for better or worse.</p>
What Culture Does	<p>Culture tells people in an organization what will be expected of them and what they can expect of others</p> <p>People will learn when they know what the expectations are, but more often they learn culture by</p>	<p>Source:</p> <p><i>Culture and Change Management: Using APEX To Facilitate Organizational Change</i> by National Institute of Corrections</p> <p>Every organism, and every</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	watching others	<p><i>organization</i> of organisms, must deal with two fundamental issues to survive within its environment. The need for balance is the same for individuals and all of their organizations, whether formal or informal, public or private, temporary or permanent.</p> <p>First, an organization has to determine the value it will place on an internal focus to maintain its day-to-day processes as opposed to the value it will place on an external focus to monitor and respond to its environment.</p> <p>Second, an organization has to choose how much it will value stability and control to maintain its identity and structure as opposed to valuing flexibility and agility to adjust to changing demands. The choices an organization makes determine how well it will survive and thrive.</p> <p>The concept of “culture” has a complicated history. In the past it referred to the cultivation of an appreciation of the arts or the pattern of human knowledge that depends on symbolic thought and social learning.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>The definition used most recently in examining organizational culture is: the shared assumptions, values, beliefs, attitudes, norms, and practices of an organization or group. The problem is that usually people do not have any clearer notion of exactly what "assumptions," "values," or "beliefs" are than they do of what is a "culture."</p> <p>Instead of trying to define exactly what a culture is, it is easier to describe what a culture <i>does</i>: it tells people in an organization what will be expected of them and what they can expect of others. People will learn when they know what the expectations are, but more often they learn culture by watching others.</p> <p>When people have been initiated into a shared organizational culture, they take for granted a set of assumptions, values, beliefs, and attitudes. Edgar Schein, a pioneer in the study of organizational culture, describes culture as "A pattern of shared basic assumptions that was learned by a group as it solved its problems of external adaptation and internal integration, that has worked well enough to be</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		considered valid and, therefore, to be taught to new members as the correct way you perceive, think, and feel in relation to those problems" (Schein 2005: 17).
Schein's Three Levels of Organizational Culture	<p>The first level is what is seen in an organization</p> <p>The second level is what an organization says</p> <p>The third level deals with tacit assumptions in the organization</p>	<p>Source: Culture and Change Management: Using APEX To Facilitate Organizational Change by National Institute of Corrections</p> <p>The first level is what is seen in an organization</p> <ul style="list-style-type: none"> • Formal structure, chain of command, position titles, policies, procedures, public image <p>The second level is what an organization says</p> <ul style="list-style-type: none"> • Mission and values statements, codes of conduct, the name it calls itself. • <p>The third level deals with tacit assumptions in the organization.</p> <ul style="list-style-type: none"> • Harder to change this and requires in-depth analysis. <p>The first two levels are easier to change than the third level. Organizations often do a paper implementation by making changes such as renaming a</p>

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		<p>program, adopting a new mission and values statement, or rewriting policies or procedures.</p> <p>Mission and values statements are declarations of the <i>ideals</i> of an organization, not descriptions of the <i>realities</i> of daily behavior.</p> <p>An organization may have a value statement such as “We value open and honest communication throughout the agency” when the real value, as expressed in day-to-day behavior, may be closer to, “We value telling others only as much as we have to.”</p> <p>The majority of organizational change efforts fail because they are limited to the first two levels of organizational culture; they never reach beyond the ideals to confront the realities.</p> <p>Underlying these more visible layers is the third level: the deep assumptions that guide organizational culture and that can make or break any change effort.</p> <p>People immersed in a culture usually can only partly explain the unwritten rules or underlying assumptions.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>They just <i>know</i> what is right or wrong when they see it.</p> <p>Many of the basic assumptions are erroneous or unflattering. For example, the belief that the organization is at the mercy of outside forces and has little control over its own future may produce a deep cynicism that is seldom voiced.</p> <p>The effect of reduced budgets and cutbacks by external forces may lead staff to believe they have no control over the future operations of the organization.</p> <p>Other cultural assumptions may concern human nature, such as if people can be trusted to do the right thing without being closely supervised, if they will always resist change, or if they usually act selfishly rather than for the common good of the organization.</p> <p>Finally, organizations develop their own rhythm based on their view of how quickly things should happen and if they believe a can-do attitude is more important than slower, more deliberative decision making.</p> <p>Because of their</p>

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		<p>assumptions, organizational cultures often differ in the degree to which they want staff to respect authority or closely follow established procedures versus allowing staff more discretion and greater decision making power.</p> <p>Compared to other industries, correctional agencies also experience uniquely traumatic experiences such as riots, homicides, staff misconduct, and high-profile crimes. An organization's history, combined with its culture, has a powerful effect on how the people within that organization perceive and respond to the challenges represented by external or internal pressures.</p> <p>None of the differing assumptions, values, beliefs, or attitudes of a particular culture are necessarily wrong for that organization.</p> <p>Some thrive in a competitive culture based on self-interest while others survive in a culture based on a sense of duty and self-sacrifice. Which culture an organization adopts over time depends on the organization's purpose and whether its cultural framework helps achieve its</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		goals.
Components of Agency Culture	<p>Beliefs: Shared explanations of experience</p> <p>Examples:</p> <ul style="list-style-type: none"> Youth should be treated with respect and dignity Youth cannot be trusted and youth will always lie <p>Values: What is considered right and good</p> <p>Example:</p> <ul style="list-style-type: none"> If it's youth vs. staff, the decision supports the staff member If its youth vs. staff, err on the side of believing youth 	<p>Discussion:</p> <p>Ask participants for examples of beliefs and values in their organization—both good and bad.</p>
Components of Agency Culture	<p>Norms: Shared rules..."the way things are really done"</p> <p>Examples:</p> <ul style="list-style-type: none"> Don't volunteer for assignments. Don't use bad language. Don't turn in fellow employees that violate rules. <p>Norms are often MORE powerful than formal guidelines</p>	<p>Social norms are the behavioral expectations and cues within a society or group. This sociological term has been defined as "the rules that a group uses for appropriate and inappropriate values, beliefs, attitudes and behaviors.</p> <p>These rules may be explicit or implicit. Failure to follow the rules can result in severe punishments, including exclusion from the group. "They have also been described as the "customary rules of behavior that coordinate our interactions with others."</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>The social norms indicate the established and approved ways of doing things, of dress, of speech and of appearance. These vary and evolve not only through time but also vary from one age group to another and between social classes and social groups. What is deemed to be acceptable dress, speech or behavior in one social group may not be accepted in another.</p> <p>Deference to the social norms maintains one's acceptance and popularity within a particular group; ignoring the social norms risks one becoming unacceptable, unpopular or even an outcast from a group. Social norms tend to be tacitly established and maintained through body language and non-verbal communication between people in their normal social discourse.</p>
Components of Agency Culture	<p><u>Phantom Rules:</u> Rules that people create that they THINK are the real rules based on their own misunderstanding or past history - these rules have NOTHING to do with the actual rule</p> <p>Examples:</p> <ul style="list-style-type: none"> Agency will always believe the juvenile versus the detention officer 	<p>Discussion:</p> <p>How do you think Phantom Rules originate?</p> <p>Are all Phantom Rules bad?</p> <p>What are some examples of Phantom Rules in your organization?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> If you restrain a kid, you will be investigated Everyone wears blue on Fridays 	How can you determine what Phantom Rules exist in your organization?
Agency Culture Assumptions	<p>Assumptions guide organizational culture and can make or break any change effort</p> <p>Example:</p> <ul style="list-style-type: none"> Our organization is at the mercy of outside forces and has little control over its own future 	<p>Discussion: What are some assumptions in your agency?</p> <p>Sample responses:</p> <ul style="list-style-type: none"> Our organization is at the mercy of outside forces and has little control over its own future. Reduced budgets and cutbacks by external forces lead staff to believe they have no control over future operations of the organization. No matter what we do, they will close our facility anyway.
Influences on Culture	<p>History:</p> <ul style="list-style-type: none"> Critical events <p>Hiring process:</p> <ul style="list-style-type: none"> Qualities sought, backgrounds considered, questions asked, fairness of process, objectivity <p>Promotional process</p> <p>Leadership and agency ethics</p> <p>Public opinion</p>	<p>Critical events include any event that has a significant impact on the agency or organization and can be positive or negative.</p> <p>Discussion: Ask for examples of critical events that might influence culture:</p> <ul style="list-style-type: none"> Awards the organization wins for outstanding programs or services Positive recognition the

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>organization/agency receives (media, press, print)</p> <ul style="list-style-type: none"> Negative events: Scandals, criminal conduct by agency/organization staff or leaders, unflattering news stories, Department of Justice investigation <p>How might the hiring/promotional processes of an organization affect culture?</p>
Influences on Culture	<p>Staff-staff dynamics</p> <p>Staff-youth dynamics</p> <p>Youth-youth dynamics</p> <p>Agency policy and procedures</p> <p>Language</p> <p>Disciplinary process, sanctions, grievance procedures (consistency or lack thereof)</p>	<p>The culture of a facility or probation department is greatly shaped by the human dynamics in the facility or organization:</p> <p>How staff interact with each other.</p> <ul style="list-style-type: none"> How does staff speak to each other? How do staff relate to each other? Is staff loyal to each other or disloyal or two-faced? Do staff respect each other? Does staff gossip among each other? What is the body language between staff? Does staff touch each other, flirt with each other, seem attracted to each other? What is the professionalism level between staff?

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<ul style="list-style-type: none"> • How do staff interact with youth? • How does staff speak to youth? Is the tone, volume and inflection appropriate? What language do staff use (are cuss words used)? • Do staff respect the youth? • Do staff fear the youth? • Do staff trust the youth? • What is body language between staff and youth? • Do staff touch youth, flirt with youth, or seem attracted to youth?
Influences on Correctional Culture	<p>Juvenile justice agencies face uniquely traumatic experiences that have powerful effect on how people in the organization perceive and responds to challenges:</p> <ul style="list-style-type: none"> • Riots • Homicides • Suicides • Staff misconduct • Sexual assaults 	
Influences on Correctional Culture	<p>Organizational history impacts culture significantly</p> <ul style="list-style-type: none"> • High profile crimes/residents • Media coverage • Legislative scrutiny • Public/Advocates involvement and scrutiny • Department of Justice 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	involvement/litigation	
	Impact of Culture: Staff	
The Employee 'Code of Silence'	<p>What is the "Code of Silence"?</p> <ul style="list-style-type: none"> • A code of silence is when a person opts to withhold what is believed to be vital or important information voluntarily or involuntarily • A shroud of secrecy, agreement to keep quiet • The code of silence is usually either kept because of threat of force, or danger to oneself, or being branded as a traitor or an outcast within the unit or organization 	<p>The Code of Silence has been depicted in the movies as the experiences of the police whistleblower, Frank Serpico illustrates.</p> <p>Police are known to have well developed Blue Code of Silence. The code of silence was famously practiced in Irish-American neighborhoods in Boston, Massachusetts such as Charlestown, South Boston, and Somerville.</p> <p>A more famous example of the code of silence is <i>omerta</i> the Mafia code of silence.</p>
The Employee 'Code of Silence'	<p>How prevalent is the "Code of Silence" in our organizations today?</p> <p>National Institute of Ethics conducted survey of 3,714 police officers regarding "code of silence" 46% admitted to having witnessed misconduct by another employee but took no action</p>	<p><i>Truth about Police Code of Silence Revealed</i> By Neal Trautman, Ph.D., February 2001</p> <p>Between February, 1999 and June of 2000, the National Institute of Ethics asked 3,714 police officers and recruits from across the nation to provide insight about the most secretive element of any profession; direct participation in the code of silence. Confidential surveys were administered and interviews were conducted with eighty-one</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>different groups of officers and twenty-five separate basic academy classes from forty-two different states.</p> <p>The sampling was comprised of 2,657 fulltime officers. A total 1,116 of the 2,657 officers requested to participate, did so. This equates to a response rate of 42 percent.</p> <p>In response to the statement, "Please describe the first time you witnessed misconduct by another employee but took no action," 532 or 46 percent of the 1,116 who completed a survey stated they had witnessed misconduct by another employee, but took no action.</p> <p>http://www.ethicsinstitute.com/pdf/Code%20of%20Silence%20Facts%20Revealed.pdf</p> <p>Sources:</p> <ul style="list-style-type: none"> • http://www.ethicsinstitute.com/pdf/Code%20of%20Silence%20Facts%20Revealed.pdf • http://www.aele.org/loscode2000.html • http://www.corrections.com/news/article/29137-the-anatomy-of-the-code-of-silence • http://cpr.ca.gov/Review_Panel/Ethics_and_Culture.html • http://www.haddadandsherwin.com/articles/zero

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		-tolerance-code-of-silence.pdf
The Employee 'Code of Silence'	<p>Protection of self and co-workers and even management or supervisors</p> <p>Non-cooperation with management and investigators</p> <p>Staff will risk discipline and even termination rather than violate this powerful norm</p> <p>Culture imposes penalties on staff who break the code of silence</p>	<p>Discussion: What does the "Code of Silence" look like in our organizations?</p>
Red Flags	<p>What is a "red flag" and why is it important?</p> <ul style="list-style-type: none"> • A warning signal • Something that demands attention or provokes an irritated reaction • Red flags are actions, words, situations or settings that should warn a person that may be wrong 	<p>Discussion: Why are red flags important?</p> <ul style="list-style-type: none"> • Red flags let us know that something is not quite right...it's a feeling you get and frequently cannot put your finger on why it troubles you. <p>What do you do with "red flags"?</p> <ul style="list-style-type: none"> • Make a mental note...a red flag may not completely make sense when it happens but combined with another red flag may show you something is wrong. • Do not disregard red flags...if the red flag is clear, take action.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Red Flags: Staff Sexual Misconduct	<p>Over-identifying with any resident or their issues (i.e., blind to juvenile's actions)</p> <p>Resident knows personal information about staff</p> <p>Resident has letters or photos of staff</p> <p>Staff granting special requests or showing favoritism</p> <p>Resident in unauthorized area or repeatedly out of their assigned space</p>	<p>There are many "red flags" that MAY indicate staff sexual misconduct with youth. The presence of these factors may not be definitive proof of misconduct but should make the observer take note of the behavior/situation and watch closely from that point on.</p> <p>Example: DO Gray tells DO Jones that she understands why "Brandon" beat his step-father so badly. The step father was always belittling Brandon and never respected Brandon. DO Gray seems to know many of the details of Brandon's conduct and seems to take his side.</p> <p>If a resident knows personal information about staff members, a red flag should go up. How does the resident know this information? If staff have not been talking about their personal life (another issue), then the resident may have found out the information directly from the staff. This could indicate an inappropriate relationship.</p> <p>It should be a red flag if a resident has personal photos or items (jewelry, a book, card, notes, articles of clothing) from a staff member.</p>

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Red Flags: Staff Sexual Misconduct	<p>Staff spending an unexplainable amount of time with a resident</p> <p>Staff taking resident out of cell at unusual times</p> <p>Staff in personal crisis (divorce, ill health, bankruptcy, death in family)</p> <p>Overheard conversations between staff and resident which is sexualized in nature, or refers to the physical attributes of staff or resident</p>	<p>Discussion:</p> <p>Why is it a red flag if a staff member is having a personal crisis?</p>
Red Flags: Staff Sexual Misconduct	<p>Hygiene changes for staff (wearing makeup suddenly or dressing nicer)</p> <p>Contraband</p> <p>Creating opportunities to be alone</p> <p>Familiarity with youth</p> <p>Extra interest in unpopular kids</p> <p>Being only person who understands the juveniles, etc.</p>	<p>Hygiene changes may indicate a relationship is contemplated, desired or ongoing.</p> <p>Discussion:</p> <p>What are some ideas for discussing “red flags” with staff?</p> <p>When and how might these discussions be conducted?</p> <p>How often should you discuss “red flags” with staff?</p>
Red Flags: Staff Sexual Misconduct	<p>Sexual Victimization in Juvenile Facilities Reported by Youth, 2012 (BJS):</p> <ul style="list-style-type: none"> Among youth who reported being abused by staff, roughly half (49.2 percent) said that the abusive staff member gave them pictures or wrote them 	<p>BJS released a new report entitled <i>Sexual Victimization in Juvenile Facilities Reported by Youth, 2012</i>. Released June 6, 2013</p>

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	<p>letters;</p> <ul style="list-style-type: none"> Almost a third (29.8) said that staff contacted them from outside the facility. <p>More than two-thirds (69.1 percent) said that staff told them about their personal lives.</p>	
Challenges for Leadership	<p>Discover the root of the problem</p> <p>Can be a symptom of the culture</p> <p>Addressing the problem in a systematic way is about cultural change</p> <p>Cultural change is the challenge for leadership</p> <ul style="list-style-type: none"> Must shift deeply ignored norms and attitudes Ideology and attitude lies in key positions 	<p>Discussion:</p> <p>Can Leadership be part of the problem? If yes, how so?</p>
	Impact of Culture: Youth	
Youth Culture	<p>‘Normal’ teen behavior</p> <ul style="list-style-type: none"> Impulsiveness, raging hormones, short-sighted, LGBTI populations, adolescent brain not fully developed <p>Typical youth profile in the juvenile justice system</p> <ul style="list-style-type: none"> History of abuse and neglect, mental illness, behind academically/ special education <p>Questionable staff ethics</p> <ul style="list-style-type: none"> Sexual joking and 	<p>Discussion:</p> <p>How do these three things combine to produce a “toxic” recipe that results in youth on youth sexual assault?</p>

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	<p>innuendos, tolerance, complacency</p> <p>This can be a <i>boiling pot</i> when youth are in confinement.</p>	
Red Flags of Victim: Youth on Youth Sexual Abuse	<p>Refusal to shower, eat or be in certain less supervised areas</p> <p>Self-abuse or suicidal behaviors</p> <p>Withdrawing or isolating themselves</p> <p>Increased medical complaints and attention seeking</p> <p>Uncharacteristic acting out in an effort to stay in segregation or facilitate transfer</p>	
Red Flags of Victim: Youth on Youth Sexual Abuse	<p>Letters between youth</p> <p>Graffiti</p> <p>Bedwetting</p> <p>Kids exchanging food</p> <ul style="list-style-type: none"> • sharing food ...using food for favors • giving away commissary items <p>Will not shower with others; afraid to shower</p> <p>Drama, fighting</p> <p>Homicidal threats</p>	
Red Flags of Perpetrator:	Verbal harassment	

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Youth on Youth Sexual Abuse	<p>Grooming of potential victims</p> <p>Blatant sexual harassment</p> <p>Prior history of sexual abuse</p> <p>Past victimization</p> <p>Difficulty controlling anger</p> <p>Poor coping skills / strategies</p> <p>Voyeuristic / exhibitionistic behavior</p>	
	Changing Culture	
Truism	<p><i>"You don't change cultures by trying to change cultures"</i></p> <p>Cultures are learned based on what works</p> <p>To change culture, leaders have to show that something else works better</p>	<p>Source: Culture and Change Management: Using APEX To Facilitate Organizational Change by National Institute of Corrections</p>
It's Your Choice	<p>Your presentation of PREA will make or break your implementation, attitude and culture:</p> <ul style="list-style-type: none"> • Option 1: PREA is a federal mandate that is being forced on correctional agencies • Option 2: PREA is the way we do business and it helps us ensure the safety and security of all youth and staff 	<p>The implementation of PREA is causing many organizations to take an honest look at their culture and attempt to change the culture.</p> <p>PREA can be an effective tool to help change culture because PREA can help achieve the agency goals of safety and security for youth and staff.</p>

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Changing Culture	<p>3 Steps to Culture Change</p> <ul style="list-style-type: none"> • Understand the current culture (the way things are now) • Decide what the organizational culture should look like to support success • The individuals in the organization must decide to change their behavior to create the desired culture 	<p>There are three major steps involved in changing an organization's culture.</p> <p>Before an organization can change its culture, it must first understand the current culture, or the way things are now.</p> <p>Once you understand your current organizational culture, your organization must then, and decide what the organizational culture should look like to support success. What vision does the organization have for its future and how must the culture change to support the accomplishment of that vision?</p> <p>Finally, the individuals in the organization must decide to change their behavior to create the desired organizational culture. This is the hardest step in culture change.</p> <p>Source: <i>How to Change Your Culture: Organizational Culture Change</i> By Susan M. Healthfield About.com Guide (Human Resources)</p>
Strategies for Changing Culture	<p>Involve all key entities:</p> <ul style="list-style-type: none"> • Line Staff, mid management, management • Governing boards/CJPO/CEO • External stakeholders 	<p>Culture within an agency/organization/facility will never change unless management supports a culture change beginning at</p>

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	<ul style="list-style-type: none"> ○ law enforcement, prosecutors • Ideas: Safety and Security Taskforce 	<p>the TOP.</p> <p>Management must support and MODEL the culture to be created on a daily basis.</p> <p>Management includes more than just the Facility</p> <p>Administrator and includes:</p> <ul style="list-style-type: none"> • Chief juvenile probation officer • Juvenile Board members • District or County Attorney • Law Enforcement <p>Discussion: Why are all the above persons/entities relevant and essential for culture change?</p> <p>What will happen if a facility wants to change the culture but gets no support from local officials?</p>
Strategies for Changing Culture	<p>A top-down approach is essential to success of culture change</p> <p>Before you change...assess your current culture</p> <p>Create a culture and community of accountability</p> <p>Model the behavior</p>	
Strategies for Changing Culture	Leadership matters	

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	<p><i>"Sexual abuse is not an inevitable feature of incarceration. Leadership matters because corrections administrators can create a culture within facilities that promotes safety instead of one that tolerates abuse."</i></p> <p>- NPREC Report (2009)</p>	
Strategies for Changing Culture	<p>Envision the big picture</p> <ul style="list-style-type: none"> • Define your agency/organization mission, vision and values • How do all the pieces fit together to form an appropriate and effective culture? <p>Change the organizational culture</p> <ul style="list-style-type: none"> • Executive Support • Training 	
Strategies for Changing Culture	<p>Create value and belief statements</p> <ul style="list-style-type: none"> • PREA Standard 115.311 (zero tolerance) • Keep it simple-- employees should be able to explain it <p>Practice effective communication</p> <p>Review organizational structure</p>	
Strategies for Changing Culture	<p>Redesign your approach to rewards and recognition</p> <p>Review all work systems</p> <p>Conduct cultural survey in your organization to set benchmark</p>	
Strategies for Changing	Juvenile justice experts need to meet with local officials	Ideas: PREA Steering Committee

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Culture	<ul style="list-style-type: none"> juvenile board, law enforcement, prosecutors, DPS troopers, etc. <p>Train your local officials on your new culture of juvenile corrections</p> <p>Impress upon local officials your new culture</p> <p>Involvement of key stakeholders is essential to a successful culture change</p>	
Strategies for Changing Culture	<p>Idea: Change terminology to change culture. Instead of "Correctional officer" consider:</p> <ul style="list-style-type: none"> Youth Leader Child Care Worker Juvenile Justice Specialist Youth Care Officer Residential Youth Care Officer 	
Strategies for Changing Staff Culture	<p>Conduct appropriate screening during hiring process</p> <ul style="list-style-type: none"> PREA Standard 115.317 (Hiring and Promotion) <p>Define boundaries for employees through policies that are clear, concise and definitive about what is acceptable and unacceptable</p> <ul style="list-style-type: none"> PREA Standard 115.331 (Employee Training) 	
Strategies for Changing Staff Culture	<p>Provide employees appropriate tools for self-assessment, to help them learn when they might be crossing boundaries</p> <p>Provide employees with access to</p>	

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	<p>advice and assistance when they have concerns and questions about boundaries</p> <ul style="list-style-type: none"> A safe environment for the discussion of concerns and questions without fear of embarrassment or retaliation 	
Strategies for Changing Staff Culture	<p>The PREA Report states:</p> <ul style="list-style-type: none"> Exemplary staffing practices are needed to change culture. Leaders need the right staff to create a genuine culture of zero tolerance. Rigorous vetting is crucial; so are supporting and promoting staff that demonstrate commitment to preventing sexual abuse. <p>Key PREA Standard: §115.317 (Hiring and Promotion)</p>	<p>Activity: Have participants take out an index card and write down one thing they can do to change staff culture and one thing they can do to change youth culture in their facility or agency</p> <p>Pass it to the instructor.</p> <p>Read a few during the summary slide of the presentation</p>
Strategies for Changing the Staff "Code of Silence"	<p>Create a culture where officers place loyalty to INTEGRITY and ETHICS above loyalty to other staff</p> <p>Place honor above loyalty to other staff members/ friends/ peers</p> <p>Behavior must be modeled from all levels of management on down to line staff</p> <p>Regular training on ethics is critical</p>	<p><i>The Code Of Silence Antidote If Successful, Systemic Corruption Will Seldom Occur</i></p> <p>Neal E. Trautman, Ph.D. (selected excerpts from article) www.ethicsinstitute.com</p> <p>The mission statement is that officers will come to place loyalty to integrity above loyalty to other Officers.</p> <p>The development of loyalty and the code of silence</p>

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		<p>among officers is a totally natural phenomenon among people who spend significant time together. Just as a powerful bond of loyalty grows among family members, close friendships, military buddies and sports teammates, and the loyalty of officers toward each other is an expected and predictable occurrence.</p> <p>If the culture of an agency causes officers/staff to feel that their honor is more important than being loyal to another officer committing misconduct, then they will come forward to tell authorities, not look the other way.</p> <p><i>The Code of Silence Antidote (COSA) is intended to literally mold cultures to the point that officers reporting the significant transgressions of fellow workers will be the norm, rather than the exception.</i></p>
Strategies for Changing Staff Culture	<p>Make it clear that you take the issue of sexual abuse of youth seriously</p> <p>Develop a firm zero tolerance policy: Zero tolerance must mean zero tolerance!</p> <ul style="list-style-type: none"> • PREA Standard §115.311 <p>Consequence: Something has to happen to someone</p>	

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Strategies for Changing Staff Culture	<p>Model the behavior daily</p> <ul style="list-style-type: none"> • Insist that all managers and supervisors do the same • The culture will not tolerate hypocrisy • Consequences must be fair and consistent <p>Train, train, train on expectations and requirements</p> <ul style="list-style-type: none"> • PREA Standards 115.331-115.335 • Requirements of the law, liability of management and staff, criminal consequences, professionalism and ethics, adolescent development 	
Strategies for Changing Staff Culture	<p>Support first line supervisors in their efforts to supervise employees, and recognize red flags.</p> <ul style="list-style-type: none"> • PREA Standard 115.331 <p>Ensure that there are open dialogues specific to the issue</p> <ul style="list-style-type: none"> • Regular employee meetings • Regular discussions and sharing of information and concerns 	<p>Idea: Declare amnesty and talk honestly to your employees about the policies and procedure. Get them to tell you what they really do.</p> <p>Discussion: How do you think this might work in your facility/ organization?</p>
Strategies for Changing Youth Culture	<p>Change the environment</p> <ul style="list-style-type: none"> • PREA Standards: Planning, Reporting, Training, Investigations, Screening • Create an environment in the facility where youth feel safe reporting sexual abuse and are confident their allegations will be 	<p>Discussion: What are other ways we can change the youth culture in a facility?</p> <p>Ideas:</p> <ul style="list-style-type: none"> • Peer mentors • Fully functioning grievance process in which the youth have

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	<p>investigated</p> <p>Orient and educate youth</p> <ul style="list-style-type: none"> • PREA Standard 115.333 • Teach youth about boundaries, being safe and how to report abuse <p>Empower youth</p> <ul style="list-style-type: none"> • Allow youth to have responsibilities; peer mentors 	<p>trust</p> <ul style="list-style-type: none"> • Educate staff on adolescent development so they can help youth with sensitive issues • Effective classification of offenders • Protection of victims without overuse of segregation
Things to Consider in Changing Culture	<p>Culture change (i.e., behavior change) must start at the top:</p> <ul style="list-style-type: none"> • Real discussions of the difficult topics • If top management is uncomfortable with PREA and the topics there in, all other staff will model that behavior • If top management cannot talk about sex comfortably, that discomfort will be felt by entire agency <p>Culture change must be <u>modeled</u> by key staff:</p> <ul style="list-style-type: none"> • Trainers, Medical/MH Staff • If trainers and other key staff are uncomfortable with sensitive PREA topics, they will not train effectively 	<p>Our attitudes toward PREA will impact agency culture greatly...either positively or negatively. Make sure all key staff and top management are on the same page.</p>
Things to Consider in Changing Culture	<p>Behavior can be changed with policies and procedures.</p> <ul style="list-style-type: none"> • Hearts, minds and attitudes may not change <p>Compliance is necessary but frequently not sufficient to change</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>attitudes</p> <p>Hearing stories and finding a way to personally relate to individuals or groups changes hearts and minds and attitudes</p>	
A Simple PREA Culture Plan	<p>Determine your mission or goals of agency:</p> <ul style="list-style-type: none"> • Safety and security for all <ul style="list-style-type: none"> ○ Includes youth, staff and the public. ○ Includes safety from all areas...sexual safety, emotional safety, physical safety generally. <p>Determine what you value as agency:</p> <ul style="list-style-type: none"> • Dignity and respect for all <ul style="list-style-type: none"> ○ Includes youth, staff and the public. ○ Includes all genders, sexual orientations, disabilities, etc. 	<p>Changing culture can be overwhelming and intimidating and many agencies start strong but finish weak and end in failure. Keep your approach simple and easy to understand. Stick with the basics, be consistent, reinforce regularly and monitor expectations to outcomes.</p>
A Simple PREA Culture Plan	<p>Determine your tools/vehicle:</p> <ul style="list-style-type: none"> • PREA Standards • Best Practices in correctional settings <p>Communicate, Implement, Inspect...Repeat</p>	<p>Changing culture can be overwhelming and intimidating and many agencies start strong but finish weak and end in failure. Keep your approach simple and easy to understand. Stick with the basics, be consistent, reinforce regularly and monitor expectations to outcomes.</p>
Resources on Culture Change	Five Dysfunctions of a Team Patrick Lencioni	There are unlimited reference resources

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and Transformation	<p><i>Leading Change</i> John Kotter</p> <p><i>Our Iceberg is Melting</i> John Kotter</p> <p><i>Business at the Speed of Now</i> John M. Bernard</p> <p><i>Managing Transitions: Making the Most of Change</i> William Bridges</p>	regarding culture change and transforming organizations. The sheer amount of material can be overwhelming. Pick a couple of good sources and work through them. Talk to colleagues about what they have done and what has worked.
Summary	<p>Defined agency culture</p> <p>Identified the components of culture</p> <p>Identified influences on agency culture</p> <p>Described specific issues related to juvenile justice agencies</p> <p>Discussed the impact of culture on juvenile justice agencies</p> <p>Identified strategies for changing culture</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 7: Gender and Victimization

Time: 45 minutes

Recommended Faculty:

PREA Coordinator or Monitor, social worker or mental health clinician or community crisis advocate

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- The Neurobiology of Sexual Assault

PowerPoint® Programs:

Module 7: Gender and Victimization

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Identify gender-influenced socialization, communication styles and behaviors of boys, girls and gender non-conforming youth</p> <p>Discuss past abuse histories and implications for institutional victimization</p> <p>Discuss vulnerable victims and implications</p> <p>Identify staff characteristics and behavior that contribute to victimization</p>	
	<p>Gender-influenced Socialization, Communication Styles, and Behaviors</p>	<p>Discussion:</p> <p>Have participants identify common styles and behaviors of opposite genders.</p> <p>What are some behaviors are more attributable to certain genders?</p> <p>How does this impact how staff and youth interact?</p>
Boys	<p>Guard inner feelings</p> <p>Emphasis on suppression of emotions considered weak</p> <p>Identity based on defining self with focus on independence, self-sufficiency, autonomy</p> <p>Reluctant to ask for help</p> <p>Non-verbal</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Focus on strategy</p> <p>More able to express anger; less able to express fear, anxiety, sadness</p>	
Girls	<p>Emotionally expressive, even if emotions are displaced or reactive</p> <p>Identity based on defining self in relation to others; survival in inter-dependence</p> <p>Emphasis on connection</p> <p>More likely to ask for help</p> <p>Often verbal; attempt resolution thru speech</p> <p>More able to express feelings, weaknesses, vulnerability, confusion</p>	
	Past Victimization Histories: Implications for Institutional Victimization	
Abuse Histories: Boys	<p>History of abuse by parents or guardians</p> <p>Involvement in subsequent childhood or adolescent aggression and delinquency</p> <p>Connection between sexual/ physical victimization and aggressive and self-destructive behavior</p> <p>Report past abuse associated</p>	<p>Good illustrations of this very thing are found in popular media– Chris Brown, Tyler Perry and Lil’ Wayne have come out and discussed past abuse as well as early sexualization with older females.</p> <p>Boys often report past abuse associated with violent crime-- meaning the commission of the abuse was in addition to</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>with violent crime</p> <p>May not recognize sexual abuse by female as 'abusive'</p>	<p>another violent crime such as ongoing and long-term physical abuse.</p> <p>We do not have good data on prevalence of abuse of boys by women.</p> <p>What we do know from BJS study is that it occurs frequently in juvenile settings.</p>
Abuse Histories: Boys	<p>Defend against feelings associated with victimization (shame, stigma)</p> <p>Victimization experience falls outside gender role of being strong and in control</p> <p>May have fears about sexual identity and preference</p> <p>Feel the best defense, is a good offense</p> <p>May imitate their aggressors</p>	
Implications: Boys	<p>Feel shame and denial</p> <p>Felt (or were) unheard and unrecognized as abuse victims</p> <p>Guard feelings to mask vulnerability</p> <p>Are acutely aware of 'code' and their ranking inside</p> <p>Fear that if they come forward they will be seen as homosexual (if male</p>	<p>Discussion:</p> <p>What impact do you think sexual abuse has on boys?</p> <p>What do people say about the abuse?</p> <p>How do they view the abusing woman?</p> <p>Are there services for boys?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>perpetrator)</p> <p>Struggle with ideas of masculinity</p>	
Abuse Histories: Girls	<p>History of abuse by parents/guardians; other family; friends of family</p> <p>Involvement in subsequent childhood or adolescent delinquency and substance abuse</p> <p>Often have prior history of abuse in custodial or inpatient settings</p> <p>Abuse begins in childhood; continues into adulthood with intimate partners and strangers</p>	
Abuse Histories: Girls	<p>Sexual molestation increases risk for delinquency, addiction, and early offending</p> <p>Report violent crime associated with abusive associates, male partners</p> <p>May imitate their aggressors</p> <p>At risk for unhealthy relationships with authority figures, based on perceptions of their power to harm <u>or</u> to help</p>	<p>Discussion:</p> <p>What is the impact of sexual aggression between girls in custody?</p> <p>Could this behavior be going on in community as well?</p> <p>Are there services or interventions for girl on girl abuse?</p>
Implications: Girls	<p>Difficulty adjusting to coercive, invasive, restrictive environments</p> <p>Lack of right to privacy, room</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>searches, bodily searches may replicate past abuse</p> <p>Constant triggers</p> <p>Vulnerable to abusive authority figures</p> <p>Concern with how reporting may interrupt relationships (including calls and visits)</p>	
Implications: Girls	<p>Faced with sexual assault situations</p> <ul style="list-style-type: none"> • May not understand it is <u>possible</u> to refuse • May lack perception of a 'right' to refuse • May believe it is always dangerous to refuse <p>Realistic appraisal of</p> <ul style="list-style-type: none"> • Retaliation by perpetrator or their friends for non-compliance (especially with staff) • Lack of safe, non-stigmatizing response options 	
Previously Victimized Individuals	<p>Often have:</p> <ul style="list-style-type: none"> • A history of <u>early</u> victimization - family, neighborhood, school • Exposure to aggression, dominance, and control • Distorted view of self and relationships • Merged concepts of love and aggression 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Previously Victimized Individuals	<ul style="list-style-type: none"> • Deep mistrust and sense of danger • Emotional (and for women, physical) pain • Post-trauma effects -- depression, anxiety, anger, substance abuse/addiction • Post-traumatic Stress Disorder (PTSD) • Past histories of institutional abuse • Ingrained emphasis on keeping secrets 	
Mapping: The Neurobiology of Trauma	<p>Bodily/body cavity searches</p> <p>Observed, enforced nudity</p> <p>Must obey orders; right to escalate penalties</p> <p>Personal effects, living space searches</p> <p>24-hour vulnerability & lack of privacy</p> <p>Restraint, seclusion, confinement</p> <p>Control of contact with family</p> <p>Use of force, command voice, threats</p>	
Potential Victim Responses to Sexual Victimization	<p>Comply, repeat victimization</p> <p>Pretend it never happened</p> <p>Seek other affiliations for protection</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> other staff; gangs; protective pairing <p>Withdraw from activities, associations</p> <p>Take control by deciding sexual activity is/was wanted</p> <ul style="list-style-type: none"> Can't be forced if... 	
Potential Victim Responses to Sexual Victimization	<p>Commit violation to pull move <u>to</u> segregated housing</p> <p>Refuse to report to <u>avoid</u> segregated housing</p> <p>Seek help [but where?]</p> <p>Take anger out on others</p> <p>Self-harm, suicide ideation/ attempts</p>	<p><u>Discussion:</u></p> <p>What is the impact of segregation or protective custody on youth?</p> <p>Sample answer: Can increase the likelihood of mental health issues and sometimes self-harm.</p>
Contributors to Repeat Victimization	<p>Repeated sex with perpetrator(s) facilitated by:</p> <ul style="list-style-type: none"> Danger of retaliation for refusal, reporting Responses to sexual assault/rape = numbing, PTSD, fatalism, depression Perception of no safe remedies within the facility Fear of being put in protective housing, of getting victim status inside, so don't report Facility non-identification or non-response 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Implications	<p>Psychological effects</p> <p>HIV/STD infections</p> <p>Physical injury</p> <p>Pregnancy</p> <p>Control issues– victims and general population</p> <p>Suicide or attempts</p> <p>Self-harm</p> <p>Staff responsibilities</p> <p>Ethical issues</p> <p>Reporting- medical and mental health care professionals</p>	
Preparation Before You Need It!	<p>Identify who the vulnerable victims are</p> <p>Discuss how vulnerable victims can impact the investigative process</p> <p>Identify tools which will allow you to best support these victims during the investigative process</p> <p>Identify resources that will be helpful to you in managing vulnerable victims; build links to these resources</p>	
Especially Vulnerable Youth	<p>Previously victimized</p> <p>Limited language ability</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Developmentally disabled</p> <p>Mentally ill</p> <p>Hearing Impaired</p> <p>Untreated Addicts</p> <p>Gender non-conforming (LGBTI)</p> <p>Very young youth</p>	
Developmentally Disabled	<p>Want to please people in authority</p> <p>Rely on authority figures for solution</p> <p>Watch for clues from interviewer; wants to be friends; wants to please</p> <p>Real memory gaps</p> <p>Short attention span</p>	
Developmentally Disabled	<p>Quick to take blame</p> <p>Allow person to use their own words</p> <p>Do not ask leading questions Use concrete ideas (who, what, when, where, how)</p> <p>Be respectful, let them take their time</p>	
Deaf/Hearing Impaired	Use certified sign language interpreter (s) (ADA)	HEARD is excellent resource on issues for DEAF in custody.

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	<p>appropriate to setting</p> <p>Consider videotaping (if not re-traumatizing)</p> <p>Do not use staff if not certified</p> <p>Ask the interpreter if they are comfortable with the subject matter. If not, make other arrangements</p>	<p>http://www.behearddc.org/</p>
Youth with Mental Illness	<p>Construct an environment where the victim is most likely to feel safe</p> <p>Remember that those charged with keeping the victim safe were unable to</p> <p>Have pre-interview safety planning</p> <p>Be prepared to let the victim walk/pace during the interview if safe</p> <p>Keep the interview short</p> <p>Time the interview in terms of the victim's medications and sleep patterns</p>	
Recent/Untreated Drug Users	<p>Estimate time since last ingestion of substance(s)</p> <p>Know medical history and current medications</p> <p>Expect heightened sense of generalized fear, of defensiveness</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	Expect lack of trust	
Recent/Untreated Drug Users	<p>Expect history of severe prior victimization</p> <p>Be prepared for attention span/organization problems</p> <p>Understand that emotional reaction may not be what you expect for the story (lack of match)</p> <p>Utilize your resources for addiction prevention and recovery programs (certified)</p>	
Gender Non-Conforming Youth	<p>Only ask questions that are absolutely necessary regarding gender</p> <p>Use identifiers the <u>interviewee</u> prefers</p> <ul style="list-style-type: none"> Remember, gender identity is a persons' sense of their own gender, communicated to other's by their gender expression 	
Gender Non-Conforming Youth	<p>Use gender neutral language (e.g., "partner" instead of girlfriend or boyfriend)</p> <p>Utilize support groups, advocates, mental health services, as resources</p> <p>Have an accurate and current base of information for making effective referrals and obtaining</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	critical knowledge	
Very Young Youth	<p>Be aware of their perception of the interviewer – an adult, in authority</p> <p>Know that peer relationships are their first priority</p> <p>Remember that notions of sexuality depend on age and socialization; youth views of sex and use of terms may be different from an adult's</p>	
Very Young Youth	<p>Watch for non-verbal communication.</p> <ul style="list-style-type: none"> Know that inability to communicate does not equal untruth <p>Be aware of prior victimization histories</p> <p>Utilize advocates, outside resources, therapists, etc.</p>	
	Staff Characteristics that May Contribute to Victimization	Discussion: What staff characteristics may contribute to victimization of youth?
Staff Characteristics	<p>Stress from daily heavy emotional demands on staff</p> <p>Burnout due to</p> <ul style="list-style-type: none"> low morale, lack of respect, low pay, managing difficult and demanding youth, understaffing, overtime, shift work, overcrowding, 	<p>Source: US Department of Justice <i>Addressing Correctional Officer Stress: Programs and Strategies</i> By Peter Finn</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>disillusionment</p> <p>Highly unfulfilling private life; substance abuse</p> <p>Lack of normal support networks</p>	
Staff Characteristics	<p>Role ambiguities:</p> <ul style="list-style-type: none"> counseling and treatment responsibilities vs. surveillance and control <p>Inadequate preparation for supervising youth and understanding their complexity</p> <p>Prior abuse histories</p>	
Staff Characteristics	<p>Inadequate supervision</p> <p>Familiarity/over-identification with youth</p> <p>Problems in personal life contributing to onset</p>	
Summary	<p>Gender plays important part in risk and response to victimization in institutional settings</p> <p>Past victimization and special issues can affect abuse and investigations into abuse</p> <p>Agency policies, procedures and practices can increase or decrease impact of victimization</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 8: State Criminal Laws

Time: 1 hour

Recommended Faculty:

Prosecuting Attorney or General Counsel

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- 50 State Surveys of State Criminal Laws on: Staff Sexual Misconduct, Sex Offender Registration, Vulnerable Persons, Mandatory Reporting, Sexual Abuse, Child Exploitation and Malfeasance in Office
- Legal Responses to Sexual Violence in Custody: State Criminal Laws Prohibiting the Sexual Abuse of Individuals under Custodial Supervision
- Legal Responses to Sexual Violence in Custody: Sex Offender Registration Statutes: Impact on Addressing Sexual Abuse in Custodial Settings
- Legal Responses to Sexual Violence in Custody: Using Existing State Mandatory Reporting Statutes to Improve Disclosure of Sexual Violence in Correctional Settings

PowerPoint® Programs:

Module 8: State Criminal Laws

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Review state criminal laws regarding sexual abuse of youth under custodial supervision.</p> <p>Describe how laws are interpreted and applied based on gender or sexual orientation/gender identity.</p>	
State Laws	<p>Sexual assault laws (including sodomy)</p> <ul style="list-style-type: none"> • Child exploitation • Staff sexual misconduct laws • Sex offender registration • Mandatory reporting 	
Sexual Assault	<p>Historically aimed at protecting only women; men were not contemplated as victims of sexual assault</p> <p>Past</p> <ul style="list-style-type: none"> • Penetration requirement • Women had to “fight back” in order to prove assault <p>Now</p> <ul style="list-style-type: none"> • Lack of consent is element of crime <p>Complainant credibility is still an issue</p>	<p>In some jurisdictions, laws still include the penetration requirement.</p> <p>Lack of consent is still an element of the crime of sexual assault</p> <p>That lack of consent can be inferred by the age of the complainant or the mental capacity of the complainant as we will see later.</p>
Sexual Assault Law: Maine	<p>Gross Sexual Assault Me. Rev. Stat. Ann. tit. 17-A, § 253 (West 2013).</p> <p>A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:</p>	<p>Make sure to use examples of criminal laws in the states that are represented in your training. These are just sample laws.</p> <p>To look up different state laws you can use the resources located at: http://www.wcl.american.edu/e</p>

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	<p>The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E. Violation of this paragraph is a Class A crime;</p> <p>The other person, not the actor's spouse, has not in fact attained the age of 14 years. Violation of this paragraph is a Class A crime; or</p> <p>The other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.</p>	<p>ndsilence.com/statesurveys.cfm</p> <p>Note: these materials are only current as of the date referenced. You should always check to see if there are any updates.</p> <p>We are going to look at several state laws to flesh out the role of state laws in addressing sexual assault in custody.</p> <p>Notice how the statute identifies under 12 as the cutoff for gross sexual assault</p>
Sexual Assault Law: Maine	<p>Me. Rev. Stat. Ann. tit. 17-A, § 251 (West 2013): Sexual Act</p> <p>(1) Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other;</p> <p>(2) Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or</p> <p>(3) Any act involving direct physical contact between the genitals or anus of one and an instrument or</p>	<p>Note that this statute includes bestiality – sex with animals.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.	
Sexual Assault Law: Indiana	<p>Ind. Code Ann § 35-42-4-1 (West 2013): Rape</p> <p>Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when:</p> <ul style="list-style-type: none"> (1) the other person is compelled by force or imminent threat of force; (2) the other person is unaware that the sexual intercourse is occurring; or, (3) the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given; commits rape, a Class B felony. 	<p>Turning to Indiana's law what do you notice? What is a major difference between this law and Maine's law?</p> <p>Note the requirement that the sex be between members of the opposite sex. Maine's law is gender neutral and could therefore encompass same sex sexual interactions.</p> <p>Indiana's law also introduces that a complainant could be unaware of the sexual intercourse?</p> <p>In what circumstances could that occur?</p> <p>[intoxication or medical condition like coma]</p>
Sodomy	<p>Prohibits certain sexual practices, traditionally aimed at same-sex sexual acts</p> <p>Still have these laws on the books:</p> <ul style="list-style-type: none"> • Many states do not define oral and anal sex as intercourse • Many states do not define same sex/sex as intercourse – even if it involves penetration 	<p>Sodomy laws are aimed at sexual acts between individuals of the same gender.</p>
Sodomy Law: Maryland	Md. Code. Ann. Crim. Law. § 3-321 (West 2013): Sodomy	Some states still have sodomy laws on the books.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	A person who is convicted of sodomy is guilty of a felony and is subject to imprisonment not exceeding 10 years	<p>Maryland is a good example.</p> <p>This is an old case from the 1800s involving sodomy.</p> <p><i>Davis v. State</i>, 3 H. & J. 154, 1810 WL 178, Md., December Term 1810</p> <p>This was the old view regarding sodomy. "The crime of sodomy is too well known to be misunderstood, and too disgusting to be defined farther than by merely naming it."</p> <p>Why would it be helpful to describe the prohibited acts?</p> <p>Prosecution under sodomy statutes is not as common anymore after <i>Lawrence v. Texas</i>, the S.Ct. case overturning sodomy convictions for sex between consenting adults.</p> <p>The above statute is still on the books in Maryland. Often these statutes remain on the books in other states but are not enforced.</p>
Sodomy Law: Alabama	<p>ALA. CODE § 13A-6-63 (West 2013) Sodomy in the first degree</p> <p>(a) A person commits the crime of sodomy in the first degree if:</p> <p>(1) He engages in deviate sexual intercourse with another person by forcible compulsion; or</p>	<p>This type of statute is more common now, BUT still really aimed at sex between individuals of same gender.</p> <p>After <i>Lawrence v Texas</i>, laws cannot just outlaw consensual sex between same sex consenting adults.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or</p> <p>(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.</p>	<p>This type of sexual conduct would not be picked up under Alabama's rape law, but would be covered under the sodomy law instead</p> <p>Deviate sexual intercourse is defined as: Any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.</p> <p>Note the age difference required is 4 years.</p>
Child Exploitation/ Statutory Rape	<p>Traditionally these laws were meant to protect only female youth</p> <p><i>Michael M. v. Superior Court of Sonoma County</i>, 450 U.S. 464 (1981)</p> <p>Seventeen year old boy raped a sixteen year old girl and was prosecuted under CA statute:</p> <ul style="list-style-type: none"> <i>"an act of sexual intercourse accomplished with a female not the wife of the perpetrator, where the female is under the age of 18 years."</i> 	<p>Another group of laws that may be tools to address sexual abuse in custody are child exploitation or statutory rape. Depending on statutory language, these statutes will cover abuse of youthful inmates in adult facilities.</p>
Child Exploitation/ Statutory Rape	<p>Michael sued under equal protection, claiming only men could be held criminally liable.</p> <p>Supreme Court upheld the law, citing CA's interest in preventing pregnancies</p> <ul style="list-style-type: none"> "We are satisfied not only that the prevention of illegitimate pregnancy is at 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	least one of the “purposes” of the statute, but also that the State has a strong interest in preventing such pregnancy.”	
Child Exploitation Law: California	<p>Cal. Penal Code § 261.5 (West 2013): Unlawful sexual intercourse with person under 18; age of perpetrator; civil penalties</p> <p>(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a “minor” is a person under the age of 18 years and an “adult” is a person who is at least 18 years of age.</p>	<p>After <i>Michael M</i>, laws are drafted to be gender neutral.</p> <p>This is CA’s law.</p> <p>Note that it is gender neutral</p>
Child Exploitation/ Statutory Rape	<p>After passage of Adam Walsh Act, child exploitation encompasses more than intercourse.</p> <p>Generally covers non-physical misconduct as well as physical abuse</p> <ul style="list-style-type: none"> • photos, letter writing, online communications, voyeurism and distribution of illicit materials • fondling, kissing, inappropriate touching, sexual abuse <p>Important to understand how this applies to youth serving sentences as adults</p>	<p>We don’t think of these laws as covering exclusively females anymore, and they are no longer drafted that way.</p> <p><u>Example from the News:</u></p> <p>Latarsha Latoria Allen, 30, of Oak Hill, has been indicted for “use of obscene matter with intent to distribute” after she was found sending sexually explicit letters to a 15-year-old boy in custody at the James H. “Tiger” Morton Juvenile Center.</p> <p>According to the Kanawha County Circuit Clerk’s office, an investigation led to Allen’s arrest on March 30 of this</p>

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		<p>year.</p> <p>The investigating officer had discovered eight letters to the minor in custody, four of them were found to be obscene and sexually abusing.</p> <p>She is scheduled to appear in front of Judge Jennifer Bailey on December 10.</p> <p>Latarsha Latoria Allen, 30, of Oak Hill was sentenced by Kanawha Circuit Judge Jennifer Bailey to 18 months of probation. She also will have to do 20 hours of community service. Allen will not have to register as a sex offender</p>
Child Exploitation Law: Ohio	<p>Ohio Rev. Code Ann. § 2907.02 (West 2013): Rape</p> <p>Ohio Rev. Code Ann. § 2907.03 (West 2013): Sexual Battery</p> <p>Ohio Rev. Code Ann. § 2907.05 (West 2013): Gross Sexual Imposition</p> <p>Ohio Rev. Code Ann. § 2907.06 (West 2013): Sexual Imposition</p> <p>Ohio Rev. Code Ann. § 2907.09 (West 2013): Public Indecency</p> <p>Ohio Rev. Code Ann. § 2907.07 (West 2013): Importuning</p>	<p>Child exploitation laws are often part of laws that relate to children and that are imbedded within adult sexual assault statutes.</p> <p>Many states have passed another set of legislation focused only on children. These laws provide that marriage to the minor or evidence of cohabitation are not defenses to rape charges.</p> <p>This language gets rid of the marital rape exception:</p> <p>(A)(1) No person shall engage in sexual conduct with another who is not the</p>

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		<p>spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:</p> <p>(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.</p> <p>This crime is a felony in the first degree and carries a penalty of not less than five years.</p>
Child Exploitation Law: Ohio	<p>Ohio Rev. Code Ann. § 2907.04 (West 2013): Unlawful sexual conduct with a minor</p> <p>Ohio Rev. Code Ann. § 2907.311 (West 2013): Displaying matter harmful to juveniles</p> <p>Ohio Rev. Code Ann. § 2907.321 (West 2013): Pandering obscenity involving a minor</p> <p>Ohio Rev. Code Ann. § 2907.322 (West 2013): Pandering sexually oriented matter involving a minor</p> <p>Ohio Rev. Code Ann. § 2907.323 (West 2013): Illegal use of a minor in nudity-oriented material or performance</p>	
Child Exploitation Law: Ohio	Ohio Rev. Code Ann. § 2907.04 (West 2013): Unlawful sexual conduct with a minor	The bolded language is the statutory rape language. So the age of consent in OH is 16.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>(A) No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.</p> <p>(B) Whoever violates this section is guilty of unlawful sexual conduct with a minor.</p> <p>(1) Except as otherwise provided in divisions (B)(2), (3), and (4) of this section, unlawful sexual conduct with a minor is a felony of the fourth degree.</p> <p>(2) Except as otherwise provided in division (B)(4) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.</p> <p>(3) Except as otherwise provided in division (B)(4) of this section, if the offender is ten or more years older than the other person, unlawful sexual conduct with a minor is a felony of the third degree.</p> <p>(4) If the offender previously has been convicted of or pleaded guilty to a violation of <u>section 2907.02</u>, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code, unlawful sexual conduct with a minor is a felony of the second degree.</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Child Exploitation Law: Ohio	<p>Ohio Rev. Code Ann. § 2907.322 (West 2013): Pandering sexually oriented matter involving a minor</p> <p>(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:</p> <p>(1) Create, record, photograph, film, develop, reproduce, or publish any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;</p> <p>(2) Advertise for sale or dissemination, sell, distribute, transport, disseminate, exhibit, or display any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;</p> <p>(3) Create, direct, or produce a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;</p> <p>(4) Advertise for presentation, present, or participate in presenting a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;</p> <p>(5) Knowingly solicit, receive, purchase, exchange, possess, or control any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;</p>	<p>This language relates to the creation, publication or use of materials that depicts minor in sexual acts.</p> <p>There have been a number of incidents involving youth in both adult and juvenile settings that would violate these laws and others like them.</p>

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	(6) Bring or cause to be brought into this state any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality, or bring, cause to be brought, or finance the bringing of any minor into or across this state with the intent that the minor engage in sexual activity, masturbation, or bestiality in a performance or for the purpose	
Child Exploitation Laws	http://coedmagazine.com/2008/02/26/hot-for-teacher-top-18-sexiest-sex-offenders	<p>Data suggests that female staff is disproportionately involved in sexual interactions with men and boys in custody.</p> <p>Yet, the actions of female sex offenders are not taken as seriously as those involving male offenders. That is because female sex offending is not well understood. ,</p> <p>The website on this page is a link to "hot female sex offenders." No one is talking about "hot" male sex offenders.</p> <p>Women not seen as criminals, boys are seen as "heroes"</p> <p>Discussion: Why is this?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Staff Sexual Misconduct	<p>Felony in most states</p> <p>Consent typically not an issue, especially in juvenile context</p> <p>Victim credibility is an issue</p> <p>Code of Silence/Lack of corroboration</p> <p>Lack of physical evidence and timely reporting (delays)</p>	
State Criminal Laws Prohibiting Sexual Abuse of Individuals in Custody	Slide contains image of a map.	<p>Most state laws prohibiting sexual abuse of persons in custody have felony level sanctions. Currently there are only three states that do not— Maryland, Kentucky and Iowa. States such as California have a graduated sanctioning schema that depends on the severity of the acts.</p> <p>Iowa: When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed 2 years. There shall be a fine of at least \$625 but not to exceed \$6,250.</p> <p>California: Any person previously convicted of a violation of this section shall, upon a subsequent violation, be guilty of a felony.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
State Criminal Laws Prohibiting Sexual Abuse of Juveniles Under Correctional Supervision	Slide contains image of a map depicting which state staff sexual misconduct laws cover juvenile agencies.	Juvenile agencies are not always covered by staff sexual misconduct laws. That doesn't mean they aren't covered in other statutes such as statutory rape or sexual assault.
State Criminal Laws Prohibiting Sexual Abuse of Individuals Under Correctional Supervision: Consent as a Defense	Slide contains image of a map where consent is a defense to staff sexual misconduct.	<p>Nevada is only state that still recognizes "consent" as defense. They do this by permitting the prosecution of inmates for engaging in sexual conduct with inmates. In reality, though many states have laws that provide that consent is not a defense, they do not refer these cases for prosecution or alternately prosecutors refuse to file charges.</p> <p>See also, <i>Graham v. Sheriff of Logan County</i>, (D.C. No. 5:10-CV-01048-F) (terminating staff who had "consensual" sex with female inmate but not indicating referral for prosecution)</p>
Staff Sexual Misconduct Law: Georgia	<p>GA. CODE ANN. § 16-6-5.1 (West 2013): Sexual assault.</p> <p>(b) A person who has supervisory or disciplinary authority over another individual commits sexual assault when that person:</p> <p>(2) Is an employee or agent</p>	<p>In Georgia, staff can receive 25 year sentence.</p> <p>(4) "Sexual contact" means any contact between the actor and a person not married to the actor involving the intimate parts of either person for the purpose of sexual gratification of the</p>

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	<p>of any probation or parole office and engages in sexual contact with such other individual who the actor knew or should have known is a probationer or parolee under the supervision of the same probation or parole office;</p> <p>(5) Is an employee or agent of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, as such term is defined in Code Section 37-1-1, or a facility providing child welfare and youth services, as such term is defined in Code Section 49-5-3, who engages in sexual contact with such other individual who the actor knew or should have known is in the custody of such facility.</p> <p>(e) Consent of the victim shall not be a defense to a prosecution under this Code section</p>	<p>actor</p> <p>Talking about criminal laws here, but there are also civil litigation considerations to keep in mind:</p> <p><i>Chao v. Ballista</i>, 806 F. Supp. 2d 358 (D. Mass. 2011): Female inmate had between 50-100 sexual encounters with a male correctional officer. The jury found that the coercive sexual relationship was sufficiently harmful to sustain an Eighth Amendment violation although the encounters were consensual (meaning the inmate did not explicitly refuse). The court also found the individual officer could be held liable for the state law claim of intentional infliction of emotional distress, as well as a violation of the state's civil rights act. The individual officer and the prison superintendent were found jointly liable for \$67,500, and the individual officer was held liable for punitive damages of \$6,200.</p> <p>In that case, not only could the individual staff member be criminally liable, but the facility was held civilly liable as well.</p> <p>But see, <i>Graham v. Sheriff of Logan County</i>, (D.C. No. 5:10-CV-01048-F), (Two</p>

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		<p>prison guards confessed to having sex with a female inmate and were fired immediately. The inmate sought damages in a civil-rights complaint under 42 U.S.C. § 1983 against the two guards and the county sheriff. The United States District Court for the Western District of Oklahoma granted the defendants' motion for summary judgment on the ground that the sexual acts were consensual. That finding was affirmed.)</p> <p>Note, that these are all cases involving adult inmates. More likely than not, prosecution would occur if youth are involved.</p>
Staff Sexual Misconduct Law: Texas	<p>Tex. Penal Code. Ann. § 39.04 (Vernon 2013): Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody.</p> <p>(a) An official of a correctional facility, an employee of a correctional facility, a person other than an employee who works for compensation at a correctional facility, a volunteer at a correctional facility, or a peace officer commits an offense if the person intentionally:</p> <p>(1) denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity</p>	

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	<p>knowing his conduct is unlawful; or</p> <p>(2) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody or, in the case of an individual in the custody of the Texas Youth Commission, employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance</p>	
Staff Sexual Misconduct Law: Texas	<p>Tex. Penal Code. Ann. § 39.04 (Vernon 2013): Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody.</p> <p>(b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony, except that an offense under Subsection (a)(2) is a felony of the second degree if the offense is committed against:</p> <p>(1) an individual in the custody of the Texas Youth Commission; or</p> <p>(2) a juvenile offender detained in or committed to a correctional facility the operation of which is financed primarily with state funds.</p>	<p>Penalty: 180 days to 2 years</p> <p><i>Petty v. Venus Correctional Unit</i>, 2001 WL 360868 (N.D. Tex. 2001): The court dismissed the defendants' motion for summary judgment, finding that consensual acts are not constitutional violations. In this case, plaintiff alleged that the defendants enticed and induced him to masturbate for their pleasure.</p> <p>Therefore, even when sexual activity is criminally prohibited, the individual staff officer may not be subject to civil suit – in some jurisdictions.</p> <p>There is plenty of case law going the other way. This case involved an adult inmate.</p> <p>Needless to say, depending</p>

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		on the age of the youth the result would be different.
Sex Offender Registration	<p>Not considered a penalty</p> <p>Registration available for both youth and adults</p> <p>Many other requirements come with it depending on state</p> <ul style="list-style-type: none"> • Community notification • Restrictions on employment • Restrictions on residency 	<p>Sex offender registration laws are another valuable tool in addressing sexual abuse of youth in custody.</p> <p>See, <i>Legal Responses to Sexual Violence in Custody: Sex Offender Registration Statutes: Impact on Addressing Sexual Abuse in Custodial Settings</i> By Brenda V. Smith and Mary Elizabeth Pavlik (2012) found at: http://www.wcl.american.edu/endsilence/documents/WHITEPAPER_SexOffenderRegistration.pdf</p>
Sex Offender Registration	<p>But...</p> <p>To be registered as a sex offender, you must have been convicted or a registrable sex offense</p> <p>If the perpetrator is not convicted, or pleads to a lesser offense, the perpetrator will not be required to register</p> <p>Registration can be bargained away in a plea</p> <p>Can lead to underrepresentation of women on sex offender lists</p>	<p>Valid critique that net of sex of offender registration is wider than it needs to be.</p> <p>BUT, if it is important for any group – it is important for those who are working with vulnerable populations such as youth in custody.</p>
Adult Sex Offender Registration Law: Texas	<p>The following offenses are registrable in Texas:</p> <ul style="list-style-type: none"> • Indecency with a child • Sexual assault • Aggravated sexual assault 	

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	<ul style="list-style-type: none"> Prohibited sexual conduct Compelling prostitution Sexual performance by a child Possession or promotion of child pornography Aggravated kidnapping if the actor committed the offense or engaged in the conduct with the intent to violate or abuse the victim sexually 	
Adult Sex Offender Registration Law: Texas	<ul style="list-style-type: none"> Burglary, if the offense or conduct is punishable under subsection (d) and the actor committed the offense or engaged in the conduct with the intent to commit indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, or aggravated kidnapping Unlawful restraint, if the victim was under 17 years of age Kidnapping, if the victim was under 17 years of age Aggravated kidnapping, if the victim was under 17 years of age Second violation for indecent exposure, unless the second violation results in a deferred adjudication Attempt, conspiracy or solicitation to commit an offense or engage in conduct listed above. 	
Adult Sex Offender	<ul style="list-style-type: none"> A violation of the laws of another state, federal law, 	Note, that sex offender registration is not required

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Registration Law: Texas	<p>the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed above.</p> <ul style="list-style-type: none"> Sex Offender Registration is NOT required for Staff Sexual Misconduct in Texas 	for staff sexual misconduct offenses in TX. In other word, it is permissible but not mandatory.
Adult Sex Offender Registration Law: California	<p>CAL. PENAL CODE § 290</p> <p>A violation of CAL. PENAL CODE § 289.6 (Staff Sexual Misconduct Statute), is one of the enumerated offenses listed under section 290 and therefore does require mandatory registration.</p> <p>However, a California court has recently held that the registration requirement is unconstitutional as applied to correctional officers and consenting adults. <i>People v. Ruffin</i>, 133 Cal.Rptr.3d 27, 29 (Cal. App. 5 Dist. Nov 02, 2011).</p>	<p>There is a lot of critique of registration, but for COs is really only way to identify a bad actor in most states.</p> <p>Places like Idaho and Florida have certification websites where you can see discipline against a CO including that related to staff sexual misconduct.</p>
Juvenile Sex Offender Registration Law: Minnesota	<p>Minn. Stat. §243.166: Subd. 1b. Registration required.</p> <p>(a) A person shall register under this section if:</p> <p>(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that</p>	<p>There are also juvenile sex offender registration laws as well to address sexual abuse offenses that youth may commit against each other. Often these laws are permissive, on the theory, that youth sex offending is often related to immaturity and on the theory that youth deserve a second chance.</p>

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	<p>offense or another offense arising out of the same set of circumstances:</p> <p>(i) murder under section 609.185, paragraph (a), clause (2);</p> <p>(ii) kidnapping under section 609.25;</p> <p>(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or</p> <p>(iv) indecent exposure under section 617.23, subdivision 3;</p>	
Juvenile Sex Offender Registration Law: Minnesota	<p>(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiring to commit criminal abuse in violation of section 609.2325, subdivision 1, paragraph (b), false imprisonment in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;</p>	

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	(4) the person was convicted of or adjudicated delinquent for , including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).	
Mandatory Reporting Laws	<p>Mandatory reporting laws require certain individuals to report cases of physical or sexual abuse committed against children and vulnerable adults.</p> <p>Two types of statutes:</p> <ul style="list-style-type: none"> • Child Abuse • Vulnerable Adult Abuse 	<p>Again, staff and others have to actually report the abuse or misconduct.</p> <p>Two kinds of statutes require reporting-- child abuse and vulnerable person/adult statutes.</p>
Mandatory Reporting Laws	Under PREA	There are a number of provisions in PREA that require mandatory reporting of sexual abuse. We will discuss them briefly below.
Mandatory Reporting Laws	<p>§ 115.351: Resident reporting</p> <p>(a) The agency shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.</p> <p>(b) The agency shall also provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency</p>	Some of the PREA standards are similar to the mandatory reporting laws and others relate to establishing multiple ways for residents and inmates to report incidents of abuse-- both within the agency and outside the agency.

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	<p>and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request. Residents detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.</p>	
Mandatory Reporting Laws	<p>§ 115.351: Resident reporting</p> <p>(c) The facility shall provide residents with access to tools necessary to make a written report.</p> <p>(d) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.</p> <p>(e) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.</p>	The PREA standards also provide ways for staff to accept report and to privately report incidents.
Mandatory Reporting Laws	<p>§ 115.361: Staff and Agency Reporting Duties</p> <p>(a) The agency shall require all staff to report immediately and according to agency policy 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; retaliation against residents or staff who reported such</p>	<p>PREA standard 115.361 reinforces that staff is required to report “knowledge, suspicion or information” thereby taking the discretion from staff to decide what to report.</p> <p>Staff must also comply with the mandatory reporting laws that we discussed above.</p>

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	<p>an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.</p> <p>(b) The agency shall also require all staff to comply with any applicable mandatory child abuse reporting laws.</p>	
Mandatory Reporting Laws	<p>§ 115.361: Staff and Agency Reporting Duties</p> <p>(c) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.</p> <p>(d)(1) Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.</p> <p>(2) Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.</p>	

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Mandatory Reporting Laws	<p>§ 115.361: Staff and Agency Reporting Duties</p> <p>(e)(1) Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate agency office and 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.</p> <p>(2) If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.</p> <p>(3) If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.</p>	
Mandatory Reporting Laws	<p>§ 115.361: Staff and Agency Reporting Duties</p> <p>(f) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.</p>	
Mandatory Reporting Laws	<p>§ 115.387: Data Collection</p> <p>(a) The agency shall collect</p>	

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	<p>accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.</p> <p>(b) The agency shall aggregate the incident-based sexual abuse data at least annually.</p> <p>(e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.</p> <p>(f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.</p>	
Mandatory Reporting Laws	<p>Child Abuse Reporting Statutes – Reporters</p> <p>Seven states specifically include “corrections officials” as mandatory reporters</p> <p>Three states explicitly identify staff of juvenile detention centers as mandatory reporters.</p> <p>Several states include probation and parole officers within the list of those required</p> <p>A significant number of states classify “police officers,” “peace officers,” or “law enforcement officers” as mandatory reporters.</p>	<p>Corrections officers are mandatory reporters in many jurisdictions:</p> <p>Alaska Stat. § 47.17.020 (2011); Haw. Rev. Stat. § 350-1.1 (2011); 325 Ill. Comp. Stat. Ann. 5/4 (West 2011); Kan. Stat. Ann. § 38-2223 (2011); Minn. Stat. Ann. § 609.556 (West 2011); Mo. Rev. Stat. § 217.410 (West 2012); Wash Rev. Code Ann. § 26.44.030 (West 2012). MD Code Ann. Fam. Law. § 5-704 (West 2011); Iowa Code § 232.69 (2011); Tex. Fam. Code Ann. § 261.101 (Vernon 2012). Colo. Rev. Stat. § 19-3-304 (2012) D.C. Code § 4-1321.02 (2011); Ga. Code</p>

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		Ann § 30-5-4 (2011); N.H. Rev. Stat. Ann. § 169-C:29 (West 2012).
Mandatory Reporting Laws	<p>Adult Abuse Reporting Statutes – Reporters</p> <ul style="list-style-type: none"> ▪ 8 states exclude correctional staff from their adult mandatory reporting statutes ▪ Only New York has NO adult mandatory reporting statute at all ▪ North Dakota’s statute permits, but does not require, reporting by correctional officers 	<p>8 states that exclude correctional staff from their adult mandatory reporting statutes:</p> <p>Arizona, Alaska, Ohio, Maryland, New Jersey, Vermont, Pennsylvania, Wisconsin.</p>
Mandatory Reporting: Minnesota	<p>Minn. Stat. Ann. Subd. 3 § 626.556 (West 2013): Reporting of Maltreatment of Minors.</p> <p>(a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:</p> <p>(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education,</p>	

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	<p>correctional supervision, probation and correctional services, or law enforcement; or</p> <p>(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse.</p>	
Mandatory Reporting Laws	Florida, Missouri, and South Carolina also have specific duty to report clauses under their staff sexual misconduct laws in addition to their mandatory reporting laws	These states require mandatory reports of staff sexual misconduct with inmates and/or youth.
Mandatory Reporting: Missouri	<p>Mo. Ann. Stat. § 217.410 (West 2013). (1) [R]easonable cause to believe that an offender in a correctional center operated or funded by the department has been abused . . .</p> <p>Mo. Ann. Stat. § 217.405 (West 2013). (1) Any employee of the department of corrections.</p> <p>Mo. Ann. Stat. § 217.410 (West 2013). (1) [I]mmediately report offender abuse in writing to the director. (5) Upon receipt of a report, the department shall initiate an investigation within twenty-four hours.</p>	These statutes came about because of wide spread scandals involving abuse of persons in custody.

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Mandatory Reporting: Florida	<p>Fla. Stat. Ann. § 944.35 (West 2013).</p> <p>(3)(d) Each employee who witnesses, or has reasonable cause to suspect, that an inmate or an offender under the supervision of the department in the community has been unlawfully abused or is the subject of sexual misconduct pursuant to this subsection shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used or the nature of the sexual misconduct, the location and time of the incident, and the persons involved. The report shall be delivered to the inspector general of the department with a copy to be delivered to the warden of the institution or the regional administrator. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this subsection has occurred, the respective state attorney in the circuit in which the incident occurred shall be notified.</p>	
Summary	<p>WHY IS THIS IMPORTANT?</p> <p>Describes prohibited conduct to reference in your policy development</p> <p>Provides sanctions in addition to administrative sanctions such as termination or disciplinary action.</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

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	<p>Tailors your criminal investigations and evidence collection</p> <p>Standards leave a number of items on the table</p> <p>Reporting for ALL perpetrators of sexual abuse</p> <p>Protecting ALL survivors of sexual abuse</p>	

Module 9: Policy

Time: 1 hour and 15 minutes

Recommended Faculty:

PREA Coordinator or Monitor, Policy Coordinator

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Policy Development/ Review Guides: Community Corrections, Jails, PREA and LGBTI focused

PowerPoint® Programs:

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Identify and discuss the role policy plays in the field of juvenile justice.</p> <p>Discuss why gender matters when making policy.</p> <p>Identify and discuss the factors that contribute to an agency's organizational context for policy development and implementation.</p> <p>Identify key elements of good PREA policies.</p> <p>Identify challenges and dilemmas in policy making.</p> <p>Conduct a review of elements of your jurisdiction's policy.</p>	
PREA Standards that have Gender Responsiveness Implications	<p>§115.313. Supervision and Monitoring.</p> <p>§115.315. Cross gender viewing and searches.</p> <p>§115.321. Evidence protocol and forensic medical examinations.</p> <p>§115.331-115.335. Training and Education Standards</p> <p>§115.341-115.342. Screening Standards</p> <p>§115.365. Staff first responder duties.</p> <p>§115.371. Criminal and</p>	This is not an all-inclusive list but shows examples of PREA standards that have gender implications.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>administrative agency investigations.</p> <p>§115.378. Sanctions for residents.</p> <p>§115.381-115.383. Medical and Mental Care Standards</p>	
Good Policies are the Core	<p>Monitoring/Evaluation</p> <p>Operations</p> <p>Training</p> <p>Communication</p> <p>Policy</p>	
Policy	<p>Provides a clear statement of the agency's mission, goals and values</p> <p>Gives direction to staff</p> <p>Helps to manage risk and keep staff and youth safe and secure</p> <p>Helps to avoid costly litigation</p> <p>Creates agency culture</p>	<p>Affirm participants' responses as appropriate.</p> <p><i>Provides a clear statement of agency mission and values-</i></p> <ul style="list-style-type: none"> While staff may not always personally share agency values and buy into agency goals- they should know and understand their professional obligations. <p><i>Gives direction to staff</i></p> <ul style="list-style-type: none"> Policy provides direction at all levels –at the agency, facility and individual levels. Some staff may be lesbian, gay, bi-sexual, etc and may deal with these issues on a personal level as well as

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		<p>in their interactions with youth.</p> <ul style="list-style-type: none"> • Direction to staff is key especially when staff members are confronted with situations that are new to them and do not have prior experience from which to draw. • Clear policy and direction can increase the comfort level of staff. • Informal policy is enacted every day by front line workers .Policy may be constructed to reduce or empower discretionary decision making by staff. <p><i>Helps to maintain safety and security</i></p> <ul style="list-style-type: none"> • Adherence to policy that anticipates issues/situations helps to maintain order and safety. <p><i>Avoids costly litigation</i></p> <ul style="list-style-type: none"> • While policy development can be challenging and rather unglamorous -It is far riskier to NOT have clear policy.
Why?	<p>From a <i>safety and security lens</i>:</p> <p>We know from the BJS data that</p>	<p>Discussion:</p> <p>Why is it important to talk about the development of policies that address the</p>

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	<p>gender non-conforming population's rate of sexual victimization while in custody is higher than the rates of heterosexual boys and girls.</p> <p>We know sexual assault of transgender individuals is 13 times more prevalent among transgender women compared to men- 59% reported assaults. (Center for Evidence Base Corrections, 2009)</p> <p>From the BJS data we know gender is a factor in the rate of custodial sexual victimization</p> <p>Addressing youths' needs can increase their safety and improve security</p>	<p>needs of boys, girls and gender non-conforming populations?</p>
Why?	<p>From a <i>human rights perspective</i>:</p> <p>These incidents account for untold personal costs...physical and emotional harm...to victims and their families.</p> <p>We have an ethical, professional obligation to keep those committed to our supervision safe from sexual abuse.</p>	<p>Addressing gender in policy is also a human rights issue.</p> <p>Gender non-conforming people in the juvenile justice system experience challenges that start at the point of arrest and continue post release including:</p> <ul style="list-style-type: none"> • abusive and demeaning contact with officials and other offenders • being inappropriately classified and housed, • lack of resources • especially specialized medical and mental health care and verbal • emotional, physical and sexual abuse from others (staff and

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		<p>youth).</p> <p>Addressing these issues in policy can help us to meet our moral, ethical and professional; responsibilities.</p> <p>Facility as a whole will be safer and more secure.</p>
Why?	<p>From a <i>practical perspective</i>:</p> <p>These incidents can result in costly litigation.</p> <p>Implementation of PREA standards generates a sense of urgency and opportunity to address these issues more proactively.</p> <p>Policies can increase staff comfort level</p> <p>From a <i>personal perspective</i>:</p> <p>It is the right thing to do.</p>	<p><i>Costly Litigation</i></p> <ul style="list-style-type: none"> According to the Boston Globe, the Corrections Commissioner is the single most sued individual in the Commonwealth. <p><i>Opportunity</i></p> <ul style="list-style-type: none"> PREA standards address the heightened vulnerability of LGBTI populations. <p><i>Staff comfort levels</i></p> <ul style="list-style-type: none"> Staff comfort levels can be increased by increasing their knowledge about LGBTI people and how to respectfully communicate with this population. <p><i>Personal</i></p> <ul style="list-style-type: none"> There are personal benefits as well. Here-may be the right time to utter the customary disclaimer- any opinions expressed are the sole opinions of the presenters – not BJA, NCCD, AU, etc.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Agency Policy Context	<p>Agency culture</p> <p>Role of leadership</p> <p>Data</p> <p>Legal requirements</p> <p>Implementation barriers</p>	<p>Policy does not exist in a vacuum. Policy has a context that influences its meaning and effect. As you develop policy, you need to consider the context of your effort. Here are several factors to consider – this list isn't all inclusive but will serve to illustrate the point</p> <p>Agency Culture</p> <ul style="list-style-type: none"> • As we discussed in the module on culture, culture is an important consideration. • It plays an important role in policy development and execution. • Culture is the context in which policy is embedded. • Culture is multidimensional. It can be: <ul style="list-style-type: none"> ◦ Organizational – agency wide –ex. Punishment philosophy. Is being disrespectful tolerated in the agency? Is the agency under a cloud of a recent critical incident? ◦ Occupational – security staff has a different culture than the medical staff ◦ Facility-Specific – the culture may

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		<p>vary by gender of staff at a facility, age of facility, geography- urban vs. rural, intuitional history, level of security, architecture. (KD-note –share Ex of unusual religious influence)</p> <ul style="list-style-type: none"> o Temporal –varies by shift – varies by day – weekend culture different than during the week when the brass is present. <p>Cultural change takes time and commitment. Some say it can be as challenging as “turning the Titanic on manual”.</p> <p>Role of leadership</p> <ul style="list-style-type: none"> • The role of leadership is also critically important. • Set tone –be an agent of change • Set clear expectations – explain the “whys” to staff and youth • Assess culture – gaps, levers and barriers • Assess and determine the role of staff in policy development process • Assess- agency staff and administration’s current knowledge and attitudes. • Consistently enforce

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		<p>expectations.</p> <ul style="list-style-type: none"> • Model behavior – leadership by example <p>Data</p> <ul style="list-style-type: none"> • Policy is and should be informed by data/information • BJA stats • What are rates of victimization for boys, girls, and LGBTI youth • Local data- incidents, reports • Grievances • Consider surveying a random, small group of youth for input. • Are there informal or formal practices staff engage in when dealing with issues related to gender? <p>Legal Requirements</p> <ul style="list-style-type: none"> • Constitutional Law • Federal & State Law • Litigation • Consent Decrees • Case Law • Attorney General Opinions • National Association Standards e.g. NCCHC –Professional Codes of Ethics • PREA Standards • Findings from any investigative bodies • Oversight reports external and internal

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		Barriers <ul style="list-style-type: none"> • Determine what work needs to be done? Example- do you need to raise staff awareness before training? • What are the attitudes and beliefs of staff (personal, religious, biases) • Ask class- any other types of barriers? • Lack of training in gender Identify • Lack of common language to refer to LGBTI individuals • Lack of appropriate housing options for LGBTI individuals • Lack of experience in addressing medical and mental health care needs of LGBTI individuals
Policy Process: Considerations	<p>Assessment of current agency/facility norms, written policies, informal practice and norms and training that address gender issues.</p> <ul style="list-style-type: none"> • Identify Gaps <p>Structural Preference</p> <ul style="list-style-type: none"> • Going forward, will you have one policy or embed specifics in each policy? 	<p>Developing policy can be a very complicated process requires a deliberative approach –it is not a simple cut and paste activity.</p> <p>We can learn from each other- but each jurisdiction's context is unique- while we encourage information sharing and cross-learning – we <i>discourage</i> cutting and pasting as policy development strategy.</p> <p>Assessing Culture</p> <ul style="list-style-type: none"> • Does your facility's current practice differ

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		<p>from your written policies and directives?</p> <ul style="list-style-type: none"> • Is there an “informal” procedure/practice at play? Is academy training “undone” once staff take their places on the front line? • In bureaucracies, there is often a formal organization and an informal org chart. Are they in sync? <p>Structural Preference</p> <ul style="list-style-type: none"> • If you do one policy – suggest cross-referencing content to ensure staff are aware of full extent of implications <p>Role of Stakeholders Who needs a place at the table?</p> <ul style="list-style-type: none"> • Security • Treatment • Victim Services • Investigations • Human Resources • Contracted Program Providers • Medical /Mental Health providers • Case management • Attorneys • Union reps • Employee Groups • Information Technology • Should you include community-based advocates/providers?

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		<ul style="list-style-type: none"> • External partners? • External Interest Groups • External Subject Matter Experts • Do you want to assign policies – create ownership? Buy in? <p>Implementation Issues</p> <ul style="list-style-type: none"> • Do you want to share drafts along the way? • Does something lend itself to a pilot/ Lots of things fail –not because of poor policy – but poor implementation.
Policy Process: Considerations	<p>Role of Stakeholders</p> <ul style="list-style-type: none"> • Which staff members should be at the table? • Should external stakeholders be invited, if any? • Mechanisms to facilitate stakeholder input? <p>Implementation Issues</p> <ul style="list-style-type: none"> • Determine the desired level of transparency • Is a pilot necessary? • Monitor/oversight mechanisms 	
Good Policies...	<p>Should answer who, what, when, where and why (if possible).</p> <p>Are more than well written policies.</p> <p>Have the support of all levels of</p>	<p>People will treasure what you measure.</p> <p>Inspect what you expect.</p> <p>The best written policies must have the following or they will</p>

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	<p>management. Leadership must believe in the policies from top down.</p> <p>Are consistently and routinely reviewed, revised, monitored and enforced.</p> <p>Are trained, trained, and re-trained. Reinforcement of training and real life scenarios make policies meaningful.</p>	<p>fail:</p> <ul style="list-style-type: none"> • Support of upper management and all levels of supervisory management. It starts at the top. Leadership must believe in the rules they make and set the example of the importance of the policies. • Consistent application of policies/practices/sanctions • Training, training and more training...including reinforcement of training and monitoring of practices.
Key Elements of Good PREA Policy	<p>Includes clear language regarding:</p> <ul style="list-style-type: none"> • Intent • Definitions <p>Staff responsibilities</p> <ul style="list-style-type: none"> • Scope of applicability • Prohibited activities • Consequences of failure to follow requirements <p>Refer closely to PREA standards:</p> <ul style="list-style-type: none"> • Auditors will look for all elements of the PREA standard that is required in your policy. 	<p>Policies provide a guide for how organizations operate.</p> <p>They are intended to control the conduct of staff and the activities of an agency. Policy presents the agency's position on an issue of importance.</p> <p>Policies provide the fundamental guideline for agencies...they describe how the agency intends to operate.</p> <p>Lots of folks use the term policy and procedure interchangeably – I want to draw a distinction.</p> <p>Procedures describe the normal method of tackling things in an agency. They are</p>

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		<p>protocols for implementation.</p> <p>It is one thing to say, for example, "Dept. xxx's policy is not to discriminate against LGBTI individuals" ..but that question does not sufficiently provide direction to staff. The statement leaves many unanswered questions. Procedures operationalize the policy by outline the sequenced steps to attaining the policy's goal.</p> <p>Intent: Provides insight into what the agency considers important...it stakes out the agency's position, intent. Zero tolerance, safety of all, safety of vulnerable inmates, victim safety and support, interagency cooperation.</p> <p>Definitions: It is consistent and clear in its use of definitions</p> <p>Direction: Provides direction to all levels and types of staff by outlining the scope of their responsibilities and any prohibited actions, clarifies their obligations and the reasoning behind those obligations and the consequences of failure to adhere to the requirements.</p> <p>Outlines training requirements</p> <p>Addresses the needs of men, women and gender non-</p>

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		<p>conforming individuals as needed</p> <p>Addresses documentation requirements and any requirements for or limits to information sharing</p> <p>Requires periodic review and updates</p> <p>It is viewed as equitable and fair by staff and youth</p> <p>References relevant procedural statements</p>
Key Elements of Good PREA Policy	<p>Addresses the needs of boys, girls and gender non-conforming youth</p> <p>References relevant procedures</p> <p>Training, reporting, documentation and confidentiality requirements, if any</p> <p>Addresses need for periodic review of policy by interdisciplinary group</p>	
Key Policies to Revisit: Are they gender responsive?	<p>Policies that are relevant to or address specific activities should be reviewed with an eye to addressing the needs of boys, girls and gender non-conforming youth.</p> <p>What policies/ topics areas should be included in this review?</p>	<p>Policies that are relevant to or address specific activities should be reviewed with an eye to addressing the needs of men, women and gender non-conforming inmates.</p> <p>Discussion: Pose question to participants</p>

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		<p>Policies listed may include, but are not limited to:</p> <ul style="list-style-type: none"> • Anti- Discrimination Policies and Statements • Intake Screening & Risk Assessment –Risk as Perpetrator and/or Victim • Resident Classification – Housing, Program and Work Assignments • Housing Protocols- including daily living activities • Housing Placement Options and Limitations • Resident Grooming Issues-hair, makeup, shaving • Information Management –Reporting and Confidentiality, Need to Know • Property –Non-gender conforming, reading materials • Visitation • Transportation • Resident Orientation/Education • Pat and Strip Search Procedures • Provision of Medical and Mental Health Treatment by appropriately trained staff • Staff/Resident interactions and communications • Cross Gender Supervision [remember this is NOT allowed for youth except in exigent circumstances]

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		or by a medical professional]
	Group Activity: Policy and Standard Review	
Group Activity: Review Elements of Your Current Policies	<p>Each team has been assigned a PREA standard.</p> <p>As a team, you are asked to :</p> <ul style="list-style-type: none"> Assess your current relevant department policy(ies) and determine if the requirements of the standard and the associated needs of boys, girls and gender non-conforming youth are addressed in your department's policy instrument. Identify gaps in your policy and places for improvement Assess whether your agency has any promising practices Identify what key decisions need to be made at the agency level Identify any barriers you may have in your policy development process. 	<p>Directions:</p> <p>A list of assignments is available, so you can see which jurisdictions have been assigned specific standards.</p> <p>You may have a standard specific question and it might be helpful to interact with the jurisdiction assigned that standard.</p> <p>Each group should appoint a note-taker and a spokesperson.</p> <p>As a group, you will have 20-minutes to discuss before you report out to the entire group.</p> <p>Let group know that not all teams will have a chance to report – so we may have to selectively call on folks. Nevertheless, team will benefit from this activity.</p> <p>Your spokesperson will have three minutes to report out.</p> <p>If time does not permit full reporting by all teams- target those who self-identify as having a promising practice.</p>
Group Activity Assignments	§ 115.315 Limits to cross-gender viewing and searches.	Assign each group a standard and pass around list of

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	<p>§ 115.321 Evidence protocol and forensic medical examinations</p> <p>§ 115.331 Employee training and § 115.333 resident education.</p> <p>§ 115.334 Specialized training: Investigations</p> <p>§ 115.335 Specialized training: Medical and mental health care</p> <p>§ 115.341 Screening for risk of victimization and abusiveness</p> <p>§ 115.342 Use of screening information</p> <p>§ 115.381 Medical and mental health screenings; history of sexual abuse</p> <p>§ 115.364 Staff first responder duties</p> <p>§ 115.371 Criminal and administrative agency investigations</p> <p>§ 115.378 Disciplinary sanctions for youth</p> <p>§ 115.382 Access to emergency medical and mental health services and § 115.383 On-going medical and mental health care for sexual abuse victims and abusers</p>	<p>assignments.</p> <p>Ask if everyone has or has access to a copy of text of standards; be sure to bring copies just in case.</p>
Activity: Report Outs		Select teams to report out

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		<p>Consider appointing a timekeeper and give each group 3-5 minutes</p> <p>Collect flip charts so material can be summarized and shared.</p>
Summary	<p>It is important to read the PREA standards carefully.</p> <p>Pattern your policy to include all elements of the PREA standards, at a minimum.</p> <p>Look at the PREA audit instrument and pre-audit checklists NOW when reviewing or amending your policies.</p> <p>Pay attention to detail in PREA standards.</p>	<p>Evaluation: Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 10: Medical and Mental Health of Victims in Custody

Time: 1 hour 15 minutes

Recommended Faculty:

PREA Coordinator or Monitor, social worker or mental health clinician, lead medical staff or community crisis advocate

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- A National Protocol for Sexual Assault Medical Forensic Examinations
- Medical/Mental Health Confidentiality
- Psychiatric Disorders of Youth in Detention
- State Sexual Assault Coalitions
- Health Organizations Ethics Chart
- Assessing the Mental Health Status of Youth in Juvenile Justice Settings
- The Violence Against Women Act 2013

PowerPoint® Programs:

Module 10: Medical and Mental Health of Victims in Custody

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Review applicable PREA standards for health care</p> <p>Identify medical health service needs for boys and girls</p> <p>Review SART evaluation and evidence collection</p> <p>Discuss how victimization may affect the juvenile justice environment</p> <p>Identify needed mental health interventions for victims of sexual abuse in juvenile justice</p> <p>Recommend agencies regarding necessary mental health interventions</p>	
115.382: Access to emergency medical and mental health services	<p>(a) Resident victims of sexual abuse shall 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.</p> <p>(b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental</p>	<p>Quickly review the standards that are important in medical and mental health care of youth.</p> <p>Trainers should emphasize the bolded sections on each standard.</p>

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	health practitioners.	
115.382: Access to emergency medical and mental health services	<p>(c) Resident victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.</p> <p>(d) Treatment services shall be 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.</p>	
115.383: Ongoing medical and mental health care for sexual abuse victims and abusers	<p>(a) The facility shall 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.</p> <p>(b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.</p> <p>(c) The facility shall provide such victims with medical and mental health services consistent with the</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	community level of care.	
115.383: Ongoing medical and mental health care for sexual abuse victims and abusers	<p>(d) Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.</p> <p>(e) If pregnancy results from the conduct described in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.</p> <p>(f) Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.</p>	
115.383: Ongoing medical and mental health care for sexual abuse victims and abusers	<p>(g) Treatment services shall be 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.</p> <p>(h) The facility shall 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 mental health practitioners.</p>	
	Medical Health Care and Evidence Collection	

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115.321: Evidence protocol and forensic medical examinations	<p>(a) To the extent the agency is responsible for investigating allegations of sexual abuse; the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.</p> <p>(b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be 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.</p>	
115.321: Evidence protocol and forensic medical examinations	<p>(c) The agency shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	by other qualified medical practitioners . The agency shall document its efforts to provide SAFEs or SANEs	
Role of Health Care Provider	Confidentiality Reporting Dual Purpose Services <ul style="list-style-type: none"> • Patient Centered • Criminal Justice Security and Safety	
Immediate Medical Concerns	Primary Survey <ul style="list-style-type: none"> • Identifiable bruises • Scrapes • Cuts • Broken bones Secondary Survey <ul style="list-style-type: none"> • Internal bleeding • Head Trauma • Shock • Genital Trauma 	
Multidisciplinary Process	Utilizing a multidisciplinary team offers expertise from: <ul style="list-style-type: none"> • First responders • Sexual assault forensic examiners • Law enforcement representatives • Victims and advocates • Prosecutors • Forensic photographers 	First responders: report incident Sexual assault forensic examiners: evidence collection Law enforcement representatives: interviewing and questioning Victims and advocates: support, resources and services

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>Prosecutors: criminal justice guidance on what is needed for a criminal case</p> <p>Forensic photographers: evidence collection</p>
Sexual Assault Response Teams (SART)	<p>Sexual Assault Response Teams</p> <ul style="list-style-type: none"> • Comprehensive response to victims of sexual assault • Multidisciplinary • Coordination • Information sharing • Crisis intervention counseling • Mental health • Victim services • Informed of rights under relevant federal /state crime victims' rights laws • Special Needs 	
Sexual Assault Nurse Examiner (SANE)	<p>Sexual Assault Nurse Examiners</p> <ul style="list-style-type: none"> • History • Evaluation and documentation of event • Physical Exam • Body Maps • Diagnostic Testing • Treatment <ul style="list-style-type: none"> ○ Prophylactic treatment for STI's ○ Body Fluid Exposure Protocol 	
SANE	<p>Evidence Collection</p> <ul style="list-style-type: none"> • Consent to evaluate and 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>treat</p> <ul style="list-style-type: none"> • Consent to release medical information and forensic evidence • Clothing collection • Collection of head and pubic hairs • Oral swabs for victim DNA or perpetrator DNA • Vaginal/rectal swabs and smears <p>Chain of Custody</p>	
Confidentiality Considerations for Medical and Mental Health Staff	<p>Guidance on reporting obligations</p> <ul style="list-style-type: none"> • Health Insurance Portability and Accountability Act of 1996 (HIPPA) • State Laws • Health Organizations Professional Codes of Ethics • Correctional Institution Policies and Procedures 	<p>NOTE:</p> <p>The Project on Addressing Prison Rape produced a number of publications regarding confidentiality concerns for medical and mental health staff in correctional settings. They are currently under review with BJA.</p> <p>However, you can email us at endsilence@wcl.american.edu to have access to those documents until they are publically released.</p>
Confidentiality Considerations for Medical and Mental Health Staff	<p>Confidentiality is not applicable when there is potential for harm to the victim or others</p> <p>Communicable diseases must be reported according to applicable laws</p> <p>May need to be modified to</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	further protect the victim, or other innocent parties	
Implications for Public Health	<p>Spread of infectious disease</p> <ul style="list-style-type: none"> • HIV/AIDS • Hepatitis • Syphilis • Gonorrhea • Chlamydia • Increased health care costs for medical and mental health 	
Dual Purpose of the Forensic Exam: Patient Centered	<p>Evaluate and treat injuries</p> <p>Conduct prompt examinations</p> <p>Provide support and counseling</p> <p>Prophylaxis against STD's</p> <p>Assess women for pregnancy risk and discuss options</p> <p>Provide medical / mental health follow-up</p>	
Dual Purpose of the Forensic Exam: Criminal Justice	<p>Obtain a history of the assault</p> <p>Document exam findings</p> <p>Properly collect, handle, and analyze data</p> <p>Interpret and analyze findings (post-exam)</p> <p>Present findings and provide expert opinion related to exam/evidence</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Patient-Centered Care	<p>Ensures patient privacy</p> <p>Provides a safe environment and acknowledges safety concerns</p> <p>Accommodates victims request for family or friend to be with them</p> <p>Respects patient's request for providers of a specific gender</p> <p>Integrates exam procedures</p> <p>Involves victim services and law enforcement</p>	
Components of Forensic Medical Exam	<p>Consents</p> <p>Sexual assault history</p> <ul style="list-style-type: none"> Standardized forms <p>Physical exam:</p> <ul style="list-style-type: none"> Body maps Standardized colposcopy <p>Treatment plan:</p> <ul style="list-style-type: none"> Prophylactic treatment for STI Post-coital contraception Medical and mental health follow-up 	
Forensic Evidence Collection	<p>Forensic evidence collection is challenging</p> <p>Technological advances contribute to documentation of objective findings</p> <p>Prosecution rests on objective</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	data	
Timing of Evidence Collection	<p>Examine patient ASAP to minimize the loss of evidence</p> <p>120 hr. limit for obtaining forensic evidence</p> <ul style="list-style-type: none"> • Not absolute • May collect up to 5-7 days following assault 	<p>There are jurisdictions who are having their medical personnel trained to perform the SANE exam. That may be a good option in locales where these services are not available. From a strategic point of view, however, it is always better to have these exams performed by non-agency personnel particularly as there may be the appearance, potential, or actual conflict of interest.</p>
Evidence Kits	<p>Evidence kits should contain:</p> <ul style="list-style-type: none"> • Instruction checklist • Forms • Materials for collecting and preserving evidence 	
Evidence Collection	<p>Collect the evidence from patients as guided by the forensic history, physical exam, and evidence collection kit instructions</p> <p>Reduce potential contamination</p> <p>Distinguish patient's DNA from suspect's DNA</p>	
Evidence Collection	<p>Oral swabs</p> <p>Swabs obtained from anal, cervix, and vaginal areas</p> <p>Body fluids found on other areas</p> <p>Pubic and head hairs</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	Debris Toxicology specimens	
Preservation of Evidence	Follow jurisdictional policies <ul style="list-style-type: none"> • Drying • Packaging • Labeling • Sealing • Secure storage sites • Law enforcement should transfer evidence to crime laboratory MAINTAIN CHAIN OF CUSTODY	
Treatment	Follow CDC recommendations for treatment of: <ul style="list-style-type: none"> • Syphilis • Chlamydia • Gonorrhea • Trichomonas • Bacterial Vaginosis • Hepatitis B • HIV post-exposure therapy 	
Long Term Health Care Issues	HIV/AIDS Hepatitis B and / or C STI Pregnancy Suicidal thoughts / actions PTSD	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Follow Up Examinations	<p>Detect new infections</p> <p>Complete hepatitis B immunizations</p> <p>Complete counseling and treatment for other STI's</p> <p>Opportunity to monitor compliance with previous treatments</p> <p>Repeat Syphilis, HIV 6 weeks and 3 months</p>	
Special Concerns in a Juvenile Justice Settings	<p>Age gap when abuse involves two youth</p> <p>Does reporting deter youth from seeking help?</p> <p>What happens when reporting does more harm than good?</p>	<p>Age Gap: Depending on the age of youth, even if sex was consensual, it may be a crime based on the ages of the youth involved.</p> <p>As an example if a 16 and 17 year old are having sex and it is consensual, then it may be a policy violation, but there is no criminal action involved. However, if it is a 15 year old and a 17 year old, because it is more than a one year gap in ages between the youth it may, in some jurisdictions be considered child exploitation or more commonly statutory rape.</p> <p>Trainers should be aware of the age of consent in the state they are training in as well as the allowable age gap between youth.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Impact of Sexual Assault	<p>On Youth:</p> <ul style="list-style-type: none"> • STI's • HIV/AIDS • Hepatitis B and / or C • Substance Abuse • Suicide • Post traumatic syndrome • May become perpetrators to regain control 	<p>Additionally, there are different protocols for doing exams based on the age of the victim. Please be aware of them and have qualified personnel such as individuals from Child Advocacy Centers, if possible, involved in these exams.</p>
Impact of Sexual Assault	<p>On Staff:</p> <ul style="list-style-type: none"> • Display of unmanageable anger or hostility by youth • Secondary trauma • Communicable disease transmission • Guilt • Powerless/helpless 	
	Immediate and Ongoing Mental Health Care	<p>Quickly review the standards that are important in medical and mental health care of youth. Trainers should emphasize the bolded sections on each standard.</p>
115.381: Medical and mental health screenings; history of sexual abuse	<p>(a) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.</p> <p>(b) If the screening pursuant to § 115.341 indicates that a</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.	
115.381: Medical and mental health screenings; history of sexual abuse	<p>(c) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.</p> <p>(d) Medical and mental health practitioners shall 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.</p>	
Sexual Victimization: Mental Health Concerns	<p>People who suffer sexual abuse are:</p> <ul style="list-style-type: none"> • 3 times more likely to suffer from depression. • 6 times more likely to suffer from post-traumatic stress disorder. • 13 times more likely to abuse alcohol. 	<p>In general, here are some of the issues that anyone suffering from sexual abuse may encounter if mental health interventions are either not made or are inadequate.</p> <p>These can be exacerbated by</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> • 26 times more likely to abuse drugs. • 4 times more likely to contemplate suicide. 	being in a correctional environment. We will talk about that more in a bit.
Common Reactions to Sexual Assault: Feelings	<p>Emotional shock: I don't I feel anything?</p> <p>Disbelief: I can't believe this happened to me.</p> <p>Shame: I feel dirty.</p> <p>Guilt: Could I have done something to stop it? If only I had . . .</p> <p>Powerlessness: I feel out of control</p> <p>Denial: It wasn't really rape. Nothing happened.</p>	<p>These are some common reactions considered feelings to sexual assault and examples of how they may manifest themselves.</p> <p>Trainers should highlight one or two of these and discuss them</p>
Common Reactions to Sexual Assault: Feelings	<p>Anger: I want to kill that person</p> <p>Fear: I keep having bad dreams</p> <p>Depression: I feel so hopeless. Maybe I'd be better off dead.</p> <p>Triggers: I smelled her perfume</p> <p>Anxiety: I am constantly looking over my</p>	<p>These are some common reactions considered feelings to sexual assault and examples of how they may manifest themselves.</p> <p>Trainers should highlight one or two of these and discuss them</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>shoulder</p> <p>Helplessness: Will I feel like myself ever again?</p>	
Common Reactions to Sexual Assault: Behaviors	<p>Expressive: Crying, yelling, shaking, being angry, swearing, etc. may be directed at friends, family.</p> <p>Calm: May behave extremely composed, controlled or unaffected.</p> <p>Withdrawn: May shrink inside herself; provide one word answers or none at all; offering no information without being prodded. Refusal to socialize</p> <p>Lack of sleep: Survivor may have difficulty sleeping or have nightmares of being chased or attacked.</p>	<p>These are some common behavioral reactions to sexual assault and examples of how they may manifest themselves.</p> <p>Trainers should highlight one or two of these and discuss them</p>
Common Reactions to Sexual Assault: Behaviors	<p>Flashbacks</p> <p>Changing eating habits</p> <p>Lack of concentration or energy</p> <p>Rape Trauma Syndrome or Post-traumatic Stress Disorder.</p>	
Rape Trauma Syndrome (RTS)	<p>A common reaction to a rape or sexual assault-- to an unnatural or extreme event</p> <p>Four Phases</p>	<p>We are going to discuss each of these phases more fully in the next few slides.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> • Acute Crisis Phase • Outward Adjustment Phase • Integration Phase • Reactivation 	
Acute Crisis Phase	<p>Occurs right after the assault</p> <p>Physical Reactions</p> <ul style="list-style-type: none"> • Change in sleep patterns, change of appetite, poor concentration, acting withdrawn, jumpy <p>Emotional Reactions</p> <ul style="list-style-type: none"> • Depression, guilt, anger, anxiety, fear <p>Behavioral Reactions</p> <ul style="list-style-type: none"> • Acting out, change in hygiene, refuse to change room, harm to self, suicidal thoughts 	
Outward Adjustment Phase	<p>Survivors feel a need to get back to normal</p> <p>Grooming and eating returns to normal but sleeping remains irregular</p> <p>Survivor tries to regain control</p>	
Integration Phase	<p>The survivors idea of who they were before the assault and after become one and the survivor accepts the assault</p> <p>Takes months or years to achieve</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Reactivation of Crisis	<p>Can happen at any time and during any of the phases</p> <p>Reactivation mirrors the acute phase</p> <p>Can be triggered by sights, smells, sounds, situations or memories</p>	
RTS in Juvenile Justice Settings	<p>Repeated sexual assault situations</p> <p>No control over environment</p> <p>Continuous contact with assaulter</p> <p>Triggers may cause anger or violent reactions</p>	
Impact of Victimization in the Juvenile Justice Settings: Boys	<p>Connection between sexual/ physical victimization and aggressive & self-destructive behavior</p> <p>Report past abuse associated with violent crime</p> <p>Defend against feelings associated with victimization (shame, stigma)</p>	<p>Some of this is a review from the previous module on gender and communication.</p> <p>Since we spent time on discussing this earlier, we will move through the next few slides fairly quickly.</p>
Impact of Victimization in the Juvenile Justice Settings: Boys	<p>May question sexual identity and preference</p> <p>Feel the best defense is a good offense</p> <p>May imitate their aggressors</p> <p>Acutely aware of the 'code' and</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	their ranking	
Impact of Victimization in the Juvenile Justice Settings: Girls	<p>At risk for unhealthy relationships with authority figures, based on perceptions of their power to harm</p> <p>Difficulty adjusting to coercive, restrictive environments</p> <p>Lack of right to privacy, room searches, bodily searches may replicate past abuse</p> <p>Concern with how reporting may interrupt relationships</p>	
Impact of Victimization in the Juvenile Justice Settings: Girls	<p>Vulnerable to abusive authority figures</p> <p>Faced with sexual assault situations:</p> <ul style="list-style-type: none"> • May not understand it is possible to refuse • May lack perception of a "right" to refuse • May believe it's always dangerous to refuse 	
The Impact of Being in Detention and Being a Survivor	<p>More likely to experience physical trauma</p> <p>Systemic infliction of psychological trauma</p> <p>Retaliation and/or retribution</p> <p>Lack of autonomy and safety</p> <p>General distrust</p> <ul style="list-style-type: none"> • staff, reporting structure, investigation, prosecution 	The impact of being a survivor of sexual abuse in detention is important because it directly impacts how youth may interact with you/ staff.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
The Impact of Being in Detention and Being a Survivor	<p>Feelings of disorientation and anxiousness may make people unable to follow rules</p> <p>Sharing or talking about feelings may be a safety risk for a youth</p> <p>Isolation may be a relief but it could also cause further trauma</p> <p>Increased anger may cause acting out</p> <p>Complex nature of “consent” can lead to self-blame</p> <p>Multiple traumas exacerbate symptoms</p>	
Mental Health: Necessary Interventions	<p>Community Rape Crisis Centers</p> <p>Companion Services</p> <ul style="list-style-type: none"> • A rape crisis counselor to be with you during the SANE exam and at court appearances • Some communities have rape crisis counselors that will meet residents at the hospital and act as advocates during SANE Exams <p>Short or long-term counseling (group or individual)</p>	
Mental Health: Necessary Interventions	<p>Safety Planning</p> <p>Self- Defense</p> <p>24- hour Hotlines</p>	Service provided by community crisis centers can include these interventions but clearly not all of these will be applicable if the youth is in a detention center.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Mental Health evaluation</p> <p>Group counseling (in some situations)</p>	<p>Agencies can provide referrals for these services if youth is in the community or once released.</p>
Recommendations	<p>Build relationships with community partners</p> <p>Lobby state and local legislative bodies for funding for victim centered care</p> <p>Ongoing training for youth and staff– ongoing</p> <p>Victim-centered approach to allegations</p> <p>Provide cross training for community crisis providers on your environment</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 11: Operational Practices

Time: 1 hour

Recommended Faculty:

Lead Trainer, PREA Coordinator or Monitor, or Deputy of Security and/or Operations

Resources:

LCD projector, computer and media screen

Participant Handouts:

PowerPoint®

PowerPoint® Programs:

Module 11: Operational Practices

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Discuss the elements of key operational practices that are areas of consideration for boys, girls and/or gender non-conforming youth</p> <p>Discuss how to operationalize PREA policies</p> <p>Conduct a review of a key operational practice and critical policy components</p> <p>Develop a preliminary implementation plan for a critical operational practice.</p>	<p>Assume you have PREA policies in place that address the men, women and gender non-conforming residents. Now what?</p> <p>As challenging as the policy development process may have been, the real challenge is to make what is on paper happen.</p> <p>Now the challenge is to operationalize the policy language consistent with the PREA standards and the needs of boys, girls and gender non-conforming residents.</p>
Vulnerability Assessments	<p>Security of facility</p> <p>Key Control</p> <p>Communication Plans</p> <p>Policy versus reality</p> <p>Staffing patterns</p> <p>Training</p> <p>Searches of staff and youth</p> <p>Emergency plans</p> <p>Culture overall</p> <p>Policy enforcement</p>	<p>When we discuss operational practices, it is important to do a self-assessment of where your facility is at. It is critical to evaluate facility management and operational practices.</p> <p>Before you implement a new set of policies/procedures, assess where you are and any issues/problems areas that require attention.</p> <p>Identify strengths and weaknesses of your operational practices.</p> <p>Vulnerability assessments are a good way to begin.</p> <p>Determine if you have</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>significant problem areas that need correction before you begin a massive new policy implementation or change.</p> <p><u>A security vulnerability assessment should look at many areas:</u></p> <ul style="list-style-type: none"> • camera surveillance • blind spots • malfunctioning equipment • searches of staff and youth • access to radios and telecommunication equipment • escape risks
When Gender Matters	<p>Identify operational practices where gender of youth matters:</p> <p>List examples involving female youth</p> <p>List examples involving male youth</p> <p>List examples of enforcement of policy being impacted by gender</p>	<p>Discussion:</p> <p>In your experience, when has gender mattered in operational practice?</p> <p>When have operational practices been designed to address gender-based needs?</p> <p>How many of you have had direct or indirect experience working with female offenders?</p> <p>What operational practices have been influenced by gender?</p> <p>What about examples involving boys?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>We must also consider implementation issues.</p> <p>Regardless of what is on paper- the policy for boys and girls should not vary – BUT- the degree of enforcement/implementation by staff and the administration may.</p> <p>Ask the group to identify examples.</p>
Key Operational Areas	<p>Affected by Gender, Gender Identity and Sexual Orientation:</p> <p>What about the needs of gender non-conforming youth?</p> <p>What operational practices/areas need to be addressed in consideration of these individuals?</p>	<p>Discussion:</p> <p>Ask about the needs of gender non-conforming residents?</p> <p>We know the development of the PREA standards was informed by the documented safety risk of boys, girls and gender non-conforming individuals.</p> <p>We need to be responsive to this as we operational/ implement standards.</p> <p>So how do we do this?</p>
Key Operational Practice	<p>Screening for Risk of Victimization and Abusiveness</p> <p>PREA Standard Requirements for Screening for Risk (§115.341)</p> <p>Operational practice must address:</p> <ul style="list-style-type: none"> Who, what, when, where, and how of responsibilities of staff. 	<p>This standard focuses on the resident screening process. We know how important this process is as we often have no information or history on new offenders.</p> <p>So we have no information about risk and needs of the offender at this point.... so</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>we need to gather accurate, relevant information.</p> <p>Start off by reviewing language- focus on where might gender, gender identity and sexual orientation be relevant to this standard?</p> <p>Discussion: Should the agency ask youth directly about their sexual orientation or gender identity?</p> <p>Who will be asking the questions? Same sex, opposite sex staff?</p> <p>How should that individual be selected?</p> <p>How should the question be phrased?</p> <p>What, if any follow-up questions will be asked?</p> <p>At what point in an initial screening should the question be asked?</p> <p>Should these questions be asked in private to encourage honesty and to respect confidentiality?</p> <p>How should the answer be documented?</p> <p>If a resident does not self-</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>identify as LGBTI, but is presenting him or herself in a gender non-conforming manner should the agency document this information for future use in classification and housing placement?</p> <p>Gender non-conforming individuals may be more likely to be abused physically and sexually throughout their lifetimes than heterosexuals. If a resident' self-identifies, should staff follow up with a question about any history of abuse?</p> <p>What training should the person asking the questions receive? Should it be mandatory?</p> <p>As you can see – as you think through the actual specifics of implementation- several issues/questions requiring decisions emerge.</p> <p>To the extent possible, procedures should anticipate circumstances that staff may encounter.</p>
Key Operational Practice	<p>Sexual Abuse Incident Reviews:</p> <p>PREA Standard Requirements for Sexual Abuse Incident Reviews (115.386)</p>	<p>PREA Standard 115.386. It focuses on one aspect of Data Collection and Review –sexual abuse incident reviews.</p> <p>Note specific reference to</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Operational practice must address</p> <ul style="list-style-type: none"> Who, what, when, where and how of responsibilities of staff. 	<p>gender non-conforming youth in section d(2)</p> <p>Review questions that come to mind:</p> <ul style="list-style-type: none"> Do the members of the review team and those providing input share a common vocabulary? Do all treat offenders with respect and dignity? Have they participated in any training to increase their knowledge and understanding of how gender, gender identify and sexual orientation? Is there diversity of expertise and experience on these issues? Do conclusions of panel reflect misconceptions and bias? Do they understand the impact of gender on staffing levels?
A Comprehensive Approach to Implementation	<p>Who should be at the table?</p> <p>Provide training, training and more training...</p> <p>Strive for consistency</p> <p>Support and reinforcement by all management supervisory staff</p> <p>To ensure consistency consider all related policies, procedures, post</p>	<p>I hope you get a sense as to why –although may be helpful to look at best practices and learn from other sites –this is not a cut and paste activity.</p> <p>Also, as with policy development, procedures and operational practice are not developed in a vacuum. So you need to take a comprehensive approach.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	orders, curriculum, contracts, MOU's that relate to the operational practice and affect compliance with the PREA standards	<p>Discussion: Who should be at the table?</p> <p>A coordinated, inter-disciplinary approach is helpful when operationalizing a policy.</p> <p>As you determine who should be at the table - consider departmental and staff roles and responsibilities as it relates to PREA compliance. Participants may vary based upon the focus of the operational practice.</p> <p>Train, Train, Train –as they say in training- tell 'em what you are going to tell them, tell them, then tell them again what you told them! Then ask them what you told them.</p> <p>Be consistent in application and enforcement</p> <p>Look at all policies , procedures, post orders, curriculum, contracts, MOU's and observed practice that affect compliance with the PREA standards</p>
Activity	As jurisdictions work to implement PREA standards and to address the needs of boys, girls and gender non-conforming youth-- revisit and	<p>Directions:</p> <p>Tell participants that they are going to conduct a</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>develop operating practices that support the intent of the standards.</p> <p>Each team has been assigned a PREA standard and will:</p> <ul style="list-style-type: none"> • Discuss the PREA standard and review a key relevant operating practice and critical components that must be put in place. • Develop a preliminary implementation plan for this practice. • Describe how you will put in place what is on paper....how will you implement (operationalize) this practice? 	<p>review of a PREA standard and its implications and impact on operational practice.</p> <p>They will be developing a preliminary implementation plan for addressing the needs of boys, girls and gender non-conforming youth vis a vis a critical operational practice</p> <p>Work with the same standard assigned in the previous exercise.</p> <p>Work in your group.</p> <p>Identify a note taker and spokesperson.</p> <p>They will have 20 minutes to discuss the assigned standard and the operating procedures that will need to be in place to address the requirements of the standard as it related to the needs of boys, girls and gender non-conforming youth.</p> <p>Describe how you intend to best develop and implement the practice.</p>
Activity Assignments	<p>§ 115.315 Limits to cross-gender viewing and searches.</p> <p>§ 115.321 Evidence protocol and forensic medical examinations</p> <p>§ 115.331 Employee training and §</p>	<p>Assign each agency to a standard and make sure that there are copies of that standard available.</p> <p>Visit with each group and</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>115.333 resident education.</p> <p>§ 115.334 Specialized training: Investigations</p> <p>§ 115.335 Specialized training: Medical and mental health care</p> <p>§ 115.341 Screening for risk of victimization and abusiveness</p> <p>§ 115.342 Use of screening information</p> <p>§ 115.381 Medical and mental health screenings; history of sexual abuse</p> <p>§ 115.364 Staff first responder duties</p> <p>§ 115.371 Criminal and administrative agency investigations</p> <p>§ 115.378 Disciplinary sanctions for youth</p> <p>§ 115.382 Access to emergency medical and mental health services and § 115.383 On-going medical and mental health care for sexual abuse victims and abusers</p>	<p>get a sense of what their plan might be.</p> <p>Then use this information to identify good point and other points that might be augmented for a better result.</p> <p>Discuss plans together.</p>
Summary	<p>There are key operational practices to consider for boys, girls and/or gender non-conforming youth</p> <p>Operationalizing PREA policies is essential</p> <p>Reviewing key operational practice</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>and critical policy components is a form of an assessment of vulnerability</p> <p>All agencies and facilities should have a preliminary implementation plan for a critical operational practice.</p>	

Module 12: Gender Implications for Investigations

Time: 2 hours

Recommended Faculty:

PREA Coordinator or Monitor or Lead Agency Investigator

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Sample *Garrity* Warning
- Sample Interview Questions

PowerPoint® Programs:

Module 12: Gender Implications for Investigations

Training Curriculum: Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth
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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Describe the foundations of successful investigations</p> <p>Identify why investigations fail</p> <p>Identify the considerations for an effective investigation</p> <p>Discuss the implications of <i>Garrity</i></p> <p>Describe the implications of gender and why it matters during investigations</p> <p>Identify useful investigative techniques (including interviewing staff and youth, evidence collection, etc.)</p>	
Foundations of Successful Investigations	<p>Strong and clear zero tolerance policy for staff sexual misconduct and youth-on-youth sexual abuse (115.311)</p> <p>Strong investigative policies (115.322 and 115.71-115.72)</p> <p>Explain and demystify the investigative process</p> <p>Keep youth involved in process (115.73)</p> <p>Define this as public safety/security issue for individuals, institution, and community partners</p>	<p>Let's discuss the foundations for successful investigations. As you will see many of these foundational items have corresponding PREA Standards– those are noted on the slides.</p> <p>One of the keys here is to know up front what you want your first responder, often a line staff, to know, do and ask verses what you want a trained investigator doing.</p> <p>The point here is to have a first responder do minimal amounts of investigatory work so as not to damage a case.</p> <p>First responders should do</p>

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		<p>the following and leave anything more to trained and seasoned investigators (either internal or law enforcement):</p> <ol style="list-style-type: none"> 1. Ask the who, what, when and where questions only– minimally what is needed to make a report up the chain of command 2. Instruct the victim to not eat, use the bathroom or change clothes 3. Separate the victim and perpetrator (calling for back up if needed) 4. Cordon off the crime scene to the extent there is one 5. Report up the chain of command or as defined by agency or facility policy
Foundations of Successful Investigations	<p>Reasonable assurances of retaliation control against youth, witnesses, and community partners (115.367)</p> <p>Knowing the channels of reporting- including your mandatory reporting guidelines (115.351 – 115.354)</p> <ul style="list-style-type: none"> • Time is the enemy • Reporting should be immediate <p>Staff, youth, and community</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>partners view process as credible</p> <p>Legal/judicial partners view processes in compliance with applicable laws and criminal procedures</p>	
Foundations of Successful Investigations	<p>Even if the youth recants from her original statement that something happened, or denies something happened and you have evidence to contrary, work the allegation as if it took place and you will be moving forward</p>	
Investigative Issues	<p>Attitude toward the victim</p> <p>Actions-Reactions-Lack of Action by first responders</p> <p>Complainants with limited capacities [developmental, language, disabilities]</p> <p>Lack of support for the victim's safety</p> <p>Timing, pace and coordination of the investigation</p> <p>Distrust of investigators</p> <p>Poorly trained investigators</p>	<p>Often victims do not believe they are victims– at least they do not understand they are– things such as victimization histories, belief this is consensual and a belief they were just “lucky” can all be present in a youth's ability to define themselves as a victim. This is especially true with male residents and female staff.</p>
Investigative Issues	<p>Process</p> <ul style="list-style-type: none"> • Leaks • Uncooperative victims • Uncooperative staff- code of silence <p>Lack of communications with investigative partners-- both</p>	<p>Consider how you run administrative and criminal investigations– are they concurrent or does an administrative investigation stop as soon as the allegation may look criminal?</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>internal and external</p> <p>Law enforcement, child protective services, medical and mental health, prosecutors, GALs, social workers, lawyers/ public defenders</p>	<p>Do you have an agreement with law enforcement (or the investigating authority) to share the reports and outcome of the criminal case for purposes of the administrative case and vice versa.</p> <p>How do <i>Garrity</i> and Miranda warnings affect these agreements?</p> <p>What is the role of the GAL (Guardian Ad Litem) someone (often an attorney) appointed by the court to represent the best interest of the youth?</p>
Investigative Issues	<p>Administrative</p> <ul style="list-style-type: none"> • Weak or non-existing policy • Lack of support from the administration • Poor teamwork • Poor recordkeeping <p>Not properly utilizing all of the available investigative tools</p> <p>Evidence that is</p> <ul style="list-style-type: none"> • Limited • Weak • Poorly collected and preserved 	
Considerations for Effective Investigations	<p>Who will conduct the investigation</p> <ul style="list-style-type: none"> • Agency personnel • Outside law enforcement • Other outside agency 	<p>Some of this should be decided before an allegation comes to light– such as who conducts the investigations and when to involve external investigative partners.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Who is the investigative team</p> <ul style="list-style-type: none"> • Gender • Ethnicity • Expertise • Qualifications • Language ability <p>Expertise in working with victims who have limitations</p> <ul style="list-style-type: none"> • Language, developmental mental health, hearing impaired etc. 	<p>However, sometimes the make-up of the investigative team will depend on who the victim is (i.e. boy or girl, limited English proficiency etc.)</p>
Other Important Considerations for Effective Investigations	<p>Criminal versus Administrative</p> <p><i>Garrity</i> Issues</p>	
<p><i>Garrity v. New Jersey</i> 385 U.S. 493 (1967)</p>	<p><u>Holding</u>: The government cannot use information in a subsequent criminal proceeding that has been obtained from an employee who was threatened with negative job consequences for failure to cooperate in an investigation.</p> <p>Under <i>Garrity</i>:</p> <ul style="list-style-type: none"> • Corrections staff can be required to answer questions in an administrative investigation • And can be fired for refusing to answer or based on the answers they give • But the government cannot subsequently use these answers in a criminal proceeding. <p>Therefore, the agency must initially</p>	<p>In <i>Garrity</i>, the Court reversed the criminal conviction of police officers on the basis of statements they had made acknowledging involvement in employment-related wrongdoing. The officers successfully argued that the employer had coerced these admissions by threatening that, if the officers refused to answer, they would lose their jobs.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	decide between criminal OR administrative investigations, and stage properly.	
PREA Observes the <i>Garrity</i> Rule:	<p>28 CFR § 115.71: Criminal and administrative agency investigations</p> <p>(c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence; any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.</p> <p>(d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for criminal prosecution.</p>	<i>Garrity</i> – compelled interviews
Garrity	<p>What you learn independent of the interview of the suspect can be turned over to law enforcement</p> <p><i>Garrity</i> does not prohibit law enforcement from turning over information to you</p> <p>Due to the “fruits” of the <i>Garrity</i> interview, you may want to save your interview of the suspect to one of the last things you complete in the investigation</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
<i>Garrity</i>	<p>The administrative investigation can be conducted simultaneously with the criminal investigation as long as they are separate</p> <p>The criminal investigation should have the higher priority and due to this, the administrative investigation may be put on hold so as not to interfere with the criminal</p>	<p>Discussion:</p> <p>How will law enforcement get involved in misdemeanor investigations in your jurisdiction?</p> <p>If some types of sexual abuse are a misdemeanor are they mostly investigated administratively?</p> <p>Does it matter if the allegation is against a staff person or another youth?</p>
The Gender Impact on Investigations	<p>How do you think gender affects a youth's response to sexual victimization?</p> <ul style="list-style-type: none"> • Boys • Girls • Gender non-conforming youth <p>What is gender's impact on investigations?</p>	<p><u>BJS Data:</u></p> <p>Boys report more sexual abuse by female staff but do not always characterize sexual encounters with female staff as abusive</p> <p>Girls report higher rates of sexual victimization with other girls</p> <p>Girls still report rates of staff sexual misconduct with male staff disproportionate to their numbers in the population</p> <p>Gender non-conforming youth report victimization at triple the national average as heterosexual youth</p> <p>The rate of sexual victimization of gender non-conforming youth is disproportionate to their</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>numbers</p> <p>Youth often do not have the knowledge or language to describe conduct/abuse as victimization</p> <p>There is great reluctance to report same sex victimization– by both boys and girls and especially by youth who self-identify as 'heterosexual'</p> <p>Sexual victimization of youth in custody is under-reported</p> <p>Gaps between what juvenile correctional authorities report to BJS and youth report to BJS</p>
How does Gender Impact Investigations?	<p>Specialized training for Investigators (115.334)</p> <p>Staff training that is gender specific to the gender the facility houses (115.331(b))</p> <p>Need to be open in ways to obtain information from youth</p> <ul style="list-style-type: none"> • Asking what happened instead of how were you abused • Have conversations about what occurred without personal biases or judgments <p>Use language the youth uses– do not paraphrase</p> <p>Be developmentally and culturally</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	appropriate	
How Does Gender Impact Investigations?	<p>Questioning (All Youth)</p> <ul style="list-style-type: none"> • Explain who you are • Why you are there • What you are trying to do • Ask open ended questions first, then narrow • Ask kids to explain in their own words what happened • If you don't understand a term ask the youth • If the child requires it, use paper, pencil or dolls • Be as neutral as possible about the incident • As appropriate, ask if they are okay and if they need someone else with them 	
How does Gender Impact Investigations?	<p>Questioning for Boys</p> <ul style="list-style-type: none"> • Thinking questions <ul style="list-style-type: none"> ◦ What do you think about how Mrs. Roberts touched you? <p>Questioning for Girls</p> <ul style="list-style-type: none"> • Feeling questions <ul style="list-style-type: none"> ◦ How do you feel about the letter Amy gave you? <p>Questioning for Gender non-conforming youth</p> <ul style="list-style-type: none"> • May need to question differently/ adjust questions based on youth's gender identity • Try asking both thinking and feeling questions initially to see what the youth responds 	<p>Think back to what we talked about we discussed during the training module on gender and communication– this is just a formulation of questions and a way of asking questions based on gender norms for boys and girls– this is not static and it's important to remember kids may not react the way you expect</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	to best	
Investigative Techniques	<p>First and foremost consideration should be the health and safety of the victim</p> <p>Unless there is overwhelming evidence to unfound an allegation, action should be taken to separate the victim and accuser, at least until the investigation concludes</p> <p>Consider constructing a timeline to put people in a particular location at a particular time</p>	<p>Overwhelming evidence would be having the youth worker or youth on camera during the entire time of the alleged incident or an allegation against a staff who was not in the building on the date in question.</p> <p>HOWEVER, it is important to keep in mind that very often youth will allege abuse by someone who is not the perpetrator of the abuse because they feel safer doing so– they do not always understand the consequences of doing this for the person wrongly accused but they want you to know about the abuse.</p> <p><u>Example:</u> Samantha is being abused by her uncle but when she reports the abuse to her mother she says it's a friend's father because for her, it's a safer person to blame because she is not scared of him and he does not come to her house.</p> <p>It is important to note that if a youth tells you they were abused by someone who clearly could not have been involved in the allegation, it may be a good idea to have another conversation with that youth to see what is really going on.</p>

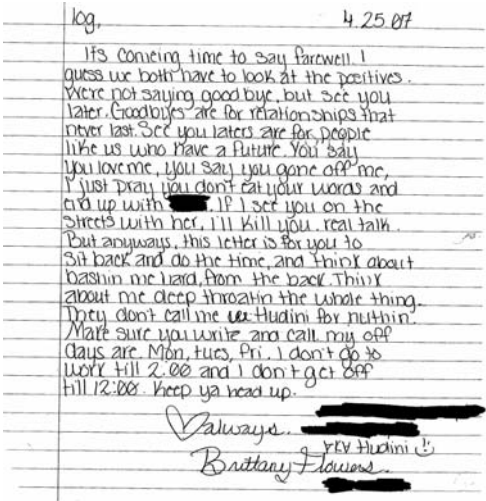
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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		<p>At this point, I want to make a point about “false” allegations. In many jurisdictions youth are punished for making false allegations or allegations that end up being unfounded.</p> <p>This is an issue in adult settings as well. Obviously, you will adopt your own policies but if youth face punishment for each mischaracterizing or your being able to determine what occurred, then you will likely discourage reporting.</p> <p>And at the end of the day, you want to know.</p>
Investigative Techniques	<p>If the allegation is of a sexual abuse and it is fresh, the victim should be examined by a trained professional (115.321 and 115.382)</p> <p>Prior to an incident, determine if you have a S.A.N.E. program in your area and what their policy is for examining juveniles</p> <p>Consider using a forensic interviewer who is trained in using unique tools specifically for questioning youth about sexual abuse</p> <ul style="list-style-type: none"> dolls, pictures, story writing etc. 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Investigative Techniques	<p>Second most important consideration is the preserving and collection of evidence</p> <p>Area where the incident took place should be processed for physical evidence</p> <ul style="list-style-type: none"> • Clothing of both victim and suspect • Bodies of both victim and suspect <p>Potential DNA evidence</p> <ul style="list-style-type: none"> • Blood, semen, saliva, skin, hair 	
Other Potential Evidence	<p>Letters/notes written back and forth between the participants and others (search of resident/youth's cell)</p> <p>Reports from other staff and youth</p> <p>Records</p> <ul style="list-style-type: none"> • Logbooks, telephone logs, outgoing mail log, victim's account activity, victim's mail, key check-out logs, duty rosters/timesheets, journals, etc. 	<p>These notes should be handled carefully for potential fingerprints.</p> <p>Consider your timing of the youth's cell search so as not to alienate him/her early in the investigation.</p> <p>Timesheets are a more accurate records than duty rosters</p>
Other Potential Evidence	<p>Video/live-streaming</p> <p>Cell phone records of staff member</p> <p>Social Media</p> <p>Gifts exchanged between participants</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Sample Letter		<p>This is a sample letter from to a staff member.</p> <p>You can use this but feel free to substitute with a letter you have found during an investigation(s) at your facility or agency.</p> <p>Activity: Read the letter out loud to the participants. Have them identify the potential evidence and breeches of security as well as contraband issues.</p>
Interviewing the Victim in Cases of Staff Sexual Misconduct	<p>If other agencies are involved in the investigation, coordinate with them so that the victim is not subject to multiple interviews</p> <p>Interview as early in the investigation as possible</p> <p>The person who talked with the victim first, initiating the investigation, should be interviewed and if they are staff, required to prepare a detailed memo of that interview immediately after it was conducted</p>	<p>Neurobiology of trauma—now data suggests that people remember more over time— initial interview should be early but re-interview again to see if they remembered more.</p> <p>BUT be sure to explain this to jury if story changes in some way</p>
Interviewing the Victim in Cases of Youth on Youth Sexual Abuse	<p>Conduct and attitude by the first responders and investigators will have a major impact on the cooperation of the alleged victim</p> <p>Treat all alleged victims with dignity and respect</p> <p>Patient, supportive and reassuring</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	Consider having mental health professional present during interview	
Additional Potential Witnesses to Consider	<p>All youth on the POD with the victim</p> <p>Any youth who may have been on the POD and recently moved or released</p> <p>Family of the victim</p> <p>Fellow staff members</p> <ul style="list-style-type: none"> • Floats • Supervisors • Control Operators • Counselors 	
Special Considerations: Staff	<p>In addition to investigating the abuse, staff should be investigated for a lack of supervision</p> <p>If you have sexual offenders in your program, staff should receive additional specialized training in dealing with this population</p>	<p>There is a difference between a kid who was sent to a sex offender program and a kid who committed a sex offense.</p> <p>Be clear about the difference and don't stigmatize as those youth can be vulnerable to abuse.</p>
Special Considerations: Youth	<p>Forcible acts are crimes and should be investigated in much the same way as staff on youth</p> <p>The alleged aggressor is entitled to his/her constitutional rights and should be so advised.</p> <p>Most are represented by legal counsel on the charges for which they are detained or committed.</p>	<p>Unless the suspect youth invokes his/her right to remain silent, they can be interviewed.</p> <p>Very young youths or youths with mental issues, may not be capable of understanding their rights.</p> <p>Consult with your legal staff</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
		and with mental health staff that have treated the youth.
Special Considerations: Youth	<p>“Non-coercive” sex acts should be investigated to determine if a crime has been committed and for a supervision issue with staff</p> <p>Law enforcement– are they reluctant to investigate misdemeanor crimes?</p> <p>Involved youths should be held accountable administratively for their behavior (Treatment Team)</p> <ul style="list-style-type: none"> • Loss of privileges • Loss of phase 	<p>115.378 Interventions and disciplinary sanctions for residents.</p> <p>(g) An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.</p>
Special Considerations: Youth	<p>Youths should be separated from each other</p> <p>Youths should be examined medically i.e. STDs</p> <p>Staff should be held accountable for supervision if act occurred on their watch, if it was preventable</p>	
Investigators Should	<p>Document completely everything they do in the investigation</p> <p>Adapt the investigation to</p> <ul style="list-style-type: none"> • gender of victim • gender of accused • facility type • age of victim • Cognition and/or mental disabilities of victim <p>Know investigative resources</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>Know how to use technology effectively</p> <p>Understand evidence collection and chain of custody</p> <p>Know when to include other agencies</p> <p>Prepare before you get an allegation</p>	
Summary	<p>Be tenacious</p> <p>Be creative-- think outside of the box</p> <p>Keep good records</p> <p>Know your agency's policy and procedures</p> <p>Know your state and federal criminal laws</p> <p>Bring in other skill sets</p> <ul style="list-style-type: none"> • Lawyers • Physicians • Forensics • Treatment partners • Available community resources 	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 13: Human Resources and the Impact of Gender

Time: 1 hour and 30 minutes

Recommended Faculty:

Human Resources Manager or General Counsel

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Sample reference waivers
- Report by the Office of the Inspector General: Enhanced Screening of BOP Officer Candidates Could Reduce Likelihood of Misconduct
- Memorandum: Anti-fraternization Policies
- Labor and Employment Law: Tools for Prevention, Investigation and Discipline of Staff Sexual Misconduct in Custodial Settings
- Policy on Worker Relations Helps Ensure Office Integrity

PowerPoint® Programs:

Module 13: Human Resources and Gender Implications

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Introduction	In human resources, different legal considerations apply depending on the gender of the staff member: <ul style="list-style-type: none"> Youth privacy vs. staff employment rights Sexual harassment and discrimination Off duty conduct/anti-fraternization 	
Introduction to Legal Liabilities	Constitutional <ul style="list-style-type: none"> First Amendment Fourth Amendment Fifth/Fourteenth Amendment Federal and State Statutes Common Law Claims PREA Standards	Remember there is no private right of action, but PREA has potential to set community standard and serve as evidence of other violations. There is a tort cause of action for negligent hiring, firing, and supervision.
Key Constitutional and Statutory Provisions For Employees	Constitutional <ul style="list-style-type: none"> First Amendment Right to Association Fifth/Fourteenth Amendment Equal Protection Fifth/Fourteenth Amendment Due Process Statutory Federal – Title VII State Civil Rights Law 	
Key Constitutional and Statutory Provisions For Youth	<ul style="list-style-type: none"> Fifth/Fourteenth Amendment: Due Process Fourth Amendment: Privacy First Amendment: Religion 	
Key PREA HR Provisions	115.315: Cross-gender searches 115.317: Hiring and promotion	Are prohibited for all youth except in exigent circumstances which are

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>decisions</p> <p>115.371: Criminal and administrative agency investigations</p> <p>155.376: Disciplinary sanctions for staff</p>	then documented.
Balancing Act	<p>Fourth/Fourteenth Amendment (Liable to youth)</p> <p>Title VII (Liable to employee)</p> <p>Courts will balance youths' interest in freedom from sexual abuse and right to privacy against the employment rights of correctional officers</p>	<p>On one hand, liable to employee under Title VII if you deny an employment opportunity based on gender.</p> <p>On the other hand, you could be liable to a juvenile if you permit an employee to search a juvenile of the opposite gender, particularly a strip search or extended viewing.</p> <p>Courts take a very gendered approach to this. Most often uphold challenges under Title VII brought by female employees, and most often uphold privacy challenges brought by female inmates. However, PREA standards prohibit cross gender pat searches of both boys and girls– so this issue will be closely watched.</p>
Youth Privacy Rights	<p>Limited privacy right in general; higher privacy consideration in youth context than adult</p> <p>Some protection offered against cross-gender searches:</p>	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> • First Amendment for religious exceptions • Fourth Amendment for privacy • Fourteenth Amendment for due process 	
Youth Privacy Rights	<p>In general, courts are more willing to find a Fourth Amendment privacy right for female inmates or youth where a male officer was involved in the search</p> <p>Courts less likely to find an Eighth Amendment violation where female officers are involved in searches of male inmate or youth</p>	
Fourth Amendment – Liable to Youth	<p>Walnut Grove Youth Correctional Facility in Walnut Grove, Mississippi</p> <ul style="list-style-type: none"> • United States Department of Justice, Special Litigation Section • Recommendation that facility redesign shower stalls so that only male officers will have viewing capabilities of male youth, as a means of reducing staff sexual misconduct 	
Fourth Amendment – Liable to Inmate	<p><i>Lee v. Downs</i>, 641 F.2d 1117 (4th Cir. 1981)</p> <p>Female nurse removed female inmate's undergarments in the presence of male correctional officers, after the inmate expressed willingness to remove her underclothing if the male officers left.</p>	<p>This is a very typical Fourth Amendment claim, brought by a female inmate against correctional facility where male inmate was involved in a strip search.</p> <p>There are not a lot of these cases involving youth – likely because juvenile agencies are not doing this</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	The court affirmed the jury verdict for the plaintiff's § 1983 claim, finding that "[m]ost people ... have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating."	very often. In a poll of our listserv, the overwhelming majority of agencies said they do not do cross-gender searches of youth.
Fourth Amendment – Liable to Inmate	<p><i>Byrd v. Maricopa Cty. Sheriff's Dept.</i>, 629 F.3d 1135 (9th Cir. 2011)</p> <p>A female cadet conducted a pat-down search on a male detainee. The court found that the search violated detainee's Fourth Amendment right to be free from unreasonable searches. The court distinguished this case from other cross-gender pat-down searches that did not violate the Fourth Amendment noting that the officer touched the detainee's penis and scrotum, and that the detainee was essentially unclothed</p>	Outlier case – more egregious circumstances than other cases involving male inmates.
First Amendment – Liable to Inmate	<p><i>Moore v. Carwell</i>, 168 F.3d 236 (5th Cir. 1999)</p> <p>A male inmate claimed female correctional officers performed repeated cross-gender searches and body cavity searches on him. The court remanded on the inmate's First Amendment claims, as the inmate had stated his Baptist beliefs prevented him from being viewed naked by a female other than his wife</p>	<p>This is the best avenue for a male inmate to challenge a cross-gender search. Although this case involved an adult inmate, 1st amendment concerns are still applicable in the youth setting.</p>

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Officer Employment Rights	Title VII: "[i]t shall be an unlawful employment practice for an employer— (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex , or national origin." 42 U.S.C. § 2000e-2(a) (2012).	
Officer Employment Rights Sexual Orientation and Gender Identity	<p>Not currently covered by Title VII</p> <ul style="list-style-type: none"> Gender non-conforming staff <i>may</i> receive intermediate scrutiny for equal protection claims. 539 U.S. 558 (2003) This area of the law is constantly evolving, and may change this year after the Supreme Court hears the challenge to Proposition 8. <p>Some state civil rights statutes may provide protection from discrimination for gender non-conforming staff discrimination</p> <ul style="list-style-type: none"> <i>See, e.g.</i> Sexual Orientation Non-Discrimination Act, Ch. 2, 2002 N.Y. Laws 46 	
Officer Employment Rights	<p>BFOQ: Escape clause from Title VII</p> <p><i>Dothard v. Rawlinson</i>, 433 U.S. 321 (1977) (eliminating height and weight restrictions for positions within all male institution, while upholding male gender as a BFOQ in Alabama Maximum Security Prison).</p>	<p>Permits employers to discriminate in hiring or firing decisions.</p> <p>Specifically permits an otherwise discriminatory hiring practice when it is "reasonably necessary to the normal operation of that</p>

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	<i>Gunther v. Iowa State Men's Reformatory</i> , 462 F. Supp. 952 (N.D. Iowa 1979), <i>aff'd</i> , 612 F.2d 1079 (8th Cir. 1980) (holding that male gender cannot be used as a BFOQ to keep women out of contact positions).	particular business or enterprise." 42 U.S.C. § 2000e-2(e)(1) (2012).
BFOQ Defense – Male gender	<p><i>In re Juvenile Det. Officer Union County</i>, 364 N.J. Super. 608, 837 A.2d 1101 (App. Div. 2003)</p> <p>County developed eight male only positions, that oversaw male detainees while showering, changing clothing and using the toilet</p> <p>The court held that the county was entitled to eight bona fide occupational qualification designations for male-only juvenile detention officer positions was not arbitrary, capricious, or unreasonable.</p>	
BFOQ Defense – Female Gender	<p><i>Henry v. Milwaukee County</i>, 539 F.3d 573, 580 (7th Cir. 2008)</p> <p>Policy requiring at least one officer of the same sex to be housed at juvenile facility at all times reduced the number of shifts available for women was not necessary to protect the safety and privacy interests of juveniles. Gender was not a BFOQ.</p>	Although courts have typically upheld BFOQs for female positions, the positions must be narrowly tailored to the task involved.

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PREA Standards	<p>PREA standards can help agencies bridge the gap between residents' privacy and establishing BFOQs</p> <p>The standards prohibit cross-gender strip, body cavity, and pat down searches of all youth, except in exigent circumstances</p> <p>The standards also require documentation of all searches, and training for all staff in how to do a professional and respective cross gender search.</p>	
115.315: Limits to cross-gender viewing and searches	<p>(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.</p> <p>(b) The agency shall not conduct cross-gender pat-down searches except in exigent circumstances.</p> <p>(c) The facility shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.</p>	
115.315: Limits to cross-gender viewing and searches	<p>(d) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such</p>	

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	<p>viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit. In facilities (such as group homes) that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.</p> <p>(e) The facility shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.</p> <p>(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.</p>	
	Sexual Harassment and Discrimination Claims by Staff	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Federal and State Civil Rights Statutes	<p>The Supreme Court has held that Title VII also covers sexual harassment claims. <i>Meritor Sav.</i></p> <p><i>Bank v. Vinson</i>, 477 U.S. 57, 75 (1986). Terminated employees can claim sexual discrimination under Title VII or state civil rights law.</p>	
Sexual Harassment Claims	<p><i>Adams v. City of New York</i>, No. 07-CV-2325, 2011 WL 4434226, at *1 (E.D.N.Y. Sept. 22, 2011)</p> <p>A male supervisor made sexually aggressive advances towards a female correctional officer over a period of eight months. On one occasion, he disrobed in front of the officer, and touched her and made sexual comments on many other occasions.</p> <p>The court found these allegations “were sufficiently severe and pervasive,” and permitted the officer to proceed on her Title VII sexual harassment claim.</p>	
Discrimination Claims	<p><i>English v. Colo. Dep’t of Corr.</i>, 248 F.3d 1002 (10th Cir. 2001)</p> <p>Corrections agency fired a male African American supervisor following an investigation into allegations of sexual misconduct.</p> <p>The court held that the agency had a legitimate conflict-of-interest reason for replacing the investigating officer, the dismissal of criminal charges had no bearing on the evidentiary results of the</p>	

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	internal investigation, and the case of the white officer whom the agency had not terminated involved a factually dissimilar situation.	
Discrimination Claims	<p><i>Konah v. District of Columbia, 2013 WL 38981 (D.D.C. Jan. 3, 2013).</i></p> <p>A female nurse in the DC jail complained of constant sexual harassment from inmates. On one occasions, she was locked in a vestibule with a male inmate, who made threatening advances toward here. She was eventually terminated from her position.</p> <p>The court denied the District of Columbia's motion for summary judgment on equal protection grounds, as the facility did not ensure "nurses were not subjected to constant gender-based lewd and nasty catcalls or acts by the inmates."</p>	
	Anti-Fraternization Policies	
Legal Responsibilities and Obligations	<p>First Amendment (Liable to employee)</p> <p>Employer interests that support anti-fraternization policies</p> <ul style="list-style-type: none"> • On-the-job performance • Off-the-job conduct that implicates officer's fitness for duty • Public reputation of correctional institution • Many court cases involving 	

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	<p>police and corrections officers uphold policies regulating off-duty conduct</p>	
First Amendment	<p><i>Reuter v. Skipper</i>, 832 F. Supp. 1420 (D. Or. 1993)</p> <p>A female corrections officer was placed on administrative leave due to her intimate association with an ex-felon. She brought a claim alleging violation of her First Amendment rights.</p> <p>The court granted her motion for summary judgment, relying upon the fact that the parties had developed an intimate relationship which <i>predated</i> the enactment or implementation of the sheriff's rules that made association with a person who was convicted of a felony within the past ten years a "presumptive conflict of interest."</p>	
First Amendment	<p><i>Poirier v. Massachusetts Dept. of Correction</i>, 558 F.3d 92 (1st Cir. 2009)</p> <p>Female corrections officer developed a relationship with male inmate and continued the relationship. She requested permission for the inmate to reside with her and was fired for unauthorized contact.</p> <p>Poirier claims that the DOC and its commissioner violated her First Amendment right, specifically the right to intimate association, and her Fourteenth Amendment right.</p>	

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	The court found the officer's rights were not violated and dismissed her complaint.	
What's OK?	Termination of a correctional officer who maintained a close friendship with a detainee arrested on misdemeanor simple assault disorderly conduct, spent forty-eight hours in prison, and received twenty-one months of probation?	Is this okay? Read scenario on the slide
What's OK?	YES Termination of a correctional officer who maintained a close friendship with a detainee arrested on misdemeanor simple assault disorderly conduct, spent forty-eight hours in prison, and received twenty-one months of probation?	<i>Lord v. Erie County</i> , 476 Fed. Appx. 962 (3d Cir. 2012): Mere friendships are not protected by first amendment.
What's OK?	Thirty-day suspension of a correctional officer who testified on behalf of a criminal defendant?	Is this okay? Read scenario on slide
What's OK?	YES Thirty-day suspension of a correctional officer who testified on behalf of a criminal defendant?	<i>Leek v. New Jersey Dept. of Corrections</i> , 2008 WL 2026428, (N.J. Super. A.D., May 14, 2008)
What's OK?	Termination of a correctional officer who married an inmate, where the couple had dated and had a child together before his incarceration?	Is this okay? Read scenario on slide
What's OK?	YES	<i>Wolford v. Angelone</i> , 38 F.Supp. 2d 452 (W.D. Va. 1999):

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	Termination of a correctional officer who married an inmate, where the couple had dated and had a child together before his incarceration?	
What's OK?	Bottom line: Female correctional officers are most often implicated in anti-fraternization cases.	
But see, <i>Corso v. Fischer</i> , 2013 WL 5807470 (S.D.N.Y Oct. 22, 2013)	<p>Joann Corso, a NYS corrections employee challenged the Work Rule which prohibited corrections employee from associating with current or former inmates or parolees. An exception to this general rule was given to employee on a case by case basis without any guidelines for when a exception might be given.</p> <p>Holding:</p> <ul style="list-style-type: none"> • Work Rule is unconstitutionally overbroad finding that there is "a realistic danger that the statue itself will significantly compromise recognized First Amendment protections of parties not before the Court." • The exception clause did not establish constitutionality because there were no articulated standards for exceptions. <p>DOCCS employees do not have to seek permission to associate with close family members that are inmates or former inmates,</p>	<p>Plaintiff had multiple connections to inmates and had sought permission on numerous occasions, some requests were granted, others denied. One of such connection was her husband who she received permission to divorce and correspond with after her was diagnosed with cancer, but permission was denied when she request to cohabitate with him and have in-person visits.</p> <p>Legal claims:</p> <p>(1) as applied to Plaintiff, the DOCCS Work Rule is an unconstitutional infringement on Plaintiff's First Amendment freedom of intimate association (2) striking the Work Rule as void for vagueness (3) striking the Work Rule as facially overbroad in violation of the First Amendment (4) amended rule was not</p>

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	however, employees must still inform DOCCS of these associations.	<p>approved in collective bargaining with the union.</p> <p>Holding: [First two claims were dismissed prior to this ruling] (1) as applied challenge was struck down, (2) rule not unconstitutionally vague, (3) meritorious, (4) procedure for adopting the rule was consistent with longstanding practice and was not ineffective.</p> <p>In its decision, the Court explained that the Rule as written prohibits employees from ever reestablishing contact with their spouse, children, parents, or siblings when that family member is released and becomes a former inmate. The Court illustrated this issue through a hypothetical scenario stating that “[a] DOCCS employee would be in violation of the Rule if he had any contact with a parent who served thirty days in jail in the 1960’s for dodging the Vietnam War draft”. The Court stated “the number of situations in which the Rule would prohibit constitutionally protected relationships must be substantial.”.</p> <p>The Court pointed out that there was no evidence to suggest “that there is a</p>

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		binding judicial or administrative construction requiring such exceptions to be granted" and "no evidence that the practice of granting exceptions for family members is well-established". Contrarily, testimony from a DOCCS employee implied that there are cases where exceptions are not granted for family gatherings.
Summary	<p>Current case law supports limitations for cross-gender searches</p> <p>Agencies may institute BFOQs, however, they must be narrowly tailored and specific to a particular position. PREA standards may relieve agencies from use of BFOQs.</p> <p>Agencies can be held liable for both sexual harassment and sexual discrimination.</p> <p>Agencies can institute anti-fraternization policies, and should be mindful these policies may have a greater impact on female staff than male staff.</p>	<p>Evaluation:</p> <p>Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

Module 14: Legal Liability and Gender

Time: 2 hours

Recommended Faculty:

Prosecuting Attorney or General Counsel

Resources:

LCD projector, computer and media screen

Participant Handouts:

- PowerPoint®
- Cross Gender Supervision: A Case Law Survey
- Sexual Abuse in Custody: A Case Law Survey
- Anti-fraternization: A Case Law Survey
- Watching You, Watching Me

PowerPoint® Programs:

Module 14: Legal Liability and Gender

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Objectives	<p>Identify and discuss the frameworks for legal liability.</p> <p>Identify various forms of liability</p> <p>Review case law and describe how claims are handled</p>	
Introduction	<p>Civil Liability – Major Issues</p> <ul style="list-style-type: none"> • Staff Sexual Misconduct • Youth-on-youth Conduct 	
Introduction	<p>Youth-on-youth</p> <p>Who Raises the Issue?</p> <ul style="list-style-type: none"> • Male youth • Female youth <p>Nature of the Conduct:</p> <ul style="list-style-type: none"> • Forced • Coerced • Non-coerced 	Liability depends on two factors-- who raises the issue and the nature of the conduct,.
Introduction	<p>Staff Sexual Misconduct – Important Factors</p> <p>Who Raises the Issue?</p> <ul style="list-style-type: none"> • Male youth • Female youth • Gender non-conforming youth <p>Who Was the Perpetrator?</p> <ul style="list-style-type: none"> • Male staff • Female staff 	The same is true for staff sexual misconduct – who raises the issue and the gender of the perpetrator. In criminal cases female staff rarely prosecuted or convicted. Converse is true for male staff.
Introduction	<p>Staff Sexual Misconduct – Important Factors</p> <p>Agency/Facility History:</p>	The reputation of the agency and who is the inquisitor matters as well.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> Complaints about misconduct Complaints about other institutional concerns Community standing <p>Context in Which the Issue Is Raised:</p> <ul style="list-style-type: none"> Litigation Investigation Agency oversight Review panel 	It is much easier to believe that bad conduct that is attributed to you is true if you have a history of poor treatment of individuals in custody or of malfeasance by staff.
Introduction	<p>Mitchell v. Neff, 2012 WL 2449863 (W.D. Ark. May 30, 2012)</p> <p>The Facts</p> <ul style="list-style-type: none"> Conditions in the facility were like a “big party,” inmates smoking, drinking, and using cell phones Inmates were escaping through a hole in the roof, and returning with contraband Jail was in chaos Two inmates assaulted another inmate, severely injuring him. The sheriff resigned shortly before this incident 	Mitchell v. Neff is instructive.
Introduction	<p>Mitchell v. Neff, 2012 WL 2449863 (W.D. Ark. May 30, 2012)</p> <p>Court’s Finding</p> <ul style="list-style-type: none"> Inmate brought suit for deliberate indifference 	

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	<p>against employees who were aware of these conditions, including a Major (chief of security).</p> <ul style="list-style-type: none"> • Court found the Major was aware of the dangerous conditions in the jail, and was deliberately indifferent to a substantial risk of serious harm. \$5000 judgment against the major in his official capacity. • The jail administrator brought in after the sheriff resigned was not held liable, as the assault took place only 2 ½ weeks after he began 	
Legal Framework	<p>Legal Responsibilities</p> <p>Prison Rape Elimination Act</p> <p>Civil Rights of Institutionalized Persons Act (CRIPA)</p> <p>Prison Litigation Reform Act</p> <p>Constitutional Framework</p> <p>State Tort Framework</p>	
PREA	<p>Interpretation</p> <p>PREA does not create a private right of action but can help to establish an 8th Amendment claim. De'lonta v. Clarke, 2012 WL 4458648 (W.D. Va., Sept. 11, 2012)</p>	

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	May be able to use PREA definitions to define causes of action. Chapman v. Willis, 2013 WL 2322947 (W.D. Va., May 28, 2013) (recognizing the possibility of employing the PREA definition of rape to define a claim).	
Civil Rights of Institutionalized Persons Act	<p>Civil Rights of Institutionalized Persons Act, 4 Federal Statute</p> <p>DOJ Special Litigation enforces:</p> <ul style="list-style-type: none"> • Prisons and jails • State and local nursing homes • Juvenile facilities • Facilities for mentally ill • Facilities for developmentally disabled and mentally retarded • Must be widespread pattern of abuse <p>Facility under a CRIPA investigation can be monitored for a period of months, or even years 2 U.S.C. § 1997</p>	<p>Discussion: Have any of you ever been under CRIPA supervision? How long did it last?</p> <p>Talk about agency's experience with CRIPA.</p> <p>Describe the requirements that were made of the agency.</p>
Civil Rights of Institutionalized Persons Act	<p>Terrebonne Parish Juvenile Detention Center Houma, LA</p> <p>January 2011: DOJ found that TPJDC violated youths' civil rights, and that the youth were subjected to: the (1) physical and sexual misconduct by staff; (2) excessive physical</p>	

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	<p>restraints; (3) inappropriate use of chemical agents; (4) excessive use of isolation; and (5) inadequate suicide prevention.</p> <p>October 2011: Settlement agreement to remedy violations</p>	
Prison Litigation Reform Act	<p>Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat 1321 (1995)</p> <p>Exhaustion requirement</p> <p>Limits on attorney fees</p> <p>Limits consent decrees</p> <p>Limits on appointment of special masters</p> <p>Physical injury requirement</p> <p>Limits on proceeding in forma pauperis [without paying fees]</p>	<p>The Exhaustion Requirement is not only a method for courts to turn away inmates' cases, but serves as an early warning system for facilities. Your grievance procedures should give you the opportunity to address claims as they arise, without waiting for litigation. Applies to juveniles as well.</p>
Prison Litigation Reform Act	<p>§ 115.352: Exhaustion of administrative remedies</p> <p>(a) An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.</p> <p>(b)(1) The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.</p>	<p>PREA has laid out in great detail the process for exhaustion of administrative remedies in the context of sexual abuse in custody.</p> <ul style="list-style-type: none"> • Agency is exempt from the standard if it has no grievance procedures (not a smart move legally) • No time limits on the filing a grievance

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	<p>(3) The agency shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.</p> <p>(4) Nothing in this section shall restrict the agency's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.</p>	<p>related to sexual abuse in custody</p> <ul style="list-style-type: none"> • Can't require resident to use informal process of resolution before exhaustion can occur. • Doesn't limit the agency's ability to raise the statute of limitations as a defense to litigation
Prison Litigation Reform Act	<p>§ 115.352: Exhaustion of administrative remedies</p> <p>(c) The agency shall ensure that—</p> <p>(1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and</p> <p>(2) Such grievance is not referred to a staff member who is the subject of the complaint.</p> <p>(e)(1) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.</p>	<p>Outlines how youth can exhaust</p> <ul style="list-style-type: none"> • Don't have to submit complaint to the perpetrator • Others can assist resident in filing the grievance •

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Prison Litigation Reform Act	<p>§ 115.352: Exhaustion of administrative remedies</p> <p>(e)(2) If a third party, other than a parent or legal 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> <p>(3) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.</p> <p>(4) A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.</p>	Parents or legal guardians can file grievances on behalf of youth
Prison Litigation Reform Act	<p>Molina v. New York, 2011 WL 6010907 (N.D.N.Y. 2011)</p> <p>Facts</p> <ul style="list-style-type: none"> Seventeen year old resident got into a physical altercation with a juvenile detention worker. The juvenile's 	<p>Facts are highly disputed – hence the passive voice.</p> <p>Bottom line-- the court took into consideration the age of the youth and the circumstances of the incident in determining whether the youth had failed to exhaust administrative remedies.</p>

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	<p>arm was fractured as a result.</p> <ul style="list-style-type: none"> • Juvenile claimed that he filed a grievance upon his return from the hospital, although no such grievance was found • Juvenile brought suit for excessive force and failure to intervene, and the facility claimed he had not exhausted under the PLRA 	
Prison Litigation Reform Act	<p>Molina v. New York, 2011 WL 6010907 (N.D.N.Y. 2011)</p> <p>Court's Analysis</p> <p>PLRA <i>does</i> apply to juvenile adjudications. The court used a three-part test to analyze whether the juvenile had exhausted his administrative remedies</p> <ul style="list-style-type: none"> • "The age of the prisoner and their familiarity with the grievance procedure" • "Whether the defendants' own actions inhibiting the [juvenile's] exhaustion of remedies" • "Whether 'special circumstances' have been plausibly alleged that justify the prisoner's failure to comply with the administrative procedural requirements." 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
Prison Litigation Reform Act	<p>Molina v. New York, 2011 WL 6010907 (N.D.N.Y. 2011)</p> <p>Court's Holding</p> <p>Court denied defendants' motion for summary judgment</p> <ul style="list-style-type: none"> • Due to agency practice, the formal grievance procedure was not the only accepted method of filing a grievance • Plaintiff successfully pursued an informal method of grievance • The agency was on notice that the juvenile was attempting to file a grievance for use of excessive force 	
Federal Torts Claims Act	<p>Federal Torts Claims Act, 28 U.S.C. 1346, et. Seq.</p> <p>In limited circumstances, the FTCA waives sovereign immunity or allows federal agencies to be sued for:</p> <ul style="list-style-type: none"> • The negligent or wrongful act or omission of any employee of the government. • Intentional torts • Acting within the scope of his or her employment. <p>Most common claims include:</p> <ul style="list-style-type: none"> • Assault and battery. • Negligent hiring, training, or supervision. 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<ul style="list-style-type: none"> Negligent or intentional infliction of emotional distress. 	
Federal Torts Claims Act	<p>Federal Torts Claims Act, 28 U.S.C. 1346, et. seq.</p> <p><i>Millbrook v. United States</i>, 133 S.Ct. 1441 (2013)</p> <p>On Wednesday, March 27, 2013, the United State Supreme Court issued its ruling in <i>Millbrook v. United States</i>, and held that the Federal Torts Claims Act (FTCA) waives sovereign immunity for correctional officers who commit intentional torts against inmates while acting within the scope of their employment.</p>	<p>The Supreme Court heard argument on <i>Millbrook</i> on 2/19/13 on whether correctional officers can be held liable under the FTCA for abuse of inmates.</p> <p>Question before the courts was whether 28 U.S.C. §§ 1346(b) and 2680(h) waives the sovereign immunity of the United States for the intentional torts of prison guards when they are acting within the scope of their employment but are not exercising authority to "execute searches, to seize evidence, or to make arrests for violations of Federal law."</p> <p>No one disputed that if <i>Millbrook</i> was sexually assaulted by three federal prison guards and his constitutional rights were violated. The question in the case is whether the federal government can be held liable for that violation by its employees.</p> <p>Ordinarily, the government is immune from suit for even the most egregious conduct of its agents. But Congress waived the government's immunity to a significant degree in the Federal Tort Claims Act</p>

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		<p>(FTCA), which generally waives immunity for any negligent or wrongful act committed by a federal employee acting within the scope of his employment.</p> <p>So that would seem to allow Millbrook's suit for an assault by a guard. But there is an exception – there is no waiver for certain intentional torts, including assault and battery.</p> <p>So Millbrook would seem to be out of luck, given that sexual assault is a kind of assault. But there is an exception to the exception – the so-called "law enforcement proviso" allows suit for "any claim" of "assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution" arising out of the acts of federal "investigative or law enforcement officers."</p> <p>Are COs law enforcement officers?</p> <p>Are they performing law enforcement duties?</p> <p>The Third Circuit where Millbrook was detained held that it did not. The court of appeals did not question that prison guards count as "investigative or law enforcement officers." But it read the proviso narrowly, to permit suit only when the</p>

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		assault occurs while the officer is "executing a search, seizing evidence, or making an arrest." Because the prison guards in this case were doing none of those things, the law enforcement proviso did not apply, and the federal government's immunity remained intact.
Constitutional Framework	Constitutional Claims 42 U.S.C. § 1983 <ul style="list-style-type: none"> • Fourteenth Amendment • Eighth Amendment • Fourth Amendment 	
Constitutional Framework	42 U.S.C. § 1983 Creates a federal cause of action for the vindication of rights found elsewhere. Key elements: <ul style="list-style-type: none"> • Deprived of a right secured by the US Constitution or law of the United States. • Deprivation by a person acting under color of state law. West v. Atkins, 487 U.S. 42 (1988) ("A defendant in a section 1983 suit acts under color of state law when he abuses the position given to him by the state.")	
Constitutional Framework	42 U.S. C. § 1983, "Under the Color of State Law"	These are both Eighth Amendment cases. As noted before the Eighth Amendment

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	<p>City employee who supervised jail inmates working with the city public works department was “acting under color of state law” and could be sued under 42 U.S.C. § 1983. <i>Washington v. City of Shreveport</i>, 2006 WL 1778756 (W.D. La. 2006)</p> <p>Inmate assigned to work in state driver’s license bureau as part of her sentence could sue state driver’s license examiner for sexual misconduct under the eighth amendment. State agency that is delegated the responsibility of the state can be liable under the Eighth Amendment. <i>Smith v. Cochran</i>, 339 F.3d 1205 (10th Cir. 2003).</p>	prohibits cruel and unusual punishment. Though courts sometimes use the Eighth Amendment to analyze cases involving youth, most often it is the Fourteenth Amendment.
Constitutional Framework	<p><i>Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics</i>, 403 U.S. 388 (1971)</p> <p>Bivens action is the federal counterpart to a §1983 action.</p> <ul style="list-style-type: none"> Bivens held that a constitutional violation by a federal agent acting under color of his authority gives rise to a cause of action for damages. <p>Federal officials can be brought into federal court for violating the federal constitution.</p>	

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Constitutional Framework	<p>Fourteenth Amendment</p> <p>Because youth have not been criminally prosecuted, courts will analyze claims of sexual abuse under the Fourteenth Amendment, rather than the Eighth Amendment cruel and unusual punishment standard</p> <p>Lower legal standard than Eighth Amendment, asking whether the individual was deprived of life, liberty, or property without due process of law.</p> <p>The Fourteenth Amendment offers a greater level of protection to juveniles, although many courts will still analyze claims involving youth using the Eighth Amendment</p>	
Constitutional Framework	<p>Eighth Amendment</p> <p>Prohibits cruel and unusual punishment.</p> <p>Legal standard is “deliberate indifference,” for which the Supreme Court has created a two-part test. <i>Farmer v. Brennan</i>, 511 U.S. 825 (1994).</p> <ul style="list-style-type: none"> • The injury must be objectively serious. • The official must have a sufficiently culpable state of mind and have acted with deliberate indifference or reckless disregard for the 	

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	inmate's constitutional rights.	
Constitutional Framework	<p>Eighth Amendment, "Objectively serious injury"</p> <p>Sufficient:</p> <ul style="list-style-type: none"> • Improper touching without a legitimate penological purpose can be sufficient. <i>Seltzer–Bey v. Delo</i>, 66 F.3d 961 (8th Cir. 1995). • Repeated conduct can be sufficient. <i>Kahle v. Leonard</i>, 477 F.3d 544 (8th Cir. 2007). <p>Not Sufficient:</p> <ul style="list-style-type: none"> • Single, isolated incidents that do not result in physical harm are generally not sufficient. <i>Berryhill v. Schriro</i>, 137 F.3d 1073 (8th Cir. 1998). • Verbal comments alone are generally not sufficient. <i>Boddie v. Schneider</i>, 105 F.3d 857 (2d Cir. 1997). 	
Constitutional Framework	<p>Eighth Amendment, "Deliberate indifference"</p> <p>Deliberate indifference to inmate vulnerability—safety or health.</p> <ul style="list-style-type: none"> • Official knew of and disregarded an excessive risk to inmate safety or health. 	

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	<ul style="list-style-type: none"> Official must be aware of facts from which an inference could be drawn that a substantial risk of harm exists and he/she must draw the inference. 	
Constitutional Framework	<p>Smith v. Wade, 461 U.S. 30 (1983)</p> <p>The Supreme Court found the failure of facility authorities to separate aggressive youth from potential victims could demonstrate callous or reckless indifference, making them liable for the injury of the endangered youth</p> <p>Further held that the officer could be held liable for punitive damages</p>	Used Eighth Amendment standard
Constitutional Framework	<p>Fourth Amendment</p> <p>Whether the individual has a legitimate expectation of privacy.</p> <p>Whether the search or intrusion was reasonable.</p> <p>Important implications for cross-gender searches.</p>	<p>Consider, <i>T.S. v. Gabbard</i>, 2012 WL 2175791 (E.D. Ky. Jun. 14, 2012)</p> <p>Juveniles were subjected to [same sex] strip searches upon entrance into a juvenile detention facility. Purpose of said search was to discover any visible signs of "injury, illness, infection or abuse." COs that preformed this search had no specialized training to discover such things.</p> <p>Agency policy was to only do such a strip search when there was reasonable suspicion and</p>

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		<p>with prior approval from the Superintendent or Ass. Superintendent. Searches preformed on the plaintiffs had neither.</p> <p>The court found a violation of the Plaintiff's Fourth amendment rights, and stated that "[a]s the Plaintiffs suggest, a partially clothed search could yield the same results. Simply put, the reasons for performing the intake strip search at BRJDC simply do not justify the serious invasion of personal privacy suffered by the juvenile Plaintiffs."</p> <p>Strip searches of children raise unique concerns, since youth "is a time and condition of life when a person may be most susceptible to influence and psychological damage."</p> <p>However, many courts have upheld strip searches of juveniles upon arrival at detention facilities when the purpose is to discover contraband.</p>
State Tort Framework	<p>State Tort Claims</p> <ul style="list-style-type: none"> • Assault • Battery • Intentional infliction of emotional distress • Negligent infliction of emotional distress • Negligent hiring, firing, 	<p>Torts are legal claims based on state law rather than federal law.</p>

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	<p>supervision, training</p> <ul style="list-style-type: none"> States are generally protected from tort suits under sovereign immunity. Some states, however, have passed legislation that permits detainees to bring tort suits against the state. 	
Forms of Liability	<p>Potential Liability</p> <p>Municipal</p> <p>Official</p> <p>Individual</p> <p>Personal</p>	
Forms of Liability	<p>Municipal Liability – Monell v. Department of Social Services, 436 U.S. 658 (1978)</p> <p>Municipality is a person that can be held liable under Section 1983.</p> <p>Injury must be inflicted due to an officially executed policy or toleration of custom.</p> <ul style="list-style-type: none"> Inaction Failure to train or supervise Failure to investigate <p>Cannot be held responsible under respondeat superior or vicarious liability.</p> <ul style="list-style-type: none"> Must make showing that this officer was likely to 	<p>Municipal liability is the way that state, county or city can be held liable.</p>

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	inflict a particular injury and that agency had facts from which it concludes that it was likely.	
Forms of Liability	Official Liability Will cause liability to municipality. Did it happen on your watch? Were you responsible for promulgating and enforcing policy? Did you fail to act or ignore information presented to you?	Official liability is just what it sounds like – liability of the official for wrong to person to whom s/he had a duty of care. If the official is liable and acting within scope of duties municipality can be held liable.
Forms of Liability	Individual Liability Officials sued in individual capacity may be protected from damages if the alleged wrongful conduct was committed while they performed a function protected by qualified immunity.	
Forms of Liability	Individual Liability – Elements Participated directly in the alleged constitutional violation; After being informed of the violation through a report or appeal, failed to remedy the wrong;	Very rarely is a correctional employee held liable in both official and individual capacity. Generally, court chooses one or other.

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	<p>Created a policy or custom under which unconstitutional practices occurred, or allowed the continuance of such a policy or custom;</p> <p>Grossly negligent in supervising subordinates who committed the wrongful acts; or</p> <p>Deliberate indifference to others' rights by failing to act on information indicating unconstitutional acts were occurring.</p>	
Forms of Liability	<p>Personal Liability</p> <p>Plaintiff must provide notice that the suit is against the official in his/her personal capacity.</p> <p>Direct participation not required.</p> <p>Actual or constructive notice of unconstitutional practices.</p> <p>Demonstrated gross negligence or deliberate indifference by failing to act.</p>	
Forms of Liability	<p>Qualified Immunity</p> <p>No violation of federal law—constitutional or otherwise.</p> <p>Rights and law not clearly established at the time of the incident.</p>	

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	Official's action was objectively legally reasonable in light of clearly established legal rules at time of the incident.	
	Case Law Digest	<p>For all of the following case examples, instructors can choose to use a case as an activity. The cases involve both adults and juveniles as plaintiffs. Instructors should emphasize that lower legal standards – the Fourteenth Amendment – apply to youth</p> <p>Activity: Ask participants to write down the PREA issues in a case and then discuss. Ask participants how they think the outcome should go and discuss that as well.</p> <p>Plan to spend a few minutes on each case and take questions. This is a module that really requires someone with legal training and who will make sure that the cases are still good law and who can answer legal questions that participants raise.</p>
Case Law – Staff Sexual Misconduct Juvenile	<p>K.M. v. Alabama Department of Youth Services, 360 F. Supp. 2d 1253 (M.D. Al. 2005)</p> <p>The Facts:</p> <p>Four juvenile girls sued the</p>	

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	<p>Alabama Department of Youth Services, the executive director, and employees, alleging they were physically and sexually assaulted and harassed.</p> <ul style="list-style-type: none"> • Widespread public allegations of sexual abuse and harassment. • One plaintiff was sexually assaulted in the laundry room. <p>Legal Claims:</p> <p>42 U.S.C. § 1983: Fourteenth and Eighth Amendment</p> <p>State Tort law (negligence, outrage, assault, and battery).</p>	
Case Law – Staff Sexual Misconduct Juvenile	<p>K.M. v. Alabama Department of Youth Services, 360 F. Supp. 2d 1253 (M.D. Al. 2005)</p> <p>Court’s Ruling:</p> <p>Fourteenth Amendment is the correct standard</p> <ul style="list-style-type: none"> • Juvenile institutions are not correctional facilities. • Partially correctional, partially educational. • Meant to discipline as opposed to punish. • Rehabilitative and educational. • Juvenile detention is not criminal adjudication. • Juveniles entitled to greater protection from 	

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	<p>wanton and unnecessary pain.</p> <ul style="list-style-type: none"> • The conduct also violated the Eighth Amendment. • The court allows the Fourteenth Amendment claim to proceed on a motion for summary judgment <p>State tort claims allowed as well.</p>	
Case Law – Staff Sexual Misconduct Juvenile	<p>K.M. v. Alabama Department of Youth Services, 360 F. Supp. 2d 1253 (M.D. Al. 2005)</p> <p>Outcome</p> <p>The Alabama Department of Youth Services entered into settlement negotiations with the plaintiffs after the court ruled on the motion for summary judgment.</p> <p>The Department eventually settled the case</p> <ul style="list-style-type: none"> • 49 female youth were parties to the settlement agreement. • The Department paid a total of \$12.5 million dollars. 	
Case Law – Staff Sexual Misconduct Juvenile	<p>Beers–Capitol v. Whetzel, 256 F.3d 120 (3d Cir. 2001)</p> <p>Female juvenile residents in a state juvenile detention facility brought § 1983 claim against</p>	<p>Occurred at Youth Development Center at New Castle, Pennsylvania (YDC), also a named defendant.</p>

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	<p>employee who sexually assaulted them, and the employee's supervisors.</p> <p>Offending employee was held liable, and a judgment for \$200,000 was entered.</p> <p>Counselor could be held liable, as she was on notice that one of the employee's was "messaging" with female residents.</p> <p>Executive director and unit directors were not held liable, as only one allegation of sexual abuse was not sufficient to put them on notice of a pattern of sexual abuse.</p>	
Case Law – Staff Sexual Misconduct Juvenile	<p>B. v. Duff, 2009 WL 2147936 (N.D. Ill. Jul. 17, 2009)</p> <p>Juvenile females were sexually assaulted by a male correctional employee.</p> <p>The employee eventually pled guilty to two counts of criminal sexual assault for sexual misconduct against one of the minors.</p> <p>The court found that the warden could not be held liable for the sexual assaults. The warden was not deliberately indifferent, as the warden was never informed of the assaults, and the juvenile denied assaults were taking place</p>	<p>Discussion:</p> <p>More often than not, youth and inmates, particularly female deny the conduct. Why do they you think this denial occurs?</p>

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	when the warden questioned her.	
Case Law – Staff Sexual Misconduct Juvenile	<p>S.H. v. Stickrath, 251 F.R.D. 293 (S.D. Ohio 2008)</p> <p>Class action on behalf of all juveniles at ODYS</p> <p>Came to forefront due to violent sexual abuse at Scioto Juvenile Detention Facility</p> <ul style="list-style-type: none"> • 14 staff indicted • 6 convicted of offenses from sexual battery to dereliction of duty • Male and female staff abusing male and female youth 	
Case Law – Staff Sexual Misconduct Juvenile	<p>S.H. v. Stickrath, 251 F.R.D. 293 (S.D. Ohio 2008)</p> <p>Class action on behalf of girls at Scioto – 12/04</p> <ul style="list-style-type: none"> • Physical abuse • Sexual abuse • Inadequate mental health care • Use of isolation <p>Special Litigation filed a CRIPA complaint –3/05</p> <p>Negotiated for 2 years</p> <p>Litigation expanded to include all facilities including those for boys</p> <p>Final draft settlement -- April</p>	

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	2008	
Case Law – Staff Sexual Misconduct Juvenile	<p>R.G. v. Koller, 415 F. Supp. 2d 1129 (D. Haw. 2006)</p> <p>The Facts:</p> <p>Teenagers confined at the Hawaii Youth Correctional Facility (HYCF), in Kailua, Hawaii, were subjected to a campaign of unrestrained harassment, abuse, and other maltreatment because they are or were perceived to be lesbian, gay, bisexual, or transgender (LGBT).</p> <p>Staff told youth that being gay was not of God.</p> <p>Staff allowed other youth to harass youth perceived as gay.</p>	
Case Law – Staff Sexual Misconduct Juvenile	<p>R.G. v. Koller, 415 F. Supp. 2d 1129 (D. Haw. 2006)</p> <p>Legal Claims:</p> <p>42 U.S.C. § 1983</p> <p>Fourteenth Amendment: a pervasive climate of hostility toward, discrimination against, and harassment based on their actual or perceived sexual orientation, sex, and/or transgender status.</p> <p>First Amendment: acts of religious preaching by HYCF staff in content-based and</p>	

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	<p>viewpoint-discriminatory silencing of plaintiffs' speech.</p> <p>First, Sixth, and Fourteenth Amendment: interference with access to counsel and the courts, referencing a policy requiring parental consent before contacting ACLU.</p>	
Case Law – Staff Sexual Misconduct Juvenile	<p>R.G. v. Koller, 415 F. Supp. 2d 1129 (D. Haw. 2006)</p> <p>Outcome: DOJ CRIPA found conditions, policies and practices at HYCF violated constitutional and statutory rights of juvenile wards.</p> <p>Liability: Fourteenth Amendment: Rampant and unchecked staff-on-youth abuse, exploitation of youth in a myriad of circumstances, and youth-on-youth abuse.</p> <p>No Liability: First Amendment: Court found that youth were not able to show the staff members promotion of religion was sufficiently tied to "government endorsement of religion" either through an explicit policy, or ratification.</p> <p>First, Sixth, Fourteenth Amendment: Court found youth did not articulate facts that their right to counsel was</p>	

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	impinged.	
Case Law – Staff Sexual Misconduct Juvenile	<p>New California Legislation – SB 1172</p> <p>California Governor signed SB 1172, authored by Senator Ted Lieu (D-Torrance), making California the first state to ban sexual orientation change efforts for minors.</p> <p>"Under no circumstances shall a mental health provider engage in sexual orientation change efforts with a patient under 18 years of age"</p> <p>"Any sexual orientation change efforts attempted on a patient under 18 years of age by a mental health provider shall be considered unprofessional conduct and shall subject a mental health provider to discipline by the licensing entity for that mental health provider."</p>	<p>California's law in no way prevents therapists from providing support for a transgender youth who is undergoing gender transition, including using the young person's preferred name or gender pronoun, or facilitating access to hormones or gender-confirmation surgeries. All of those things are completely appropriate and necessary to provide competent care to a transgender young person. This law prohibits therapists from preventing a minor from being LGBTI.</p> <p>Similar legislation has been passed in New Jersey (and upheld in a challenge in the federal district court) and introduced in New York, DC, Colorado and Vermont.</p>
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Heckenlaible v. Virginia Peninsula Regional Jail Authority, 2007 WL 1732385 (E.D. Va. Jun. 13, 2007)</p> <p>The Facts:</p> <p>Male correctional officer escorted a mentally ill female pre-trial detainee to the shower and stared at her while she was showering in violation</p>	

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	<p>of agency policy.</p> <p>That same day, he sexually assaulted her in her cell, forcing her to perform oral sex on him.</p> <p>Heckenlaible cleaned herself off with a towel, which she kept under the bed, and cried herself to sleep.</p>	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Heckenlaible v. Virginia Peninsula Regional Jail Authority, 2007 WL 1732385 (E.D. Va. Jun. 13, 2007)</p> <p>The Facts:</p> <p>Heckenlaible reported to supervisory staff the next day, and they placed Steele on administrative leave.</p> <p>They recovered towel and determined the presence of semen.</p> <p>Steele was fired for sex with inmate and refusal to cooperate in investigation.</p> <p>Steele was convicted of carnal knowledge of an inmate in 2004—a class 6 felony, and was still locked up at time of the writing of the opinion.</p>	
Case Law – Staff Sexual Misconduct Male Correctional	Heckenlaible v. Virginia Peninsula Regional Jail Authority, 2007 WL	

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Employee/Female Inmate	<p>1732385 (E.D. Va. Jun. 13, 2007)</p> <p>Legal Claims:</p> <p>Against jail authority and Steele</p> <ul style="list-style-type: none"> • Assault and battery • Intentional infliction of emotional distress • Negligent hiring • Negligent retention • Negligence <p>Against Steele</p> <ul style="list-style-type: none"> • 42 U.S. C. §1983: Fourteenth Amendment substantive due process right to bodily integrity. 	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Heckenlaible v. Virginia Peninsula Regional Jail Authority, 2007 WL 1732385 (E.D. Va. Jun. 13, 2007)</p> <p>Court's Ruling:</p> <p>Jail liable - distinguishes from cases where acts of employee were incidental to employment</p> <p>MSJ denied</p> <ul style="list-style-type: none"> • Intentional infliction of emotional distress • Assault and battery • Negligence • Substantive due process claim <p>MSJ granted</p>	

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	<ul style="list-style-type: none"> • Negligent hiring. • Negligent retention. 	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Heckenlaible v. Virginia Peninsula Regional Jail Authority, 2007 WL 1732385 (E.D. Va. Jun. 13, 2007)</p> <p>Court’s Analysis:</p> <p>Precautionary measures of agency:</p> <ul style="list-style-type: none"> • Policy prohibiting abuse of inmates. • Policy prohibiting sex with inmates. • Policy prohibiting search of female inmates by male staff unless accompanied by female staff, except in emergency. <p>History of agency:</p> <ul style="list-style-type: none"> • No complaints against Steele. • No complaints of sexual abuse of inmates. 	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Gonzales v. Huerfano County, 403 F.3d 1179 (10th Cir. 2005) cert. den. Salazar v. Gonzales, 546 U.S. 1003, 126 S.Ct. 624 (U.S. Nov 07, 2005)</p> <p>The Facts:</p> <p>Male jail administrator sexually assaulted female inmate. Later that day the</p>	

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	<p>senior detention officer sexually assaulted another female inmate.</p> <p>Both women submitted written statements describing the assaults to detention officers who called the sheriff. The sheriff went to the jail but did not see the women until the next day. The sheriff was related to both the senior detention officer (son-in-law) and the jail administrator (nephew by marriage).</p>	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Gonzales v. Huerfano County, 403 F.3d 1179 (10th Cir. 2005) cert. den. Salazar v. Gonzales, 546 U.S. 1003, 126 S.Ct. 624 (U.S. Nov 07, 2005)</p> <p>Legal Claims: Against County and Sheriff</p> <ul style="list-style-type: none"> • § 1983: Eighth Amendment: Duty to employ competent law enforcement officers and to supervise. • Negligent supervision. <p>Offending Officers</p> <ul style="list-style-type: none"> • Assault and battery. 	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Gonzales v. Huerfano County, 403 F.3d 1179 (10th Cir. 2005) cert. den. Salazar v. Gonzales, 546 U.S. 1003, 126 S.Ct. 624 (U.S. Nov 07, 2005)</p>	

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	<p>Court's Ruling:</p> <p>County Dismissed</p> <ul style="list-style-type: none"> • No allegation that county or sheriff set the policy which caused the injury. • Otherwise immune from suit under state statute – Colo. Rev. Stat. §30-11-105. 	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Gonzales v. Huerfano County, 403 F.3d 1179 (10th Cir. 2005) cert. den. Salazar v. Gonzales, 546 U.S. 1003, 126 S.Ct. 624 (U.S. Nov 07, 2005)</p> <p>Court's Ruling:</p> <p>Sheriff not dismissed—"Knew of and disregarded 'an excessive risk to inmate health and safety.'"</p> <ul style="list-style-type: none"> • No employee evaluations since 1994. • Only occasionally visited the jail • Prior incidents established notice. <ul style="list-style-type: none"> ○ The inmates had access to vodka; drunk inmates sat in control room and knew how to run controls. ○ The senior detention officer had exposed himself to female inmates in past and had asked female inmates to expose 	Salazar served out his term as sheriff, and was working at El Pueblo Boys and Girls Ranch when he was arrested for his conduct in office, including charges of embezzlement and theft.

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	their breasts.	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Kahle v. Leonard, 477 F.3d 544 (8th Cir. 2007)</p> <p>The Facts:</p> <p>Kahle was a detainee in the jail while Leonard was still completing his on-the-job training.</p> <p>According to jail policy, a correctional officer entering a cell after lockdown was “unusual and (literally) noteworthy event”</p> <p>Leonard entered Kahle’s cell three times, and sexually assaulted her each time</p>	
Case Law – Staff Sexual Misconduct Male Correctional Employee/Female Inmate	<p>Kahle v. Leonard, 477 F.3d 544 (8th Cir. 2007)</p> <p>Legal Claims:</p> <p>Against Supervisor</p> <ul style="list-style-type: none"> • 42 U.S.C. § 1983: Eighth Amendment. <p>Against Individual Officer</p> <ul style="list-style-type: none"> • Assault and battery. <p>Court’s Ruling:</p> <p>“Reasonable jury could conclude that [supervisor] was aware of a substantial risk of serious harm to Kahle and that he exhibited deliberate</p>	

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	indifference to that risk."	
Case Law – Staff Sexual Misconduct Male Correctional Officer/Male Inmate	<p>Seltzer–Bey v. Delo, 66 F.3d 961 (8th Cir. 1995)</p> <p>The Facts: Male detainee alleged that a male correctional officer conducted daily strip searches, made sexual comments about prisoner's penis and buttocks, and rubbed prisoner's buttocks with his nightstick.</p> <p>Legal Claim: 42 U.S.C. § 1983: Fourth</p> <p>Court's Ruling: Potential for liability.</p> <p>Court's Analysis: Searches may have been for the officer's personal gratification</p>	
Case Law – Staff Sexual Misconduct Female Correctional Employee/Male Inmate	<p>Wood v. Beauclair, 692 F.3d 1041 (9th Cir. 2012)</p> <p>The Facts:</p> <p>Female correctional officer entered into romantic relationship with a male inmate.</p> <ul style="list-style-type: none"> • Personal conversations. • Hugging, kissing, and touching. • On one occasion she attempted to touch him sexually. • Inmate heard rumor that officer was married and 	

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TOPIC	SLIDE	SPEAKING POINTS/ NOTES
	<p>attempted to end the relationship. After he attempted to end it, she began to be abusive toward him, conducting unnecessary searches.</p> <ul style="list-style-type: none"> On a second occasion she touched his penis during a search. 	
Case Law – Staff Sexual Misconduct Female Correctional Employee/Male Inmate	<p>Wood v. Beauclair, 692 F.3d 1041 (9th Cir. 2012)</p> <p>Legal Claims:</p> <p>42 U.S.C. § 1983</p> <ul style="list-style-type: none"> Eighth Amendment – sexual harassment Eighth Amendment – failure to protect Fourth Amendment – repeated searches First Amendment – retaliation <p>Court's Ruling: Sexual harassment claims could proceed.</p> <p>Lack of ability to consent at the forefront.</p> <p>Failure to protect claims were foreclosed.</p> <p>No evidence the officer's supervisors were aware of the conduct.</p> <p>Court dismissed First Amendment claim.</p>	

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	Jury found no Fourth Amendment violation.	
Case Law – Staff Sexual Misconduct Female Correctional Employee/Male Inmate	<p>Smith v. Beck, 2011 WL 65962 (M.D.N.C. 2011)</p> <p>The Facts: A male inmate was sexually abused by a female assistant superintendent several times a week over the course of nine months.</p> <p>The assistant superintendent was charged and convicted of sexual activity by a custodian.</p> <p>Legal Claims: Against prison superintendent and officials at North Carolina Department of Corrections</p> <ul style="list-style-type: none"> • 42 U.S.C. § 1983: Eighth Amendment <p>Assistant Superintendent</p> <ul style="list-style-type: none"> • 42 U.S.C. § 1983: Eighth Amendment • Intentional Infliction of Emotional Distress 	In North Carolina, sexual activity by a custodian is considered a registrable offense.
Case Law – Staff Sexual Misconduct Female Correctional Employee/Male Inmate	<p>Smith v. Beck, 2011 WL 65962 (M.D.N.C. 2011)</p> <p>Court's Ruling: Prison officials could not be held liable.</p> <ul style="list-style-type: none"> • No evidence that they were aware of a pattern or practice of similarly high-ranking prison 	

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	<p>officials engaging in sexual abuse of prisoners.</p> <p>Assistant superintendent could be held liable on both the Eighth Amendment and state tort law claim.</p>	
Case Law – Inmate on Inmate Male Inmate	<p>Bishop v. Hackel, 636 F.3d 757 (6th Cir. 2011)</p> <p>The Facts: A young, mentally slow male inmate was assaulted by his older, larger cellmate</p> <p>Deputy on duty did not stop the attack</p> <p>Legal Claims: Against sheriff and deputies</p> <ul style="list-style-type: none"> • 42 U.S.C. § 1983: Eighth Amendment • Negligence 	Age of victim not given in opinion or briefs
Case Law – Inmate on Inmate Male Inmate	<p>Bishop v. Hackel, 636 F.3d 757 (6th Cir. 2011)</p> <p>Court's Ruling:</p> <p>Negligence claims dismissed.</p> <p>Sheriff potentially liable on failure to train theory, if the need for training to prevent sexual predators from sexually assaulting other inmates was obvious.</p> <p>Individual deputy on duty</p>	

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	<p>during attack potentially liable.</p> <ul style="list-style-type: none"> Deputy was aware of the victim's status as vulnerable and the offending inmate's status as predatory. Possibility the deputy had overheard the sexual assault taking place, which would have put a reasonable prison official on notice of a potential sexual assault. <p>Other deputies could not be held liable, as there was not sufficient contact to identify inmate as vulnerable.</p>	
Case Law – Inmate on Inmate Male Inmate	<p>Brown v. Harris County, 409 F. Appx. 728 (5th Cir. 2010)</p> <p>The Facts: A male pre-trial detainee was assaulted by fellow inmates.</p> <p>Legal Claims: 42 U.S.C. § 1983: Fourteenth Amendment</p> <p>Court's Ruling: No liability</p> <ul style="list-style-type: none"> County jail officials were not deliberately indifferent to his safety, although the inmate had expressed his fear of sexual assault due to his medium build and white skin color. The officer responsible 	

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	for supervising the area had failed to notify her replacement of the possibility of a sexual assault on the inmate, but the court found this failure to notify was merely negligence, not deliberate indifference.	
Case Law – Investigations Male Correctional Employee/Female Inmate	<p>Riley v. Olk-Long, 282 F.3d. 592 (8th Cir. 2002)</p> <p>The Facts:</p> <p>Male officer made inappropriate comments to female inmate, which she did not report because “she doubted that she would be believed and feared the resulting discipline.”</p> <p>Officer later entered her cell and attempted to rape her. She performed oral sex so she would not become pregnant.</p> <p>The officer was terminated and convicted under state law.</p>	
Case Law – Investigations Male Correctional Employee/Female Inmate	<p>Riley v. Olk-Long, 282 F.3d. 592 (8th Cir. 2002)</p> <p>Legal Claims:</p> <p>Against warden and director of security</p> <ul style="list-style-type: none"> • 42 U.S.C. § 1983: under Eighth Amendment. <p>Court’s Ruling:</p>	

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	<p>Warden and director of security were deliberately indifferent to the substantial risk of harm that correctional officer presented to female inmates.</p> <p>Held personally liable to inmate in amount of \$20,000 from director and \$25,000 in punitive damages from the warden.</p>	
Case Law – Investigations Male Correctional Employee/Female Inmate	<p>Riley v. Olk-Long, 282 F.3d. 592 (8th Cir. 2002)</p> <p>Court’s Analysis:</p> <p>Prior to this incident other female inmates had made complaints.</p> <p>Officer had a history of predatory behavior; four prior investigations were closed as inconclusive. A collective bargaining unit precluded permanent reassignment.</p> <p>Director suspected the officer was abusive but did not take action and did not terminate the officer when he had the opportunity.</p>	
Case Law – Investigations Female Correctional Employee/Male Inmate	<p>Manago v. Williams, No. 2:07-cv-2290 LKK KJN P., 2013 WL 1005118 (E.D. Ca. Mar. 13, 2013)</p> <p>The Facts:</p>	Inmate had mental health problems. Was on nine medications.

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	<p>Male inmate alleged that a female officer was attempting to engage him in sexual activity.</p> <p>Internal investigations asked the inmate to go undercover to implicate the female officer in a sexual misconduct charge. Inmate claimed the investigator encouraged him to have sex with the officer, which he did.</p> <p>The officer was terminated for overfamiliarity, not for engaging in sexual relations with an inmate, which she denied.</p> <p>Inmate alleged he was threatened by other officers as a result of the officer's termination</p>	
Case Law – Investigations Female Correctional Employee/Male Inmate	<p>Manago v. Williams, No. 2:07-cv-2290 LKK KJN P., 2013 WL 1005118 (E.D. Ca. Mar. 13, 2013)</p> <p>Legal Claims: First Amendment retaliation</p> <p>Eighth Amendment cruel and unusual punishment</p> <p>Court's Ruling: Permitted Eighth Amendment claims</p> <ul style="list-style-type: none"> • Individual officer • Mental health professionals 	

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	<ul style="list-style-type: none"> Investigators Denied First Amendment claims 	
Case Law – Investigations Female Correctional Employee/Male Inmate	<p>Manago v. Williams, No. 2:07–cv–2290 LKK KJN P., 2013 WL 1005118 (E.D. Ca. Mar. 13, 2013)</p> <p>Reasoning First Amendment claim denied</p> <ul style="list-style-type: none"> He was not “chilled” from giving testimony regarding the sexual misconduct <p>Eighth Amendment claims permitted</p> <ul style="list-style-type: none"> Against individual officer: Plaintiff entitled to presumption that any sexual contact was non-consensual <ul style="list-style-type: none"> Correctional officer did not meet burden to prove it was consensual Against investigators: Court found they acted with deliberate indifference to his mental health needs by permitting him to participate in the investigation 	Inmate made many other claims regarding adequate mental health care, which are not discussed here.
Summary	Corrections officials can be held liable in their official, individual, and personal capacities for sexual violence against youth committed by either staff or other offenders.	<p>Evaluation: Remind participants to fill out this section of their evaluation of the materials covered, activities and the performance of the instructor.</p>

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	<p>Municipalities can be held liable for sexual violence against youth if the violence is a result of a policy or custom of the county or agency or if it follows official policy set by the agency head.</p> <p>The respective genders of the staff member and the youth can have a dramatic effect on liability.</p> <p>Most cases involve adult inmates. The standards for youth are lower, hence courts' protections are greater.</p> <p>Conducting and documenting training of all staff, volunteers, and contractors can help to protect people in custody and limit agency liability.</p> <p>Robust policy of reference & background checks can limit agency liability.</p>	

Training Wrap Up

TOPIC	SPEAKING POINTS/ NOTES
Answering Unanswered Questions	<p>Before we move on to our last activity, I'd like to take a few minutes to check our critical issues list we have had on the wall all week, as well as answer any other questions you might have.</p> <p>Check off Critical Issues you have discussed and see what remains—ask participants if they need or want to discuss those items not checked off.</p> <p>Summarize the resolution of any major issues from the week.</p>
Training Wrap Up	<p>Post Test</p> <p>Evaluations</p> <p>Certificates</p> <p>Thank participants</p> <p>Remind of resources for further assistance</p>

APPENDIX