

Standard in Focus

Prevention Planning**§115.34, 115.134, 115.234, 115.334 Specialized training: Investigations**

- a) In addition to the general training provided to all employees pursuant to §115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
- b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
- c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.
- d) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

Purpose

To ensure that every allegation of sexual abuse in a correctional facility is thoroughly and appropriately investigated by a highly-skilled, qualified investigator who has been trained to investigate sexual abuse allegations in confinement settings. Doing so should increase confidence in the facility's ability to respond to sexual abuse, which in turn leads to more reliable reporting of sexual abuse and ultimately to the prevention of sexual abuse in confinement.

Implementation

- Investigators who receive specialized training in sexual abuse investigations must also receive the general PREA training provided to all employees pursuant to §115.31. Agency investigators are expected to have real investigatory training and experience, and must complete the training required under §115.31 and §115.34 to be qualified to conduct sexual abuse investigations in facilities.
- Agency investigators of sexual abuse in facilities must complete specialized training that includes:
 - Techniques for interviewing sexual abuse victims, which includes training about the impact of trauma on a victim's memory and ability to communicate about the event.
 - Proper use of Miranda and Garrity warnings, which are warnings that are designed to allow people in criminal or administrative investigations to be silent and are necessary to ensure that any information gathered during an interview is admissible in court should there be a prosecution that arises from the incident.
 - Sexual abuse evidence collection in confinement settings, which includes how to preserve evidence in a confinement setting, and the challenges to doing so that are particular to the kind of evidence of sexual abuse that exists in a confinement setting.
 - And, the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

Implementation Cont'd

- These topics encompass the fundamental skills that investigators need to investigate sexual abuse in confinement. Techniques for interviewing sexual abuse victims in confinement should be trauma-informed and stress the difference between interviewing and interrogating.
- Investigators must know when and how to administer Miranda and Garrity warnings to protect the integrity of investigations into allegations that are potentially criminal in nature. When a criminal investigation is underway, investigators must issue Miranda warnings—which let the person being interviewed know his or her rights, including the right to remain silent—in order for any information that is learned during that interview to be usable in a criminal prosecution. A Garrity warning is a similar warning that must be given during an administrative investigation to any employee of the agency that is the target of the investigation. When investigators fail to administer these warnings when appropriate before an investigatory interview, any information gathered during the interview could become inadmissible for the purposes of criminal prosecution. In other words, failure to properly administer these warnings can result in the inability to prosecute criminal behavior, or the dismissal of criminal charges that might otherwise lead to a conviction.
- Along those same lines, to ensure the greatest likelihood of meeting the victim's needs and holding the abuser(s) accountable, investigators must be properly trained in how to preserve and collect evidence in confinement settings and how to evaluate that evidence and substantiate cases for administrative action or prosecution referral.
- Agencies are required to maintain documentation that agency investigators have completed the required specialized training to perform sexual abuse investigations. Documentation should include the date that each investigator received the training, clear evidence that the investigator received the full required training, and some evidence of the curriculum that was delivered.
- The standard further requires any State entity or Department of Justice component that investigates sexual abuse in confinement settings to provide training that meets the requirements of this standard. This is not a requirement that the agency must meet, but an external obligation that rests with the State investigatory entity or the Department of Justice.

Challenges

- Agencies should ensure that the staff who are considered investigators for the purposes of obtaining the specialized training required in standard 115.34 have previous investigatory training and experience. Not all agencies have trained investigators on staff and rely on administrative or custodial staff to conduct administrative investigations without proper training or opportunities to gain meaningful experience. The specialized training under §115.34 on its own will not be adequate to make unqualified staff into competent investigators capable of conducting a thorough and effective investigation. This training is designed to ensure that experienced and qualified investigators also receive specific training regarding the challenges posed by investigating sexual abuse in confinement.
- Agencies do not have the authority to demand that external investigators, for example, state police who investigate incidents in a county jail, have the training required by §115.34. To the extent they are able, agencies should request that external investigators assigned to their facilities have specialized training that includes the fundamental components listed in the standard.

Best Practices

- Agencies should ensure that any staff who conduct investigations into sexual abuse allegations have training and experience as investigators before receiving the specialized training described in 115.34.
- Agencies should require all investigators who conduct sexual abuse investigations to complete specialized training on how to conduct these investigations in confinement settings prior to dispatching them to investigate any allegation of a sexual nature. Investigators should also be required to attend refresher trainings on a recurring basis and following any change to agency policy or procedure regarding PREA that could impact investigations.
- Any national-level resources or curricula used to deliver specialized training on sexual abuse investigations in confinement to investigators should be tailored to the specific agency's policies, procedures, and culture. For example, the facility will have procedures for getting inmates to medical and, if necessary, out of the facility in the case of an incident of sexual abuse that requires immediate medical care and/or a forensic medical examination and will have identified a forensic medical examination provider that is specific to the facility or agency. Specialized training for investigators who are going to conduct sexual abuse examinations must include this type of agency or facility-specific information that allows them to respond appropriately to an actual incident.
- The specialized training should be delivered by trainers with experience conducting trauma-informed investigations—that is, investigations that are sensitive to the ways that trauma impacts a victim's memory and ability to communicate about the event, and that strive not to retraumatize the victim—and who can speak to the specific challenges of conducting administrative and criminal investigations into sexual abuse in a confinement setting.

Audit Issues

- Auditors will review training records for investigators and any other relevant documentation, which will include training schedules, investigator handbooks, training curricula, and other materials.
- Additionally, auditors will interview agency investigators to determine whether they are informed about all of the topics that are required to be covered in the specialized training. They will also interview inmates who have reported sexual abuse about how they experienced the investigative process, particularly their interview(s) with the investigator.
- Finally, when auditors review investigative files to determine compliance with 115.71, they will also be looking for signs that investigators have been properly trained in conducting sexual abuse investigations.

Standard Variations

In addition to **Prisons and Jails**, the requirements in §115.34 apply to **Lockups** (§115.134), **Community Confinement Facilities** (§115.234), and **Juvenile Facilities** (§115.334).

The following variation in the standard is noted for **Juvenile Facilities**. The variation is discussed in summary fashion below and the reader should consult the full text of the specific set of standards to ensure complete understanding of the differences.

- The Juvenile Facilities standard has one variation: it specifically requires that investigators receive specialized training that includes techniques for interviewing *juvenile* sexual abuse victims. The specialized training provided to investigators in adult facilities would not meet the juvenile standard unless it also included a section on interviewing juvenile sexual abuse victims. would work, and in the case of potential contractors, consult any applicable child abuse registries.

Resources

- **Frequently Asked Questions (FAQs) on the PREA Resource Center (PRC) Website:**
<https://www.prearesourcecenter.org/frequently-asked-questions>

The Department of Justice has issued extensive guidance regarding specialized training and investigations. Visit the PRC FAQ page and search for guidance under the standard 115.34 for the many related FAQ responses provided by DOJ. The FAQs to date are as follows:

- **February 19, 2015.** *In regard to standards 115.21, 115.22, 115.34, and 115.71, what is required of agencies being audited, auditors, and external entities that conduct investigations of sexual abuse and harassment, and how will these obligations be audited?*
<https://www.prearesourcecenter.org/node/3230>
- **April 23, 2014.** *Can an auditor find a federal Bureau of Prisons, state, county, or other local or private facility compliant with the PREA standards if an entity external to the confining agency, which conducts criminal investigations of sexual abuse in the facility being audited, is not compliant with the external investigative entity's obligations under standards 115.21, 115.22, 115.34, and 115.71?*
<https://www.prearesourcecenter.org/node/3229>
- **PREA Essentials on the National PREA Resource Center Webpage**
www.prearesourcecenter.org/training-technical-assistance/PREA-essentials
- **Training Curriculum and Resources on the PRC's Website**
 - **Specialized Training: Investigating Sexual Abuse in Confinement Settings**, developed by The Moss Group, Inc. <https://www.prearesourcecenter.org/node/1912>
 - **Responding to Sexual Abuse of Inmates in Custody: Addressing the Needs of Men, Women, and Gender Nonconforming Populations**, The Project on Addressing Prison Rape, American University, Washington College of Law (2014). <https://www.prearesourcecenter.org/node/1912>
 - **Investigating Sexual Assault and Sex Related Crimes in Confinement Settings: A Resource Guide for Criminal Investigators**, International Association of Chiefs of Police (2015).
<https://www.prearesourcecenter.org/sites/default/files/library/iacpexternalinvestigationvideodiscussionguide.pdf>
- **E-Courses from the National Institute of Corrections**
 - **Specialized Training: Investigating Sexual Abuse in Confinement Settings**
<https://nicic.gov/specialized-training-investigating-sexual-abuse-confinement-settings>
 - **Prison Rape Elimination Act (PREA) Investigating Sexual Abuse in a Confinement Setting**
<https://nicic.gov/prison-rape-elimination-act-prea-investigating-sexual-abuse-confinement-setting-course>

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