

**Public Comment Report**  
**Prison/Jail**  
**RE-1: Inmate reporting**

<b>Content of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>

11443: RE-1, Discussion: A variety of ways exist for prisoners to report sexual abuse. Written agreements or MOUs do not seem necessary given the current level of communication possible.

<b>Concern/Disagreement</b>	<b>Checklist</b>	<b>Corrections Professional</b>
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11454: RE-1, Compliance Checklist 28, (c): This standard as written is unrealistic given the need to manage and restrict prisoner telephone calls. However, this standard could be rewritten to permit prisoners to contact these sources in writing.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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11637: However, the list of agencies available to provide these additional and possibly onerous services on a long-term but volunteer basis may be a very short list. How many outside agencies would accept this burden without an expansion of their resources? ...It may prove difficult to execute an MOU requiring the acceptance of new duties without any history or any real-world understanding of the manpower and other costs required. It may prove difficult to execute the MOU without any additional funding attached. This is most particularly true where the outside agency's budget is dependent upon substantial local funding.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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11642: This requirement that a government official/office not affiliated with the corrections agency agree to receive reports and act on them is a large hurdle. This is particularly true where the agency undertaking this task is to provide assurances that the reporting inmate will be protected from harm.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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11992: RE- I : Inmate reporting - The requirement to establish a method for an inmate to report sexual abuse to a government official outside the agency or to another State agency is unnecessary. It implies that the methods established by the agency cannot be trusted or are inadequate to investigate the claims made by inmates through established methods within the agency.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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12767: It is unlikely that an outside agency will have the resources and ability to investigate these matters as effectively and anonymously as our institutional inspectors.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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12770: No inmate PREA reporting requirements should be used to weaken the federal Prison Litigation Reform Act (PLRA) exhaustion requirements... The commission recommendation that sexual abuse reports made at any time after the abuse in writing to the agency and naming a perpetrator satisfy exhaustion requirement above is contrary to the plain language in the PLRA and impugns the integrity of the Department's grievance process.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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12881: RE -1 pg 33 para. 3: A dedicated telephone line for reporting instances of abuse or assault is not feasible if that phone line connects Internal Affairs or (Texas; the Office of the Inspector General) because inmates would abuse that phone line by trying to report all manner of frivolous matters instead of sexual assaults and/or abuse.

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Type of Comment	Standard Components	Source
Concern/Disagreement	Checklist	Corrections Professional
12999: We would not want to post Investigations number - we have a PREA hotline and feel the same safeties are addressed.		
Concern/Disagreement	Standard Statement	Corrections Professional
13042: We believe this provision is an unnecessary erosion of the exhaustion requirement of the Prison Litigation Reform Act.		
Concern/Disagreement	All	Corrections Professional
13113: This sounds as if it would create a requirement for a position such as an ombudsman. Inmates have the ability to contact other state officials such as the Attorney General. The Department currently has a process in place that allows an offender to contact the Inspector General's office, Central Office staff and institutional staff. We are also concerned that the ability of inmates to use outside services could hinder the agency's requirement to investigate cases of sexual abuse and create a duplication of effort.		
Concern/Disagreement	All	Corrections Professional
13334: MA DOC does not provide for or encourage inmates to report abuse directly to an outside agency, as it is the MADOC that is required to protect inmates in its care and custody. M.G.1. c. 124, Section I. This standard may encourage false reporting and less timely investigations of valid complaints.		
Concern/Disagreement	All	Corrections Professional
13335: This proposed standard also appears to conflict with the United States Supreme Court, which has held that "the PLRA exhaustion requirement requires proper exhaustion." Woodford v. Ngo, 126S.Ct, 2378, 2385-86 (2006). Currently, in order to properly exhaust administrative remedies, prisoners must complete the administrative review process in accordance with the applicable procedural rules that are defined by the prison grievance process itself. "[I]t is the prison's requirements." that define the boundaries of proper exhaustion." Jones v. Bock, 127 S. Ct. 910, 922-23 (2007) (inner citations and quotations omitted).		
Concern/Disagreement	All	Corrections Professional
13337: This proposed standard would circumvent the existing MA DOC grievance regulations, which set forth time limits and specific requirements for the filing of grievances. The proposed standard would force the MA DOC to change current grievance regulations to create exceptions to grievance requirements where an inmate makes a complaint in writing about sexual abuse, which names a perpetrator, at anytime after it happens.		
Concern/Disagreement	All	Corrections Professional
13338: Finally, it is unclear who the "governmental official office nonaffiliated with the agency" should be and how they would "receive and action reports" by inmates.		
Concern/Disagreement	All	Corrections Professional
13449: the proposed standard as drafted seeks to implement a change to the Prison Litigation Reform Act's exhaustion of administrative remedies requirement. It is completely inappropriate for a standard recommended by a Commission and proposed to be adopted by the U.S. Attorney General to be inconsistent with Federal law.		
Concern/Disagreement	All	Corrections Professional
13472: We believe this provision is an unnecessary and serious erosion of the exhaustion requirement of the Prison Litigation Reform Act		

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Content of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional

13733: I believe that this action would not only be costly to implement but could also cause a disruption to our operating procedures. Inmates could possibly take advantage of the system instead of using it as it was intended.

Concern/Disagreement	All	Corrections Professional
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13823: The only problem that we can see is the telephone abuse the number will receive due to the nature of certain inmates in this jail.

Concern/Disagreement	All	Corrections Professional
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13912: we object to the standard allowing any report of sexual abuse made at any time after the abuse, which names a perpetrator and is made in writing to the agency to satisfy the exhaustion requirement of PIRA. RE-1.

Concern/Disagreement	All	Corrections Professional
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13922: Compliance with this standard is not reasonable. Given the very real possibility that claims of sexual abuse can be unfounded, the exhaustion requirements of the Prison Litigation Reform Act (PLRA) should not be cased for such claims.

Concern/Disagreement	Standard Statement	Corrections Professional
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13948: Standard RE-1 , Inmate reporting. The standard seemed vague and poorly worded.

Concern/Disagreement	All	Government
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11850: This standard states that any report of sexual abuse that is made in writing and names a perpetrator satisfies the exhaustion requirement of the Prison Litigation Reform Act. It is not appropriate for this standard, or for that matter any standard, to circumvent the Prison Litigation Reform Act or any other Federal law.

Concern/Disagreement	All	Labor Union
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13706: This PREA standard imposes a very liberal PLRA exhaustion requirement for cases of sexual assault; it may be too liberal. It also requires that ODOC provide a third party, "not affiliated with the agency," that will accept and act on such reports. While the value of providing an independent outsider for such purposes is obvious, it less than clear what is meant for an entity to not be affiliated with ODOC, and how far they should be authorized to "act on" reports.

Concern/Disagreement	All	Prisoner
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12396: RE-1: While we support the proposal that any report satisfies the exhaustion of the Prison Litigation Reform Act, we object to the requirement that the report must name the perpetrator to satisfy exhaustion. First, this fails to acknowledge those situations where the perpetrator's identity is unknown. Second, the prisoner should not be forced to suffer the threat of retaliation by naming the official to meet the exhaustion provision.

Concern/Disagreement	Discussion	Prisoner
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12397: Further, there is absolutely no support for the outlandish proposition in the discussion that the more the agency demonstrates a willingness to punish abusers, the more victims will feel safe coming forward. Indeed, the fact that an abuser may be punished instead of treated will likely act to inhibit reporting, other than false reports aimed at causing punishment,

Concern/Disagreement	Standard Statement	Professional Organization
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147: . One "Standard" (RE-1) is a deliberate attempt to circumvent the requirements of the Prison Litigation Reform Act

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Prison/Jail

RE-1: Inmate reporting

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Professional Organization
11352: . This is a seditious method by which the Standards” are attempting to subvert the Prison Litigation Reform Act. 2. Remove the language “Any report of sexual abuse made at any time after the abuse, which names a perpetrator and is made in writing to the agency, satisfies the exhaustion requirement of the Prison Litigation Reform Act.”		
Concern/Disagreement	All	Professional Organization
12513: Facilities have no control over whether an inmate is "able" to report; perhaps the drafters of the standard rather meant to address encouragement by staff to report and staff not impeding, physically or otherwise, inmates from reporting. Inmates have Constitutionally guaranteed access to communicate with outside sources, subject to appropriate limitations. The proposed standard language is too prescriptive. If an agency chooses to have an outside agency be a resource for reporting, that should be left to the organization.		
Concern/Disagreement	All	SINA
10802: Reporting to an outside individual – concern that they are giving inmates an outside access to a source, concerns about setting up one source, who is going to screen that the calls are just going to be for sexual abuse? Once they know they have a line to the outside they will call about everything.		
Concern/Disagreement	All	SINA
11537: Ideally, we would like the inmates to report it to us immediately because the collection of evidence is what’s going to allow us to prosecute, and if we have to wait for snail mail. If an inmate is going to write, it has to go through the mailroom process, leave the facility, go to the post office, and if it’s going to a state representative, there are people reading their mail. It could take a week.		
Concern/Disagreement	All	SINA
13996: This is garbage. I don’t like this but I could live with it... Inmates jump on the bandwagon... What if the incident occurred 2 years ago? We may not have the medical records to prove this... We have called the state police when there have been staff complaints but this also signifies to the inmates that they have some power over the staff members... I would like to have some time to make a response back to the inmate and make my own investigation without having a full investigation. I am concerned but allowing an outside agency to receive reports that we have an agreement with... This is too much. It should be enough to say that an inmate can report to anyone in writing.		
Concern/Disagreement	All	SINA
14066: I don’t know how they would report because inmates can’t just call out beyond the 10 approved persons that they can talk to by phone. This was here because they don’t trust the institutions. We also get calls from the state police and the governors office.		
Current Practice	All	Academic
13306: Inmates have also told me that reporting information is not clear and that reporting phone numbers are often incorrect, inaccessible and create feelings of vulnerability.		
Current Practice	All	Corrections Professional
12768: The requirement that the Department have an outside agency available to have allegations of sexual abuse reported to is covered through the ability of inmates to contact the Governor’s Inspector General or seek assistance from the court.		

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Content of Comment	Standard Components	Source
Current Practice	All	Corrections Professional

12769: The Department already has a thorough reporting mechanism, including the following: Management Information Notification System (MINS); Incident Reports; Disciplinary Reports; and Inspector General Logs.

Current Practice	All	Corrections Professional
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13273: III. DETECTION AND RESPONSE  
 A. Reporting  
 RE-1: Inmate Reporting

Offenders may correspond confidentially with OIG through a variety of ways. Offender correspondence addressed to OIG is treated as legal mail and is not subject to review by unit staff. Most of the larger TDCJ units have OIG Investigators on-site which also facilitates direct reporting. Offenders may also seek assistance by writing to OIG CrimeStoppers.

Offenders will be able to telephone OIG directly when the offender phones are installed in the future.

Current Practice	All	Corrections Professional
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13451: With respect to the requirement that inmates be able to report to at least one government official or office not affiliated with the agency, in New York State, inmates have the right to write to anyone they choose... However, it is unlikely that this would satisfy the standard as written due to the lack of a written agreement or MOU.

Current Practice	All	Corrections Professional
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13492: Inmates have been informed of the process for reporting through our grievance process, by written inmate request, or verbally to staff. Inmates can write or have family contact outside agencies with a report of sexual abuse.

Current Practice	All	Corrections Professional
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13830: Currently the Mississippi Department of Corrections does not partner with outside agencies to meet the requirements of standards RE-1, RE-2, and MM-4.

Current Practice	All	SINA
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10489: •There is a grievance process – the inmate will generally report it to the officer. If it is the officer if they have access to someone else there is a grievance process that they can vocalize complaints.  
 •In intake they are educated about complaints. There is a hotline for any complaints of any abuse of any kind. In-house free number that is to the SID

Current Practice	All	SINA
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10525: •And it's a good thing. Like what if an inmate has an issue with the supervisor of that unit, but if they see lots of other supervisors and they are asking inmates how they're doing, gives them a chance to air concerns.  
 •And there are other people, clergy, teacher, caseworker. Many people in each unit to talk to. And employees, too... might not be comfortable talking to grievance staff, but can talk to other staff who are also around touring units.  
 •Inmates can mail things confidentially and mail is only handled by mail person.  
 •Also there's a grievance box that goes directly to grievance.

Current Practice	All	SINA
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10538: Yeah, the grievance process, I'll get every now and then you know an offender, if he doesn't feel safe telling the security staff or anybody else he can write a grievance and say he's being sexually assaulted. Well I get it, I initiate the OPI immediately, notify classification, notify the warden, notify OIG, and the investigation starts from there.

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<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11093: •All grievances come through me and I assign them a number. If it has to deal with sexual abuse I call the investigators and notify the warden.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11098: •Our policy states they can report to any staff member. They can report it verbally or through written report or even anonymous.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11465: They also have 1-800 numbers – in Spanish and English – anonymous to make a phone call. They are told and advised on numerous occasions on what to do.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11538: In the last legislature, the legislature established an ombudsman position, and that position reports directly to the Texas board of criminal justice, it's outside of TDCJ... That particular ombudsman office will be set up as an external position outside of the regular TDCJ folks that offenders or families of offenders can write to.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11601: We have several sources for reporting—the complaints program, grievances, they also have I-60s which they use for sick calls, and those are put into a box for medical... They can put in step one grievances at the unit and if they are not happy with the response they can put in step two and that's up in Huntsville... We have a supervisor at every building desk in general population... a lot of times offenders will just come up and say "Can I talk to you" and report it that way. They'll write their families, the ombudsman's office, they can report it that way. Whenever they are at visitation with families they can tell their families, and family members will report it to us... There's the chaplain.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11605: Not yet. The state legislature has approved for phones to be installed in 2009, and there will be a hotline they can call to report sexual abuse.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
12247: In Texas, the inmate must go to step 1 and 2 of the grievance process and just making a statement will not exhaust the requirement. Sexual assault does not have a different process.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
14065: They are told how to report this when they first come in through the COP orientation process.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
14109: An inmate can address any staff about the problem and the staff must go to the supervisor of the unit. The incident report is a confidential report, the Warden and the investigator would receive a report. This is done on a need to know basis. We handle this well.		
<b>Observation</b>	<b>Discussion</b>	<b>Academic</b>
13318: The need to develop multiple strategies and avenues for reporting is very important and requires further discussion.		
<b>Observation</b>	<b>All</b>	<b>Corrections Professional</b>
10271: Inmates reporting instances of other inmates exposing themselves and/or masturbating in assaultive manners should be taken more seriously by agency authorities. . . All reports of sexual harassment, abuse, or assault should be investigated no matter how minor the reported incident may seem.		

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Line of Comment	Standard Components	Source
Observation	All	Corrections Professional

12144: The requirement to establish a method for an inmate to report sexual abuse to a government official outside the agency or to another State agency is unnecessary.

Observation	All	Corrections Professional
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12771: In a recent letter to selected Congressmen and signed by forty state Attorneys General, concerns about possible evisceration of the PLRA's exhaustion requirements due to proposed federal legislation were raised. The following comments from the letter are pertinent to the Commission's proposed standard and should be given great weight:

Exhaustion, however, is an essential component of the PLRA because it provides prison administration with prompt notice of any problems and with the opportunity to rectify a problem without the need for judicial involvement. Prisoners' complaints that this exhaustion requirement prevents them from filing complaints because the persons reviewing the grievances are the very persons who committed the constitutional

Observation	All	Corrections Professional
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12837: The requirement to establish a method for an inmate to report sexual abuse to a government official outside the agency or to another State agency is unnecessary.

Observation	All	SINA
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10453: Sometimes an inmate may use medical as an avenue for reporting.

Observation	All	SINA
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11461: One thing I have noticed with females – they are comfortable reporting to medical – often most comfortable telling medical versus custody staff.

Observation	All	SINA
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14067: If they see that this is coming from a prison, they take it with a grain of salt... They check into it but 99.9% it's not the truth.

Question	All	Corrections Professional
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11639: Also, as a practical matter, what does "act on them [reports]" mean in an exemplary situation? What powers would be given to that outside agency in the MOU? What could the corrections agency cede to an outside agency to allow adequate follow up on inmate reports and protection of the reporting inmate?

Question	All	Corrections Professional
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13772: Is it necessary for inmates to report sexual abuse verbally or in writing to at least one government official?

Question	Standard Statement	Corrections Professional
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13794: The standard indicates that "[a]ny report of sexual abuse made at any time after the abuse, which names a perpetrator and is made in writing to the agency, satisfies the exhaustion requirement of the Prison Litigation Reform Act." Is this meant to suggest that the agency is not entitled to a period of time to reply to the complaint and attempt to resolve it before civil damages can be sought? If so, this would be tantamount to waiver of any exhaustion defense. If not, clarifying language is requested to specify what type of opportunity to cure the agency should be afforded before exhaustion is achieved.

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Type of Comment	Standard Components	Source
Question	Checklist	Corrections Professional
13879: Checklist 28 (e): Does this imply that Law Enforcement organizations are willing to accept calls directly from inmates? This is not practical in our facility... This will also allow inmates to contact outside agencies when such contact is not warranted due to a sexual assault.		
Question	Standard Statement	SINA
10800: Inmates ARE able to report; are you saying that we have to set up a hotline or an office?		
Question	Standard Statement	SINA
10877: Why did the commission need to include the second sentence of report of abuse on the PLRA? This speaks for itself, is there a need for more language on this?		
Question	All	SINA
10929: What to do if someone initiates a false report? Does it become an in-house sanction? This is a big issue for on-line staff and we don't have much policy and procedure regarding this. This comes up a-lot and people are concerned. It's a hot issue. We tell them that the claim must meet a certain criteria level before moving forward.		
Question	Standard Statement	SINA
11064: •What does this the statement mean about the "PLRA info in the standard statement"? Not familiar with the exhaustion requirements or the PLRA.		
Question	All	SINA
12245: What is the requirement of the exhausting requirement of the prison reform act?		
Question	Standard Statement	SINA
12370: RE1 Prison litigation reform act.		
P: What does this mean? I don't know what this means. This needs to be explained in more detail.		
Suggestion	Standard Statement	Academic
10379: "names or otherwise identifies"—use this language in the standard statement regarding the PLRA exhaustion requirement		
Suggestion	All	Academic
13320: The distinction between disclosing to gain counseling and treatment and reporting to begin a formal investigation should be made in this standard. Suggest that inmates be informed of this distinction and that processes developed that allow an inmate to disclose without revealing a name.		
Suggestion	Checklist	Advocate
11760: While standard RE- 1 notes that the avenues provided should all meet any exhaustion requirements, compliance checklist 28 does not include a corresponding requirement. As the checklist is the portion ultimately signed by the facility chief, it too should specify that all avenues for reporting satisfy exhaustion requirements for getting into court.		
Suggestion	All	Advocate
11940: the Standards should clarify that the facility or agency itself should affirmatively adopt this as its internal policy or procedure for exhausting remedies under the PLRA in order to make this a reality.		



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<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>

12078: However, there should be an exception to the writing requirement for those who cannot write, including filing a report with a staff member who can then submit it in writing for the prisoner.

<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
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12080: •Staff should ensure that prisoners are able to make written reports to the agency by making reporting forms easily available (every staff person should be able to provide the forms, and forms should be available at libraries, at mealtimes, and in other locations where prisoners congregate), and by ensuring prisoners have access to writing materials (typewriters, pens and paper, dictionaries, etc.) and assistance if necessary to fill out the forms. Staff (non-custodial staff preferred) should be able to fill out forms for prisoners who need help. Forms should be simple and available in multiple languages. Incomplete forms should be accepted, and staff should work to complete and investigate these reports.

<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
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12081: •We recommend clarifying that the reporting process should not be stigmatized. Using a standard "Drop Box for Complaints" without marking the box in any obvious or provocative manner will best protect people using the reporting system.

<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
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12082: •Agencies must ensure there is adequate staff to handle complaints, and should shift existing budget priorities as necessary to handle this requirement rather than viewing compliance as a new optional or future initiative that will only be undertaken if new monies become available to hire additional staff.

<b>Suggestion</b>	<b>Checklist</b>	<b>Advocate</b>
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12083: •Compliance Checklist 28 does not include a corresponding requirement to standard RE-1 that notes that the avenues provided should all meet any exhaustion requirements. As the checklist is the portion ultimately signed by the facility chief, it should specify all avenues for reporting satisfy exhaustion requirements for getting into court.

<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
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12105: •Inmates should be allowed to have a "direct approved number" on their phone list with members of law enforcement so that they are able to directly phone and request immediate assistance in the event of potential or actual sexual assault. Once an inmate reports a rape or assault, a Watch Commander should immediately escort the inmate to the hospital and, from the hospital, to another location other than the original facility, so the inmate does not suffer retaliation from other staff.

<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
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12216: but the requirement that the victim "name a perpetrator" should be removed because it goes further than the PLRA itself, as interpreted by the Supreme Court, and it is often impossible for victims to name the perpetrator because they don't know the name or names. It should be enough that the prisoner provide as much identifying information as he can under the circumstances. In addition, this standard should be modified to remove "in writing" from the requirement. There are numerous circumstances where prisoners are unable to notify the agency in writing, including when prisoners have mental illness, lack literacy, face language barriers, etc.

<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
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12416: This section should include that inmates with physical or mental impairments that substantially limit a major life activity may need a reasonable accommodation, as mandated by the Americans with Disabilities Act, in order to make their report that they are a victim of sexual assault.

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Type of Comment	Standard Components	Source
Suggestion	All	Advocate

12601: the Standard should specify that the PLRA's current requirement that prisoners show "physical injury" before bringing suit for mental or emotional damages (42 U.S.C. § 1997e(e)) does not apply to acts of sexually abusive conduct, or that prisoners who have been subjected to sexually abusive conduct have satisfied the physical injury requirement of the PLRA... As noted in the Committee's discussion of Standard IN-1 (p. 37), "Unlike other forms of brutality or violence that may occur in correctional facilities, sexual abuse is less likely to be witnessed, cause visible injury, or leave other physical evidence." Prisoners who have been subjected to sexual abuse may suffer mental or emotional injuries but have no overt physical injuries. Allowing such victimized prisoners the ability to seek damages for emotional or mental injuries would incentivize prison agencies to take measures to minimize sexual abuse and would provide such prisoners some measure of justice and compensation.

Suggestion	Discussion	Advocate
13367: •In the middle of second paragraph of Discussion, following "...which has agreed to receive reports and act on them (RP-5)." Add these two sentences: "In jurisdictions where corrections agencies with inmates under the age of 18 are already required by law to have clearly defined relationships with specific governmental entities, the agency could decide to enable inmates under 18 to report directly to those entities. In jurisdictions where corrections agencies are not required by law to have such relationships, the agency could satisfy this requirement by allowing inmates under 18 to report directly to a designated state or local services agency with which the agency maintains an MOU."		

13367: •In the middle of second paragraph of Discussion, following "...which has agreed to receive reports and act on them (RP-5)." Add these two sentences: "In jurisdictions where corrections agencies with inmates under the age of 18 are already required by law to have clearly defined relationships with specific governmental entities, the agency could decide to enable inmates under 18 to report directly to those entities. In jurisdictions where corrections agencies are not required by law to have such relationships, the agency could satisfy this requirement by allowing inmates under 18 to report directly to a designated state or local services agency with which the agency maintains an MOU."

Suggestion	Checklist	Advocate
13400: •Checklist 28 does not ensure that juvenile inmates are informed of the agency's duty to report sexual abuse, although such a provision is included in the juvenile standards. •Add a question to Checklist 28: "Are inmates under age 18 notified of the facility's duty to report to a designated state or local services agency, the juvenile court or the resident's judge of record, the resident's caseworker in the child welfare system, if applicable, and to the victim's family absent documentation showing the family should not be notified?"		

13400: •Checklist 28 does not ensure that juvenile inmates are informed of the agency's duty to report sexual abuse, although such a provision is included in the juvenile standards.  
 •Add a question to Checklist 28: "Are inmates under age 18 notified of the facility's duty to report to a designated state or local services agency, the juvenile court or the resident's judge of record, the resident's caseworker in the child welfare system, if applicable, and to the victim's family absent documentation showing the family should not be notified?"

Suggestion	Standard Statement	Advocate
13609: The Standard should require that if a staff member receives a verbal complaint of abuse, s/he must write it down and that written complaint will be considered sufficient. For example, in New York, when a prisoner complains of assault, her complaint is supposed to be forwarded to the Inspector General who then interviews the prisoner. Notes of that interview should be sufficient to satisfy the prison's internal policy and therefore PLRA exhaustion.		

13609: The Standard should require that if a staff member receives a verbal complaint of abuse, s/he must write it down and that written complaint will be considered sufficient. For example, in New York, when a prisoner complains of assault, her complaint is supposed to be forwarded to the Inspector General who then interviews the prisoner. Notes of that interview should be sufficient to satisfy the prison's internal policy and therefore PLRA exhaustion.

Suggestion	All	Advocate
13610: Further, the Standards should require that Agency policies acknowledge that complaints regarding an individual allegation of sexual abuse are sufficient to exhaust all related policies and procedures under the PLRA. When a prisoner alleges that she has been abused, she implicitly complains of the failure of the Agency's zero tolerance or other policies, and should not be required to identify the supervisory personnel or specific Agency practices responsible for this failure.		

13610: Further, the Standards should require that Agency policies acknowledge that complaints regarding an individual allegation of sexual abuse are sufficient to exhaust all related policies and procedures under the PLRA. When a prisoner alleges that she has been abused, she implicitly complains of the failure of the Agency's zero tolerance or other policies, and should not be required to identify the supervisory personnel or specific Agency practices responsible for this failure.

Suggestion	All	Advocate
13612: Because the Standards encourage multiple channels for reporting, prison jail and prison grievance programs are still going to be used for complaints about sexual abuse. Indeed, even if the Commission's recommendation that any written complaint to an Agency official be considered sufficient for PLRA exhaustion, it would still behoove most inmates to use the grievance process since ambiguities will still occur such as whether an inmate will nonetheless have to grieve retaliatory conduct even if not the sexual abuse itself. As a result, the Commission should make recommendations about the need for a simplified and streamlined process for grievances related to sexual abuse in light of the morass and complexity of many current grievance programs.		

13612: Because the Standards encourage multiple channels for reporting, prison jail and prison grievance programs are still going to be used for complaints about sexual abuse. Indeed, even if the Commission's recommendation that any written complaint to an Agency official be considered sufficient for PLRA exhaustion, it would still behoove most inmates to use the grievance process since ambiguities will still occur such as whether an inmate will nonetheless have to grieve retaliatory conduct even if not the sexual abuse itself. As a result, the Commission should make recommendations about the need for a simplified and streamlined process for grievances related to sexual abuse in light of the morass and complexity of many current grievance programs.

**Public Comment Report**  
**Prison/Jail**  
**RE-1: Inmate reporting**

<b>Text of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
13613: This Standard also needs to make clear that reports of sexual abuse are to be maintained as confidentially as possible. Although Standard SD-1 requires that staff not reveal any information related to a sexual abuse report to anyone other than those who "need to know" in order to make treatment, investigation and classification decisions, this Standard should also contain a similar requirement that reports of staff sexual abuse will be maintained as confidentially as possible and will be shared only on a "need to know" basis, regardless of how the report is received, including through an inmate grievance program.		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
13614: Whatever deadlines a facility imposes on inmates for filing grievances should not apply to grievances of sexual abuse.		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
13615: There is no corresponding Checklist item regarding exhaustion requirements under the PLRA. There should be questions asking whether the prison or jail has incorporated the requirements of the Standard concerning PLRA exhaustion into its policies, and whether the jail or prison system has moved to dismiss any case about sexual assault because of a failure to exhaust and, if so, why.		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
10270: As an option for the victim of sexual assault/abuse, there should be a well advertised and neutral person at the agency said victim may ask to talk to and then automatically be allowed to see without being subject to any qualifying questions by security staff.		
<b>Suggestion</b>	<b>Discussion</b>	<b>Corrections Professional</b>
10250: Suggested edit of 2nd to last sentence of second paragraph of the discussion, "Such measures will send a message to inmates that the agency takes sexual abuse seriously and will not tolerate any abuse or harassment by its staff or inmates.		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
11644: Commission consider the possibility of reimbursement to whatever agency agrees to provide such services. As long as there are several means of accommodating inmate reports, that should be sufficient to meet the intent of this standard.		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
12884: As an option for the victim of sexual assault/abuse, there should be a well advertised and neutral person at the agency said victim may ask to talk to and then automatically be allowed to see without being subject to any qualifying questions by security staff.		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
12886: Inmates reporting instances of other inmates exposing themselves and/or masturbating in assaultive manners should be taken more seriously by agency authorities. "Gunslingers" are a serious problem in all custody levels and are the inmates who typically end up raping another inmate.		
<b>Suggestion</b>	<b>Standard Statement</b>	<b>Corrections Professional</b>
13211: Suggest rewording this standard to read: Inmates are able to report sexual abuse verbally or in writing to several sources including a confidential source within the agency.		
<b>Suggestion</b>	<b>Checklist</b>	<b>Corrections Professional</b>
1214: RE-1, Compliance Checklist 28, (e): Suggest omitting this item for reasons of control over security and confidentiality of the information.		

**Public Comment Report**  
**Prison/Jail**  
**RE-1: Inmate reporting**

Type of Comment	Standard Components	Source
Suggestion	All	Corrections Professional
13516: Considering the far reaching resources available to a jurisdiction like a Sheriff's Office by which investigators are not assigned within the facility, but work within the same agency, perhaps the commission would consider language such as, "in the absence of investigative units outside the facility..."		
Suggestion	All	Corrections Professional
13880: The commission should allow the local agency to have a greater degree of control through established policy and procedure as to when law enforcement is contacted.		
Suggestion	Standard Statement	Corrections Professional
13903: RE-1: The commission should consider deleting the sentence "Any report of sexual abuse made at any time after the abuse, which names a predator and is made in writing to the agency, satisfies the exhaustion requirement of the Prison Litigation Reform Act." Only congress and the courts can determine what constitutes exhaustion under the PRLA.		
Suggestion	All	Government
13391: Delete the wording "install dedicated phones" and commit to access to toll-free hotline numbers.		
Suggestion	All	Individual
11670: Another great obstacle to detection is the justified fear of victims that they will be placed in segregation "for their protection" - but where they will lose outdoor rec., tobacco and TV. To encourage reporting of sexual abuse there must be a STRONG message sent to inmates: you will not lose your privileges.		
Suggestion	All	Individual
12447: The prisoner should have the option of refusing to allow individuals to know. Prisoners should be informed that if they tell certain individuals then a formal report needs to be made higher up.		
Suggestion	All	Professional Organization
12514: If the language in the remainder of the standard is deemed important, it should be amended to be objective, rather than subjective, and moved to the resource guide accompanying the finalized standards, as should most of the Discussion section. As a matter of content, standards should not address PLRA - which should be addressed in the introduction to this document, if deemed relevant.		
Suggestion	Standard Statement	SINA
10309: Take out PLRA sentence. This will eventually be a legal standard because exhaustion is being looked at now.		
Support/Agreement	All	Academic
13317: This standard conveys critical information regarding reporting.		
Support/Agreement	All	Advocate
11697: The requirement in standard RE-1 that any report to a government entity must satisfy exhaustion requirements is a key step in this regard and one that the survivors urge the NPREC to maintain in the final version of the standards.		

**Public Comment Report**  
**Prison/Jail**  
**RE-1: Inmate reporting**

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Support/Agreement</b>	<b>All</b>	<b>Advocate</b>
11789: inmates who have been sexually assaulted are in urgent need of options for reporting their abuse —options that take into account their safety needs and their medical and mental health concerns. The draft standards recognize these concerns by mandating multiple reporting options. The requirement that corrections agencies recognize these alternative avenues of reporting as sufficient for exhaustion is just as critical. In addition to providing survivors with a forum for relief that they deserve, officials will become better informed about sexual violence in their facilities and can be held accountable for policies and practices that allow for sexual abuse to continue.		
<b>Support/Agreement</b>	<b>All</b>	<b>Advocate</b>
12077: •We support language in this section regarding written complaints of abuse as satisfying the exhaustion requirements of the PLRA		
<b>Support/Agreement</b>	<b>All</b>	<b>Advocate</b>
12215: RE-1: This is a critically important provision		
<b>Support/Agreement</b>	<b>Standard Statement</b>	<b>Advocate</b>
13607: As the Commission surely knows, the PLRA’s exhaustion requirement has been a distressing and unjustified obstacle to victims of sexual abuse behind bars. We commend the Commission for attempting to remedy the unintended consequences of this statutory limitation on prisoner claims. We cannot overstate the importance of this recommendation.		
<b>Support/Agreement</b>	<b>All</b>	<b>Corrections Professional</b>
11635: I support the Commission's suggestion that provision o f these services be made dependent upon the goodwill o f other agencies.		
<b>Support/Agreement</b>	<b>All</b>	<b>Corrections Professional</b>
13448: The primary purpose of the proposed standard is consistent with the goals of PREA and the NYS Department of Correctional Services.		
<b>Support/Agreement</b>	<b>Discussion</b>	<b>Corrections Professional</b>
13450: The discussion correctly points out that increased education in this area will initially increase reporting, as has been the experience of the Department.		
<b>Support/Agreement</b>	<b>Checklist</b>	<b>Corrections Professional</b>
13949: the checklist provided some guidance as to the actual expectation.		
<b>Support/Agreement</b>	<b>All</b>	<b>Individual</b>
12443: First paragraph, second sentence, “Any report of sexual abuse made at any time after the abuse, which names a perpetrator and is made in writing to the agency, satisfies the exhaustion requirement of the Prison Litigation Reform Act.” KEEP THIS! It is essential to understand that sometimes survivors cannot report right away or cannot report when they are in the prison they are in. As survivors get support and care after their assault it may be easier for them to come forward to report. This is a fantastic recommendation.		
<b>Support/Agreement</b>	<b>All</b>	<b>SINA</b>
10611: We always want inmates to exhaust their possibilities so that we can fully investigate it. But with sexual assault, that might be an exception, I’d be ok with that. I understand that this is an exception because if they go to the grievance board, this may be a conflict of their privacy rights.		

**Public Comment Report**  
**Prison/Jail**  
**RE-1: Inmate reporting**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Support/Agreement</b>	<b>Standard Statement</b>	<b>SINA</b>
10905: •No problem with that. Can send it to us on toilet paper – we have forms, but no matter how frivolous it looks we will look into them all. Not concerned about exhaustion with the PLRA – if they tell us it happened here, four years ago, in another place – we will follow through regardless. Not limitations how they can report to us or the timeframe. We will look into it to ensure that we are following through with it.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Corrections Professional</b>
11513: This requirement allows for an allegation to be lodged with an outside entity negating the agency's ability to timely investigate the complaint which could result in lost/destroyed evidence impeding prosecution and delaying medical/clinical response.		
<b>Unintended Consequence</b>	<b>Checklist</b>	<b>Corrections Professional</b>
13000: Notification to an outside agency will delay immediate response to the situation as that agency would not have an ability to directly respond but would have to simply pass on the information back to us.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Corrections Professional</b>
13213: There is a potential time lag between when the inmate makes a report and when the outside agency refers the report back to the facility for investigation. This time lag may delay any assistance or protection for the inmate making the report.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Corrections Professional</b>
13767: This requirement allows for an allegation to be lodged with an outside entity negating the agency's ability to timely investigate the complaint which could result in lost/destroyed evidence impeding prosecution and delaying medical/clinical response.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Corrections Professional</b>
13862: This standard is inadvertently limiting to the inmates. The inmate may be better served by having access to a comprehensive list of community-based services and agencies that are capable of responding to these types of allegations.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Individual</b>
11672: Someone in your organization had better start thinking about this (potential) problem: if you succeed in making the reporting of sexual assaults easier, you will inevitably get more false allegations by inmates who use the PREA reporting system as a way to "get back at" their enemies. I know of one person who did this (years ago)...		
<b>Unintended Consequence</b>	<b>All</b>	<b>SINA</b>
10801: Concern about giving inmates outside access because inmates will complain about everything, and then we'll have to weed through all of the complaints. Real concerns about outside avenues. It would be a full-time job to weed out all of the false or extraneous complaints		
<b>Unintended Consequence</b>	<b>All</b>	<b>SINA</b>
11577: A dedicated telephone line for reporting instances of abuse or assault is not feasible. . . inmates would abuse that phone line by trying to report all manner of frivolous matters instead of sexual assaults and/or abuse.		

**Public Comment Report**  
Prison/Jail

RE-2: Outside confidential support services for inmates

Content of Comment	Standard Components	Source
11476: The proposed Standards in the category of Detection and Response require the correctional agency to obtain outside victim advocacy. This is extraordinarily difficult for many jails to obtain, especially given the orientation and philosophy of some victim advocacy organizations.	All	Corrections Professional
11515: The mandate requires the Department to afford inmates unimpeded access to external victim advocates and/or mental professionals foregoing critical safety and security requirements, creating significant opportunity for breaches. There is no definition or parameters regarding "access" such as how it occurs, who sets it up, confidentiality requirements, reporting requirements, time frames, credentialing, etc.	All	Corrections Professional
11980: Three additional examples of standards that limit the autonomy and flexibility of the agency include: (1) The requirement of an outside governmental agency to serve as an official reporting outlet for offenders; (2) the establishment of MOU's without considering the willingness of other independent agencies to partner with our agency; and, (3) the requirement to inform the legislature of internal assessments and action plans without an awareness of whether a relationship and an active involvement by the legislature currently.	All	Corrections Professional
11993: RE-2: Outside confidential support services for inmates - The agency agrees that inmates should have access with outside victim advocates and/or mental health professionals. However, it is unrealistic for prison facilities to be expected to transport inmates to these outside victim advocates for support counseling. Such a requirement would cause an undue hardship on prison facilities. Inmates would potentially abuse this standard simply to obtain unnecessary outside contacts.	All	Corrections Professional
12146: Inmates would potentially abuse this standard simply to obtain unnecessary outside contacts.	All	Corrections Professional
12632: RP - 2: Evidence Protocol: This section of the standards notes the National Protocol for Sexual Assault Medical Forensic Examinations which can serve as a base in regard to this aspect of the standards, but may not address specific areas such as victim information or existing protocols that may be in place with treatment facilities.	Discussion	Corrections Professional
12633: There are also concerns with what a facility head can order of a medical examiner that may contradict state law and the authority in this case of the Director (Powers of Director). Requiring a DOC to obtain information from a medical examiner over which we have no control is unrealistic.	All	Corrections Professional
12772: Many of the Department's facilities are located in remote areas with limited counseling providers in the area. This may make finding outside providers difficult.	All	Corrections Professional

# Public Comment Report

Prison/Jail

RE-2: Outside confidential support services for inmates

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional
12773: there are financial constraints of providing outside providers when the department has an adequate number of medical and mental health staff. The proposed standard would impose substantial additional costs compared to the costs presently expended by state prison authorities.		
Concern/Disagreement	All	Corrections Professional
12821: There are concerns about this standard from many perspectives. Outside victim advocates are often prior victims and could easily be re-victimized by offender; misuse of requests for calls; private space to make the call.		
Concern/Disagreement	All	Corrections Professional
12839: it is unrealistic for prison facilities to be expected to transport inmates to these outside victim advocates for support counseling. Such a requirement would cause an undue hardship on pri son facilities.		
Concern/Disagreement	All	Corrections Professional
13114: The Department understand that there could be problems with funding services due to the fact that the vast majority of not-for-profits providing advocacy and support services for cases of sexual abuse receive federal or state funding that prohibits services being provided to inmates. If agencies are required to provide these services or allow providers into prison, it will create funding and operational concerns for the prisons.		
Concern/Disagreement	All	Corrections Professional
13115: We are also concerned that the ability of inmates to use outside services could hinder the agency's requirement to investigate cases of sexual abuse.		
Concern/Disagreement	All	Corrections Professional
13173: This standard is unreasonable, and ignores any comprehension of frivolous activities and manipulative behavior of inmates.		
Concern/Disagreement	All	Government
11851: The standard implies that inmates be given unfettered access to these services, with minimal if any staff involvement and without any need for the community-based services to report back to the institution to allow staff to further assist the inmate. This has the potential to allow sexual abuse to continue if staff are not able to identify victims and perpetrators.		
Concern/Disagreement	All	Government
11852: Correctional systems that have well-qualified in-house staff to provide these support services do not need to provide access to outside support services. In addition, institutions in rural areas may lack these services and resources in the local community.		
Concern/Disagreement	Discussion	Government
11853: The discussion section of this standard states that "[i]nmates should never have to explain to staff members their reasons for wanting to speak to outside advocates or counselors before being allowed to communicate with those providers." This would give inmates some level of unmonitored access to community services and could jeopardize security and/or place members of the community at risk.		
Concern/Disagreement	All	Individual
10325: RE - 2: There are a number of rural area that do not access to advocates and/or mental health agencies in their community. How are these inmates to be serviced?		



## Public Comment Report

### Prison/Jail

#### RE-2: Outside confidential support services for inmates

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Individual
<p>12905: Some systems by necessity have to limit phone calls and other contact with outside entities because of specific security concerns or restrictions placed on the inmate by other agencies or courts; therefore, the method of providing outside access whether or not they report the abuse may be sometimes difficult.</p>		
Concern/Disagreement	All	Labor Union
<p>13709: This standard presents a threat to bargaining unit work to the extent that it would require ODOC to provide counseling and other mental health services partially or totally through outsourcing services. Collective bargaining agreements impose limitations on such arrangements which implicate bargaining unit work.</p>		
Concern/Disagreement	All	Professional Organization
<p>12515: NSA agrees that mental health support for victims of sexual abuse is a best practice, but the decision about how that occurs should be left to the facility and seek to match the standards of care in the community. The proposed standard is overly prescriptive and will result in additional hard costs to the organization.</p>		
Concern/Disagreement	All	SINA
<p>10487: To me, I think, are we able to treat people here and people report to us issues, it is potentially a big problem to bring in outside people and it becomes confusing especially if you have a therapeutic relationship already established. We have a large therapeutic alliance set up with people – large percentage of people here on our caseload. It would be confusing to bring in outside people to just deal with sexual assault. We treat people with mental illness – there is a lot of crossover. Becomes confusing for figuring out what to treat, by whom how. For places that do not have mental health on site maybe that is fine.</p>		
Concern/Disagreement	All	SINA
<p>14045: •It would cause a whole new series of security breaches for the public and the inmates... As a professional in corrections (Warden) think this is ludicrous. They do get medical, we do have mental health... It is more than what they would get on the streets.</p>		
Concern/Disagreement	All	SINA
<p>14048: •If they were a contractor with the state. They would not be able to visit otherwise. We could not prohibit call or letters. The best that person could do it have that person put on their visitation list.</p>		
Current Practice	All	Academic
<p>13306: Inmates have also told me that reporting information is not clear and that reporting phone numbers are often incorrect, inaccessible and create feelings of vulnerability.</p>		
Current Practice	All	Corrections Professional
<p>12147: All of our Division of Prisons facilities offer unbiased mental health services and advocacy services to inmates within the system. Every facility has a PREA Support Person who is responsible for assisting the victim inmate through the PREA process.</p>		
Current Practice	All	Corrections Professional
<p>12841: All of our Division of Prisons facilities offer unbiased mental health services and advocacy services to inmates within the system. Every facility has a PREA Support Person who is responsible for assisting the victim inmate through the PREA process.</p>		

# Public Comment Report

## Prison/Jail

### RE-2: Outside confidential support services for inmates

Type of Comment	Standard Components	Source
Current Practice	All	Corrections Professional
13684: Outside victim advocates are precluded from assisting offenders based on the funding sources received by their agencies. The agency could agree to pay those outside services to assist inmates; however, this would be a financial burden on the agency.		
Current Practice	All	Corrections Professional
13830: Currently the Mississippi Department of Corrections does not partner with outside agencies to meet the requirements of standards RE-1, RE-2, and MM-4.		
Current Practice	All	SINA
10454: •Inmate advocacy groups work on legal issues. One group will advocate for medical and mental health concerns. This happens on occasions. We don't contract with anyone to provide these types of services.		
Current Practice	All	SINA
10904: •Have coordinate many visits with our victim support services – not because of PREA – but come in to work with our inmates for different issues. We work with them quite often.		
Current Practice	All	SINA
12364: Speaking with outside advocates is something that presently happening. Right now we don't have a process in place that informs outside groups on the reporting structure for PREA. •The healthcare receiver manages this process of the inmates and we are not told what to do because healthcare is not under the warden's domain.		
Current Practice	All	SINA
14044: •We do not post outside numbers. If they need mental health providers we provide that.		
Observation	All	Academic
13322: This is a fundamental standard and should reflect "services appropriate to gender and other relevant inmate characteristics."		
Observation	Discussion	Corrections Professional
11445: RE-2, Discussion: In a multi-facility state department, resources currently exist within state government that provide support and counseling to prisoners.		
Observation	All	Corrections Professional
13241: If an allegation is prosecuted and an inmate is found to be a victim, they would have certain rights under the Victim Rights Act. Many services provided by federal funds cannot be accessed by persons previously or currently convicted of a sexual offense.		
Observation	All	Corrections Professional
13741: security or safety issues specific to management of a correctional facility need to be addressed.		
Observation	Standard Statement	SINA
13103: inmates are pretty well versed in knowing they can ask for someone specific and could get confidential support.		

**Public Comment Report**  
Prison/Jail

RE-2: Outside confidential support services for inmates

Text of Comment	Standard Components	Source
Question	Standard Statement	Advocate
11941: It is unclear whether this means that, if there can be no guarantee of privileged communication, the inmates should not have access to outside victim advocates, a stance that would be harmful to inmates and which we do not support. Alternatively, this provision could be interpreted to mean that it should be made clear to inmates that their communications may not be privileged under state or local law. Also, it is also unclear what the phrase "the specific service provider" references.		
Question	All	Corrections Professional
10790: RE-2: Will funding be available for contracting with community resources and outsided mental health and medical practitioners?		
Question	All	Corrections Professional
12917: How can the agency provide inmates with access to outside services when the inmate does not report the abuse?		
Question	All	SINA
10806: -Who generates this outside support service? Whose responsibility is it to provide/get outside confidential support service providers? Is it the inmate's?		
Question	All	SINA
11539: One, does that mean that we're going to have to train them or will they be like volunteers and have to go through a program every time they go through the facility? Are they just going to show up at any given time, "I'm here to counsel with so and so?"		
Question	All	SINA
11546: Why would we open up our doors to outside people?		
Suggestion	All	Advocate
11688: Regions that do not have a sexual assault response team (SART) or a rape crisis center that will work with inmates, for example, should be encouraged to improve their services.		
Suggestion	All	Advocate
11762: In addition to being provided with contact information for confidential counseling (RE-2), inmates should be informed about the extent (and limits) of confidentiality and the distinction between outside confidential support—which will not trigger an investigation or serve as a grievance for exhaustion purposes— and utilizing the agency's reporting procedures.		
Suggestion	Checklist	Advocate
11763: Compliance checklist 29 of standard RE-2 should require agencies to sign a memorandum of understanding (MOU) with each organization whose contact information is provided to inmates. In doing so, the agency can gain assurance that the services advertised are truly available and the counseling agency will be informed about the parameters of providing services in the detention setting.		
Suggestion	Standard Statement	Advocate
11942: we suggest that the Standard be revised to read as follows: "All inmates have access to outside victim advocates and/or mental health professionals for emotional support services related to sexual abuse, whether or not they report the abuse. Any communications with such advocates or professionals shall be confidential and privileged, to the extent allowable by state, local and federal laws and the inmate shall be informed, prior to receiving access, of the extent to which such communications will not be confidential and/or privileged."		

**Public Comment Report**  
**Prison/Jail**  
**RE-2: Outside confidential support services for inmates**

Type of Comment	Standard Components	Source
Suggestion	All	Advocate

11974: RE-2: Inmates should be informed about the extent and limits of confidentiality before services are offered. It is particularly important that victims have access to outside mental health professionals and victim advocates who have special training in the dynamics and impact of sexual violence. These professionals and victim advocates should have the same right to confidentiality with the victims with whom they work in a detention facility as they do in the community. Confidentiality is essential to effective therapy and unencumbered support of the victim in the emotional and psychological aftermath of sexual violence.

Suggestion	All	Advocate
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12084: •In addition to being provided with contact information for confidential counseling, inmates should be informed about the extent (and limits) of confidentiality and the distinction between outside confidential support—which will not trigger an investigation or serve as a grievance for exhaustion purposes—and utilizing the agency’s reporting procedures.

Suggestion	All	Advocate
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12085: •Conversations survivors have with counselors should always be confidential, including hotline calls – calls should not be monitored or recorded by jail or prison staff.

Suggestion	Checklist	Advocate
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12086: •The Checklist should require agencies to sign a memorandum of understanding (MOU) with each organization whose contact information is provided to inmates. In doing so, the agency can gain assurance that the services advertised are truly available and the counseling agency will be informed about the parameters of providing services in the detention setting.

Suggestion	All	Advocate
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12598: This requirement should also include information regarding the extent and limitations of the prevailing confidentiality statutes that would apply in any given state. This should also be included in the checklist for RE-2. There should also be a section that addresses the differences between any outside organization and the support they are able to provide and the internal agency's programs and procedures.

Suggestion	Checklist	Advocate
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13403: •Checklist 29(f) does not ensure that staff explain to juvenile inmates the limits of confidentiality for disclosures they make to outside parties.  
 •Amend Checklist 29(f): “Does staff explain to inmates the rules governing confidentiality that apply for disclosures of sexual abuse made to outside advocates or counselors, including when appropriate the limits of confidentiality for juvenile victims because of applicable reporting laws?”

Suggestion	Standard Statement	Corrections Professional
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12334: Revision:

RE-2: Confidential support services for inmates  
 All inmates have access to agency mental health professionals for confidential emotional support services related to sexual abuse, unless state or local laws preclude privileged communications between the specific service provider and sexual abuse victims.

Suggestion	All	Corrections Professional
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12822: A recommendation is the offender makes the initial contact to the victim advocate in writing; letter could be considered “special mail”; and follow-up interviews could be held in non-contact areas. There appears to be a lack of consideration for offender accountability as it relates to our primary function of safety and security.

**Public Comment Report**  
Prison/Jail

RE-2: Outside confidential support services for inmates

Category of Comment	Standard Components	Source
Suggestion	All	Corrections Professional
12985: Outside confidential support services for inmates, Discussion, pg 34 – need definition of advocate and counselor.		
Suggestion	Standard Statement	Corrections Professional
13216: RE-2: Outside Confidential support services for inmates: Recommend changing the title to read: RE-2: Confidential support services for inmates		
Most agencies provide inmate access to victim advocates and/or mental health professionals for confidential emotional support services. For security reasons, we don't allow inmates to make outside phone calls without coordinating with staff.		
Suggestion	All	Corrections Professional
13835: The commission may want to provide agency heads with regional or national agencies or groups that inmates may be able to access in order to comply with this standard.		
Suggestion	All	Government
13394: The standard should eliminate "mental health professional" outside the system unless under contract/MOU with the brig/prison to waive confidentiality with the prisoner client in order to share with brig/prison professionals any information concerning the prisoner's potential behavior, mental state, treatment plans, and any information that could potentially affect the good order and discipline of the brig/prison.		
Suggestion	All	Individual
10326: Again, I cannot stress enough how important it will be for those who are community service providers, advocates, SART, mental health providers, etc to have training on the prison culture. It is very important that persons going into a prison setting understand the culture they will be entering.		
Suggestion	All	Individual
12444: The language is not strong enough. Wording should include things like "must have a phone line for prisoners to call outside rape crisis lines." It also needs to include a recommendation that Rape Crisis Centers (RCC) will need specific training on how to do work with prisoners.		
Suggestion	Standard Statement	SINA
10307: Maybe say: all inmates have access to outside advocates or mental health professionals, or access to information and resources on how to reach them. In places that are far out they may not have places that care about being an outside resource to the jail or prison. I think you write a separate standard – requiring them to provide access to a hotline or phone numbers that does not require someone to be there.		
Suggestion	All	SINA
10810: -Maybe consider a national 1-800 number would help out all facilities. They could give them info about options for reporting. If there is a number, all facilities could meet this standard.		
Support/Agreement	All	Advocate
12079: •We applaud the NPREC for recognizing the vital role that outside entities play, both in providing avenues for reporting sexual abuse and in ensuring that incarcerated survivors can access care similar to what is available outside of prisons.		
Support/Agreement	All	Advocate
1217: RE-2: This standard is important in that the availability of outside confidential support services is likely to encourage victims to report incidents of sexual abuse and, more importantly, to seek appropriate treatment.		

**Public Comment Report**  
**Prison/Jail**  
**RE-2: Outside confidential support services for inmates**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Support/Agreement</b>	<b>All</b>	<b>Corrections Professional</b>
12145: The agency agrees that inmates should have access with outside victim advocates and/or mental health professionals.		
<b>Support/Agreement</b>	<b>All</b>	<b>Corrections Professional</b>
12838: The agency agrees that inmates should have access with outside victim advocates and/or mental health professionals.		
<b>Support/Agreement</b>	<b>All</b>	<b>Corrections Professional</b>
13950: the results shown in the pilot program, Paths to Recovery implemented by Stop Prison Rape at California Correctional Institution and California Institution for Women, externally provided, confidential counseling has proven to increase safety and security of inmates and staff at the institutions.		
<b>Support/Agreement</b>	<b>All</b>	<b>SINA</b>
10808: Gate to the outside is important because if someone truly is a victim, he/she is going to see everyone here as part of the problem. Anyone in here is going to get super fair treatment, but if they do not feel that way they have to have someone on the outside.		
<b>Support/Agreement</b>	<b>All</b>	<b>SINA</b>
10906: We are more generous that this standard – regardless of where the report comes from we will investigate it thoroughly.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Corrections Professional</b>
12919: Additionally there are real security issues associated with providing advocates with unfettered access to a correctional facility.		
<b>Unintended Consequence</b>	<b>All</b>	<b>Government</b>
13392: To add the ability of prisoners to be able to access outside mental health professionals without explanation to staff could interfere with the good order and safety of the brig. Prisoners could demand the access without explanation and then draw in an outside therapist for whatever purpose they might privately have. Including civilian (non-governmental) therapists. Such therapists would have no obligation to report to brig officials if they learn of rule violations, unsafe practices or information the prisoner shares, and no requirement to even alert brig mental health staff of issues that could affect the prisoner's behavior in the brig. It could set up conflicting treatment approaches and regimen.		
<b>Unintended Consequence</b>	<b>All</b>	<b>SINA</b>
14047: •There would be escape routes being made. Inmates would be manipulating things. People would be throwing things into the yard. It would cause a lot of problems.		

**Public Comment Report**  
**Prison/Jail**  
**RE-3: Third party reporting**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	Advocate
11943: •This Standard does not take into account that the third party (“a family member or other nonincarcerated individual”) could place the victim in danger by reporting incidents or suspicions of sexual abuse.		
Concern/Disagreement	All	Corrections Professional
13836: This standard may be difficult to fully meet in the future because of limited resources and an increased number of reports from non-incarcerated individuals reporting on the behalf of inmates.		
Concern/Disagreement	All	Government
11854: This standard has the potential to overwhelm the agency with the responsibility to investigate unfounded or duplicative allegations... Advising the public of a process and allowing any member of the public "in contact with inmates" to report a suspicion of sexual abuse would increase the number of allegations, many of which would likely be duplicative. Requiring a correctional agency to investigate all such reports, if only to determine that the report has already been made by an inmate(s) or staff member(s), is burdensome and unnecessary.		
Concern/Disagreement	Checklist	Government
11895: Compliance Checklist 30		
We believe the standard associated with this checklist (RE-3) would be burdensome, unnecessary, and duplicative of existing reporting mechanisms. With specific regard to the checklist, certain measures, such as discussing the allegation with the victim, might not be necessary in all cases.		
Concern/Disagreement	All	Professional Organization
11353: RE-3: Third party reporting 1. This proposed standard is unnecessary. Any mandates to agencies regarding investigation should be included in that section of the proposed standards, rather than under “reporting”.		
Concern/Disagreement	All	Professional Organization
12516: Any mandates to agencies regarding investigation [second sentence in proposed standard] should be included in that section of the proposed standards, rather than under "reporting".		
Concern/Disagreement	All	SINA
11223: •3rd-part reporting can be a problem... We do not ignore things that do not come from the horse’s mouth. But it is tough.		
Current Practice	All	Academic
13306: Inmates have also told me that reporting information is not clear and that reporting phone numbers are often incorrect, inaccessible and create feelings of vulnerability.		

**Public Comment Report**  
**Prison/Jail**  
**RE-3: Third party reporting**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Current Practice</b>	<b>All</b>	<b>Corrections Professional</b>
<p>13276: RE-3: Third party reporting            Family members and other nonincarcerated individuals may contact OIG by phone, mail, email, or in person. The OIG website contains contact information for the general public.</p> <p>Information on the TDCJ website, including OIG, is available in Spanish.</p> <p>Recommend that OIG be specifically mentioned in this section as an entity for family members and others to contact directly regarding allegations of sexual abuse of offenders.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>10310: RE-3 (Third party reporting): Staff treats third party reports exactly the same. Call staff member and investigators to pull out the inmate and tell them about the report and ask if they want to talk about it.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>10521: Family, friends and attorneys—any reports we get we act on immediately—matter of course already</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>11100: if we get a third party report – if the victim is uncooperative we will not continue with the investigation and it is closed</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>14069: The family calls here all the time. We deal with these calls all the time. We refer these calls to medical. There was a guy here that had a pen pal friend and he sent a letter that was responded to.</p>		
<b>Observation</b>	<b>All</b>	<b>Corrections Professional</b>
<p>13837: It should be a clear definition of what is meant by being in contact with an inmate. (i.e; Immediate Family or Approved Visitors)</p>		
<b>Question</b>	<b>Checklist</b>	<b>SINA</b>
<p>10878: Third Party Reporting Checklist 30 _ we need clarification on this</p> <ul style="list-style-type: none"> <li>•Does the agency distribute publicly third party reporting?</li> <li>•Does the victim receive a report?</li> </ul>		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
<p>11695: Likewise, standard RE-3 should clearly require that entities empowered to accept reports of sexual abuse from survivors' family members and others, inform such third-party reporters that all information will be discussed with the inmate-victim.</p>		
<b>Suggestion</b>	<b>Standard Statement</b>	<b>Advocate</b>
<p>11944: •The Standard should be amended as follows: "Family members and other nonincarcerated individuals in contact with inmates are able to report incidents or suspicions of sexual abuse to agency officials, and information on how to report sexual abuse on behalf of an inmate is publicly available. With sensitivity to the concerns, safety and well-being of the purported victim, the agency investigates all third party reports."</p>		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
<p>11945: •The discussion should include language explaining that, as a general practice, the first step in any investigation prompted by a report from a third party should be to discuss in confidence the alleged sexual abuse with the victim, to understand the social dynamics of the situation for that individual, and to ascertain his or her desire and/or willingness to have the matter pursued further.</p>		



**Public Comment Report**  
Prison/Jail  
RE-3: Third party reporting

Type of Comment	Standard Components	Source
Suggestion	All	Advocate
12226: RE-3: This standard should be modified to include language to acknowledge that third party reporting will fulfill the PLRA's exhaustion requirement.		
Suggestion	All	Corrections Professional
12826: This standard could be achieved by contracting with an interpreter to develop a brochure and/or information to be placed on the DOC public website in multi-lingual formats to address third party reporting.		
Support/Agreement	All	Advocate
12079: •We applaud the NPREC for recognizing the vital role that outside entities play, both in providing avenues for reporting sexual abuse and in ensuring that incarcerated survivors can access care similar to what is available outside of prisons.		

**Public Comment Report**  
**Prison/Jail**  
**SD-1: Staff duty to report sexual abuse**

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	Corrections Professional
11480: Proposed Standard SD-1 is ill advised inasmuch as it requires medical and mental health practitioners to obtain informed consent from inmates who show signs of abuse or before reporting. Given all the factors that work against reporting and the fact the inmate is in our custody, failure to act promptly could put an inmate at risk.		
Concern/Disagreement	Checklist	Corrections Professional
11599: (e) Mandating that those staff who fail to comply with the duty to report be subject to termination of employment may violate the progressive disciplinary grids established through bargaining unit agreements or other civil service regulations or legal requirements guiding the disciplinary processes. While staff who fail to report must be dealt with through the disciplinary process, the level and severity of discipline must be in accordance with existing regulations within the jurisdiction.		
Concern/Disagreement	All	Corrections Professional
12582: SD-1 I disagree with this standard as any reports to medical that indicate a security issue such as sexual assault need to be sent to administration. We have a duty to protect all inmates and we need to know if we have a predator. Medical personnel should not be making security calls for us.		
Concern/Disagreement	All	Corrections Professional
12641: SD - 1: Staff Duty to Report Sexual Abuse: Departments may already have in place existing policy and procedure that can be utilized in terms of compliance relating to reporting of sexual abuse. A concern is that by exempting medical and mental health staff that this could lead to assaults on inmates or employees. Medical and mental health staff should be required to report.		
Concern/Disagreement	All	Corrections Professional
12650: Holding staff accountable to report any misconduct is vital in a correctional setting. Requiring them to do so in cases of sexual abuse is without question. However, permitting medical and mental health staff who are acting under the Correctional agency's authority not to do so may create unfortunate consequences. Sexual abuse victims in a public setting can often remove themselves from circumstances that contributed to their victimization, while prison or jail inmates cannot.		
Concern/Disagreement	Discussion	Corrections Professional
12831: The discussion provides for the release of the alleged suspect, if a danger is posed to others; however, the suspected victim may remain undisclosed. We would contend that any sexual assault in a facility would present a danger, if information necessary for investigation were not revealed. This could also be a mechanism for offender retaliation on a perceived injustice or against other offenders.		
Concern/Disagreement	All	Corrections Professional
13043: The proposed requirement is for staff to report directly to the facility or agency head any incidences of suspected or reported staff on inmate sexual abuse or neglect of responsibilities. In large facilities this is frequently inconsistent with reporting requirements, chain of command and organizational structures. The fact is that in large facilities the facility or agency head may be so far removed from the particular incident in question that a more prompt, effective, and speedy form of action could be taken by reporting to some other entity within the organization.		
Concern/Disagreement	Discussion	Corrections Professional
13046: The phrase is used that staff are "mandatory reporters". This is a term of art in many states such as Minnesota, which declares in individuals to be mandated reporters for such things as child physical or sexual abuse or neglect. We believe that the term "mandatory reporter" as written within these Rules and this discussion creates an undo potential for confusion in jurisdictions that utilize this term similar to that which is done in Minnesota.		

**Public Comment Report**  
**Prison/Jail**  
**SD-1: Staff duty to report sexual abuse**

Type of Comment	Standard Components	Source
Concern/Disagreement	Discussion	Corrections Professional
13047: The Discussion about proposed Rules restrict the ability of medical or mental health practitioners to convey certain information about suspected abuse. In fact this may well be contrary to mandated reporting laws of some jurisdictions that waive physician privilege for such circumstances.		
Concern/Disagreement	All	Corrections Professional
13116: The Department would have policy and legal issues with excluding medical and mental health practitioners from reporting, which may require legislative clarification.		
Concern/Disagreement	All	Corrections Professional
13452: We strongly disagree with the exception to the staff duty to report for medical and mental health practitioners.		
Concern/Disagreement	All	Corrections Professional
13685: Medical and mental health staff are mandated reporters within our prison system. If medical or mental health staff is not required to report this activity, how does that assist the inmate? No investigation or prosecution could be pursued.		
Concern/Disagreement	All	Government
11856: It is our understanding that most states require medical staff to report sexual abuse immediately (based on court decisions related specifically to failure of medical providers to report sexual abuse); there is no such Federal law, thereby creating a problem for the BOP.		
Concern/Disagreement	All	Government
11857: It is not reasonable to expect a medical or mental health staff member to be told by an inmate that he or she has been sexually abused and then not do anything to respond to the assault. Requiring these staff to evaluate the "danger posed to other inmates" can lead to incorrect assessments and further victimization of the original victim and/or other inmates. Repetitive sexual assault is certainly a behavior these standards are intended to prevent. In addition, such further victimization would weigh heavily on the health care provider who was unable to report the original incident.		
Concern/Disagreement	All	Government
11860: the standard includes knowledge of "staff neglect or violation of responsibilities" that may have contributed to an incident of sexual abuse as instances when staff must report suspicions of staff-on-inmate sexual abuse directly to the facility or agency head. This terminology seems overly broad and subject to misinterpretation. If interpreted broadly, it may very well lead to excessive reporting on staff whose actions or lack thereof did not contribute to and had nothing to do with instances of sexual abuse.		
Concern/Disagreement	All	Labor Union
13710: To the extent this standard modifies existing expectations, staff is entitled to additional training to precisely specify how these new job duties should be carried out. This standard represents a substantial commitment of staff resources that may not be within the agency's current capability. Council 75 is also concerned regarding the potential stigma and/or negative connotations that this standard imposes on staff who are innocent but are reported for "suspicion" of misconduct.		

**Public Comment Report**  
**Prison/Jail**  
**SD-1: Staff duty to report sexual abuse**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	Professional Organization
11354: The comment that, "Staff medical and mental health practitioners must obtain informed consent..." contradicts other reporting obligations in these proposed standards. b. This is not a "minor exception" but actually creates a significant barrier between the service providers and the agency administration in providing for the safety and welfare of inmates.		
Concern/Disagreement	All	Professional Organization
11355: While respectful of the confidentiality needed to provide medical services to inmates, the Commission fails to acknowledge that this information is often directly related to the security and safety of staff and inmates, and must be reported to the facility head. f. Failure to do this reporting may violate the contract between the facility and health care provider and the facility.		
Concern/Disagreement	All	Professional Organization
12457: The proposed standards related to personnel issues - hiring, promotion, discipline, and gender specific work assignments -- are wholly intrusive on the legal prerogatives of sheriffs and present significant issues relating to equal employment opportunity and basic fairness for employees. Additionally, the proposed standards are shallow, seeking solutions through heavy-handed personnel policies.		
Concern/Disagreement	All	Professional Organization
12517: The proposed standard is too prescriptive and limiting in reaching the desired outcome which we believe the Commission desires. The elements in the proposed policy should be used to clarify the proposed standard language, or provide suggested strategies. The proposed standard presented an additional opportunity for the Commission to address the cooperation needed between health and mental health practitioners and the facility head.		
Concern/Disagreement	All	Professional Organization
12518: While respectful of the confidentiality needed to provide medical services to inmates, the Commission fails to acknowledge that this information is often directly related to the security and safety of staff and inmates, and must be reported to the facility head. Failure to do this reporting may violate the contract between the facility and health care provider and the facility.		
Concern/Disagreement	Discussion	Professional Organization
12519: The Discussion section contains language which is neither clarifying nor objective, and in fact is more confusing than helpful. It is recommended that this section be amended to clarify the standard, and that the remaining language, after edits, to moved to the resource guide to accompany the finalized standards.		
Concern/Disagreement	All	SINA
10443: There is some grey areas when I read this – as far as the checklists – in terms of informed consent for medical and mental health. We say things are confidential unless harm to self, others, abuse to elder or child. If you report other abuse we have to report.		
Concern/Disagreement	All	SINA
10490: •I think this may be in conflict of regulations – there is a duty to report (not mental health) – if you see an infant or child and you have suspicion of sexual abuse you do not have to get consent to report. •In mental health – it is a duty to report harm to self, someone else, harm to child or elderly – I know legally we are covered for not reporting, but I would feel horrible not reporting – I know in the system I can keep them safe by reporting – not sure if I can keep them safe if I don't report. You are getting them care and keeping them safe.		

**Public Comment Report**  
**Prison/Jail**  
**SD-1: Staff duty to report sexual abuse**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	SINA
10609: Medical and mental health people had that concern.		
Concern/Disagreement	All	SINA
11144: We struggle with confidentiality and the treatment of the victims. If we move an inmate and provide treatment, how do you continue to prove this without releasing the information to the facility on why they are being treated?		
Concern/Disagreement	All	SINA
11771: According to the standards – HUGE problem to allow medical and mental health to keep the name of the perpetrator confidential... Absolutely has to change – would allow staff to withhold information – from a policy level we mandated this from a safety angle		
Current Practice	All	Corrections Professional
12572: Connecticut agencies encourage inmates to report immediately any type of sexual abuse. Staff must report immediately to a supervisor if they witness or are informed of any type of sexual abuse. The Connecticut, DOC must follow the Administrative Directive 6.12 and make all the proper notifications including the Connecticut State Police.		
Current Practice	Checklist	Corrections Professional
13001: Reporting directly to the agency head is not within our chain of command and staff would not be directed to do this.		
Current Practice	All	Government
11858: Recognized correctional and medical accrediting agencies such as the American Correctional Association and the Joint Commission on Accreditation of Healthcare Organization do not exempt medical and mental health personnel from reporting instances of sexual abuse. These accrediting entities require a mechanism for medical and mental health staff to be able to report abuse and have the expectation that such reporting will be accomplished.		
Current Practice	All	SINA
10311: At MCCF – if someone discloses to medical or mental health staff and do not want to report – we do not honor that, there is a duty owed to them and we report it. Social workers the ones that might get upset about this. Also true for chaplains – for the safety of that person and others that it must be reported.		
Current Practice	All	SINA
11065: •The inmate knows that if they report something that we have to report to the warden. We tell them we have to tell somebody.		
Current Practice	All	SINA
11181: If we are made aware, we would notify custody staff as well as our on call provider. If somebody brought the situation to our attention, we will call the on call provider and send them to ER.		
Current Practice	All	SINA
11184: The on call medical provider would be called and we would report this to them and then go off their recommendations. Depending on what and when the abuse was and if it was a crime, I don't know what our responsibility would be about reporting this. This is up to the provider.		
Current Practice	All	SINA
11471: if someone tells us something happened but not who did it – it makes it tough investigating something that no one is to know about HIPAA comes in to play as well. Most of the time the victim is asking for helps – a little disclaimer that they do not want anyone to know, more about not having repercussions for anything that happens. We tell them they are a victim and others might be victims until we find out and get the predator. We want to protect everyone. Might be more victims that we do not know about and we want to help everyone.		

**Public Comment Report**  
 Prison/Jail  
 SD-1: Staff duty to report sexual abuse

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Current Practice	All	SINA
11770: Mental health and mental health practitioners – disclosure – our policy requires them to disclose – checklist talks about disclosure versus reporting. We require them to report. If disclosure is going to be mandated we will have to look at how that will affect us.		
Current Practice	All	SINA
12294: In medical you would report up your chain of command. Medical and custody then interact and get things done. If reported to an RN they report to their supervisor and then a report is made. Custody gets involved, bring the inmate in.		
Current Practice	All	SINA
12367: Policy is that everyone will report all information to his or her supervisor to make sure that action is taken. We do not allow someone not to report sexual harassment.		
Current Practice	All	SINA
11468: •Handle everything as confidential •Privileged info goes right with who needs to know. If you need to know you are involved if not then we do not even discuss it with you. •We stick with confidential – higher standard.		
Current Practice	All	SINA
14054: •Counselors are not bound by HIPAA.		
Observation	Standard Statement	Professional Organization
11077: The standard says if the state law says to require reporting, they may; however, as a federal facility we don't meet that. There is no "state law" for the BOP, though some employees are licensed in states that may have a duty to report.		
Observation	All	SINA
11097: •A lot of the reports come from mental health – the policy states that they have to report – they then submit a report to the asst warden or the warden.		
Observation	All	SINA
14052: I still think the warden needs to know that something is going on... In this environment you have to ensure the safety of others as well.		
Question	All	Corrections Professional
12828: Requesting clarification from the Commission if the reporting is withheld due to the offender choosing not to give consent, does it become optional for documenting in a medical file?		
Question	Checklist	Corrections Professional
13812: The definition of staff who are require to immediately report any knowledge, suspicion or information should be better defined.		
Suggestion	All	Advocate
11765: The first responding officer must treat the survivor with dignity and respect and initiate the coordinated response team to ensure that the survivor receives necessary medical and mental health attention (SD-1).		
Suggestion	All	Advocate
12087: •We recommend highlighting that the first responding officer must treat the survivor with dignity and respect and initiate a coordinated response team to ensure that the survivor receives prompt and necessary medical and mental health attention		

# Public Comment Report

## Prison/Jail

### SD-1: Staff duty to report sexual abuse

Type of Comment	Standard Components	Source
Suggestion	All	Advocate
12089: •This standard should specify sanctions when staff members fail to report sexual abuse, preferably through renewed training or negative performance reviews affecting promotion.		
Suggestion	Discussion	Advocate
13368: •Discussion does not include youth among vulnerable groups. •Amend first sentence of last paragraph of Discussion: "... administrators should consider and abide by any relevant state laws that grant privilege ... or mandate reporting to outside agencies for abuse perpetrated on certain vulnerable groups (e.g., youth, the mentally ill, mentally or physically disabled, or the elderly)."		
Suggestion	Discussion	Advocate
13371: •The requirements of [SD-2: Facility head duty to report sexual abuse] in the Juvenile Standards (see PDF p. 36 of Juvenile Standards) are entirely absent from the Adult Standards. •Immediately prior to the last sentence of the SD-1 Discussion in the Adult Standards, import the contents of what is called [SD-2: Facility head duty to report sexual abuse] in the Juvenile Standards.		
Suggestion	All	Advocate
13616: The Standards should require that staff report seeing warning signs of sexual abuse such as staff and inmates whispering to each other, arguing with each other, or spending hours talking to each other. Otherwise, as shown by our experience in Amador, this Standard does not go far enough. We have repeatedly asked New York DOCS staff if they have ever reported sexual abuse. All have told us they have not because they have never witnessed actual physical contact. Since such contact usually takes place in private, they do not believe they are obliged to report anything, despite having seen staff and women prisoners engage in precisely these types of behaviors.		
Suggestion	All	Advocate
13617: The Standard should require the Agency to impose consequences for staff who fail to report sexual abuse. If it is discovered that a sexual relationship was ongoing, the Standard should require the facility to investigate whether or not another staff member knew about the relationship and did not report it.		
Suggestion	All	Corrections Professional
11482: The Commission should adopt the concept of the mandated reporter from the child welfare field.		
Suggestion	All	Corrections Professional
11516: State law and professional licensing requirements frequently necessitate that certain medical and mental health staff must make formal reports. This is a good practice and should not be changed.		
Suggestion	All	Corrections Professional
12774: The various disciplines should assist classification with developing appropriate profile characteristics for inmates vulnerable to victimization and inmates who have risk factors of potential predators.		
Suggestion	All	Corrections Professional
13044: We suggest that in lieu of that type of reporting requirement being specified in the Rules that the Rules provide and require that every agency have a reporting mechanism in place that staff is required to follow.		

**Public Comment Report**  
**Prison/Jail**  
**SD-1: Staff duty to report sexual abuse**

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Suggestion	Discussion	Corrections Professional
13048: Given the fact that many jurisdictions have extensively developed privilege laws for physicians and mental health providers that contain many and various exceptions, rather than a detailed discussion of the sort laid out in this provision, we suggest that the proposed Rule be modified to provide for reporting consistent with the privilege and mandated reporting laws of the jurisdiction in which the facility is located.		
Suggestion	Standard Statement	Corrections Professional
13217: Recommend rewording standard so it reads: All staff members are required to immediately report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse, including any knowledge of staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse.		
Suggestion	Checklist	Corrections Professional
13218: SD-1, Compliance Checklist 31, (f): Reword this standard to read: Has the agency notified medical and mental health practitioners of their reporting duties?		
The reporting duties of the medical and mental health practitioners should be part of the agency reporting duties policy.		
Suggestion	All	Corrections Professional
13253: The proposed standard should recognize that reporting to specified security supervisors (such as a Duty Superintendent/Warden or Watch Commander/Shift Commander) is sufficient within the correctional facility so long as that employee is required to notify the facility head in a timely fashion. Compliance Checklist 31 needs to be modified accordingly.		
Suggestion	All	Corrections Professional
13454: The line employee who receives the initial report should not necessarily be the person responsible for ensuring that the victim is safe and that physical evidence is preserved. The agency should have the discretion to determine that this duty be assigned to a higher ranking security supervisor so long as the victim's safety needs are addressed immediately and steps are taken to preserve any physical evidence.		
Suggestion	Checklist	Corrections Professional
13813: The standard should not reflect reporting to the facility or agency head. This should be an option.		
Suggestion	All	Government
13397: Require more flexibility in reporting suspected incidents up the chain at least for inmate-on-inmate abuse. Add "federal/military" law as a provision that allows staff to report sexual abuse.		
Suggestion	Standard Statement	Labor Union
10659: Brown v. Cleveland established an employee's right to clarification; on page 34, you should strengthen the word "suspicion" (B. Staff duties follow an inmate report; SD-1, line 1, "All staff members are required to report immediately any knowledge, suspicion or information they receive..."); it is overly vague and broad.		
Suggestion	All	SINA
13313: It should be staff reports and follows up with a written report. Memorialization in writing is extremely important so that supervisors can't blame staff or say that they never got the report.		



**Public Comment Report**  
**Prison/Jail**  
**SD-1: Staff duty to report sexual abuse**

Type of Comment	Standard Components	Source
Support/Agreement	All	Advocate
12088: •We strongly support the provision limiting staff disclosure of information related to sexual abuse to those who need to know for treatment, investigation or classification purposes.		
Support/Agreement	All	Advocate
12227: SD-1 through SD-2: These mandatory reporting requirements comply with international obligations requiring officials to prevent and investigate rights violations. In addition, their consideration of victim confidentiality regarding allegations of abuse comports with similar standards set forth in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 33(3) (requiring “[c]onfidentiality concerning the request or complaint shall be maintained if so requested by the complainant”).		
Support/Agreement	All	Advocate
12228: SD-1: We think that the provision limiting staff disclosure of information related to sexual abuse to those who need to know for treatment, investigation or classification purposes, is important and should be maintained.		
This standard is important in inspiring confidence in victims or observers of sexual abuse that sexual abuse will not be tolerated, that their concerns are being taken seriously, and that every effort will be made to prevent it from happening again.		
Support/Agreement	All	Advocate
12229: SD-1 “...in instances of suspected or reported staff-on-inmate abuse or violation of responsibilities, staff is required to report directly to the facility or agency head”: This is an extremely important provision to ensure that agency heads are held accountable.		
Unintended Consequence	All	Corrections Professional
12875: SD-1: The VADOC has zero tolerance policy for sexual abuse of inmates and as such requires all staff to report suspicion or knowledge of sexual abuse of inmates. This requirement weakens the objective of PREA.		
Unintended Consequence	All	Corrections Professional
12894: An exception to the absolute duty to report would have a potentially hazardous impact on the security and safety of the facility. Such “blind reporting” may be feasible and beneficial to the community at large, but does not fit well within the correctional setting		
Unintended Consequence	All	Government
11859: A correctional agency that is mandated to have an exception to a general requirement for all staff to report immediately any knowledge or information regarding an incident of sexual abuse could be held liable in any litigation brought against the agency for an assault that could have been prevented. Further, the particular medical or mental health practitioner could be held personally liable if found to have been deliberately indifferent to an inmate’s safety or well-being.		
Unintended Consequence	Standard Statement	Professional Organization
10706: Duty to report: Exclusion for medical mental health professionals from confidentiality is very concerning. Not being able to report incidents and take steps to protect the inmate; not being able to protect the inmate and others from the predator.		
Unintended Consequence	All	SINA
10520: What concerns me is the appropriate action and asking volunteers to be in a preventative mode or report beyond what is observed—it’s too inclusive		

**Public Comment Report**  
Prison/Jail

SD-2: Staff duty to protect sexual abuse victims and preserve evidence

Category of Comment	Standard Components	Source
Concern/Disagreement	All	Labor Union
13712: The responsibility for forensic evidence preservation this standard would impose upon first responders may expand job duties and require additional, specialized training for all staff. This standard represents a substantial commitment of staff resources that may not be within the agency's current capability.		
Concern/Disagreement	All	Prisoner
12398: SD-2: We object to the collection of forensic evidence against the will of an alleged or believed victim.		
Concern/Disagreement	All	Professional Organization
12520: . If the Commission wishes to recommend specific protocols for evidence identification and preservation, as well as safeguarding the victim, this information should be included in the materials provided in the resource guide to accompany the finalized standards. This is important as many sexual assaults are reported and/or discovered days, weeks or months after the alleged crime, making it essential that employees understand the protocols needed based on the timeliness of the reporting.		
Current Practice	All	SINA
11581: • Well, as far as security we would do the investigation. We can place them in pre-hearing detention status. Totally isolated to protect the integrity of the investigation, so we can do that. • For medical, we do physical, that's how we know what would be going on.		
Current Practice	All	SINA
11583: We will call in state police.		
Suggestion	All	Advocate
12090: •We recommend that it be made clear that a prisoner may not be punished for destroying evidence on their person; for example, if prisoner is told not to use the toilet or bathe before being physically examined, he or she should not be punished for failing to comply by using the toilet or showering.		
Suggestion	Checklist	Corrections Professional
13221: SD-2, Compliance Checklist 32, (a): Recommend additional wording so the checklist reads: Has the agency notified staff members that upon learning of an incident of sexual abuse, they are required to take steps to protect the victim's safety, including separating an inmate victim from an inmate abuser, and informing the victim not to take any actions that could destroy physical evidence before an investigator or other member of the coordinated response team (RP-1) arrives or a SANE examination or forensic evidence collection is completed.		
Support/Agreement	All	Advocate
12227: SD-1 through SD-2: These mandatory reporting requirements comply with international obligations requiring officials to prevent and investigate rights violations. In addition, their consideration of victim confidentiality regarding allegations of abuse comports with similar standards set forth in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 33(3) (requiring "[c]onfidentiality concerning the request or complaint shall be maintained if so requested by the complainant").		

# Public Comment Report

## Prison/Jail

### AD-1: Agency duty to protect against retaliation

Content of Comment	Standard Components	Source
Concern/Disagreement	All	Advocate
13618: We are deeply disturbed by the concession made by this Standard. It does not adequately address the conflict between keeping inmates safe from staff who may commit violence or some other abuse of power and collective bargaining agreements which limit a facility's freedom to reassign posts. Protecting inmates from potentially dangerous staff should be a facility's top priority. Women inside prison walls deserve the same protections when they report rape as women outside prison, and collective bargaining agreements should never take precedence over basic human rights. The Commission recognizes in the Introduction that "To the extent that bargaining agreements are inconsistent with the spirit and goals of these standards, agencies should take steps to change them." Similarly here, the bargaining agreement should not prevent the Agency from complying with the Standards and if it does, it should be changed.		
Concern/Disagreement	Checklist	Corrections Professional
11455: AD-1, Compliance Checklist 33, (e): IN-1, Compliance Checklist 34, (g): this standard has the potential to revictimize an individual by continuing to address an issue that s/he may want to put behind them. This component of this standard should be eliminated.		
Concern/Disagreement	Checklist	Corrections Professional
12807: Checklist 33 – (AD – 1) Agency duty to protect against retaliation – The item suggesting that there be routine, periodic follow-up with inmates following the report of sexual abuse to determine whether the inmate is experiencing retaliation is unrealistic and unnecessary.		
Concern/Disagreement	Checklist	Corrections Professional
12843: the checklist is redundant and not on point with this standard.		
Concern/Disagreement	Discussion	Government
11861: The (BOP) is obligated to negotiate with the Union over matters affecting the working conditions of bargaining unit employees. If deemed to be necessary, it may take some time to make changes to the Master Agreement between BOP management and the Union. This standard underestimates the time, resources, and difficulty in changing collective bargaining agreements.		
Concern/Disagreement	All	Labor Union
11798: While it is important to protect inmates or other staff from retaliation, it is also important to protect the rights of staff that have not been convicted of any crime or properly disciplined for employment related conduct... It is imperative that PREA does not become a tool that inmates can use to punish hard working and law abiding staff. Besides being a hardship on the staff involved, it could have a demoralizing effect on the workforce and could make conditions in the facility even more stressful and dangerous.		
Concern/Disagreement	All	Labor Union
13713: any attempt to impose sanctions upon staff merely based on an unsubstantiated accusation will be resisted. Likewise, the standards seem to leave no room for imposition of disciplinary sanctions upon an inmate who repeatedly makes false accusations against staff or other inmates. Any new staff expectations for preventing the possibility of retaliation against staff and inmates may require additional training, straining existing resources.		
Concern/Disagreement	Discussion	Professional Organization
13766: The Discussion section of the proposed standard is overly dramatic in what should be an objective discussion of necessary components of an investigative process... It is recommended that the three paragraphs now comprising the Discussion be eliminated.		

**Public Comment Report**  
**Prison/Jail**  
 AD-1: Agency duty to protect against retaliation

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Professional Organization
12521: This proposed standard is difficult to measure, as with any standard which does not begin with establishing agency policy and procedure.		
Concern/Disagreement	Discussion	Professional Organization
12522: The Discussion section of the proposed standard is not helpful, and appears dramatic in what should be an objective discussion of necessary components of an investigative process. It is recommended that the three paragraphs now comprising the Discussion section be edited and information about strategies and best practices moved to the resource guide which will accompany the finalized standards.		
Concern/Disagreement	All	SINA
10972: Retaliation standards on page 36 were addressed in our survey. The standard is important but inmates will not report and the procedure is difficult. The institution cannot combat the no snitching rule. The language in the standard does not allow people to hold up the standard because women do not want to report.		
Observation	All	Corrections Professional
12148: Legal review suggests that the agency can "attempt " to protect staff against retaliation but this cannot be guaranteed.		
Observation	All	Corrections Professional
12843: Legal review suggests that the agency can "attempt " to protect staff against retaliation but this cannot be guaranteed.		
Suggestion	All	Advocate
11766: Protections against retaliation should be expanded to include explicit references to the right to be free from intimidation and threats (AD-1). While the draft standards address the most blatant forms of retaliation—such as placement in harsh conditions or permitting further attacks and verbal abuse—the pressures against reporting abuse tend to be more subtle and insidious. Because of the extensive power that officials have over inmates in their charge, coercion against reporting rarely needs to be overly aggressive.		
Suggestion	All	Advocate
12092: A finding that a person's complaint of sexual abuse is not substantiated should not be sufficient to support a disciplinary finding of making false allegations.		
Suggestion	All	Advocate
12093: •To strengthen this key section, the Standards should also include a rebuttable presumption that any disciplinary write-ups that a prisoner receives within six months of complaining about a staff member are evidence of retaliation, unless a clear history of pre-existing disciplinary write-ups exists.		
Suggestion	All	Advocate
12094: •The outlined protections against retaliation should be expanded to explicitly include the right to be free from intimidation and threats.		
Suggestion	Discussion	Advocate
12231: AD-1 (discussion) The standard provides that " <i>agencies should try to secure collective bargaining agreements that do not limit their ability to protect inmates from retaliation</i> ": The standard ought to mandate that agencies not enter into collective bargaining agreements that limit their ability to protect prisoners from retaliation.		

# Public Comment Report

Prison/Jail

AD-1: Agency duty to protect against retaliation

Category of Comment	Standard Components	Source
Suggestion	All	Advocate
<p>13373: •Discussion needs to mention that protecting the inmate from retaliation should include minimizing any disruption to inmate's education, which is especially important for inmates under the age of 18 who must be provided an education according to applicable state laws.</p> <p>•Amend last sentence of Discussion: "While addressing the situation may require a housing transfer, facility officials should make every reasonable effort to minimize the disruption caused to the inmate's daily life, including changes in housing assignment, access to programs, education, and other privileges (PP-1 and PP-2)."</p> <p>•NOTE: The word "other" is removed because after adding "education," the phrase "other privileges" makes education sound like a privilege instead of a requirement for youth.</p>		
Suggestion	All	Advocate
<p>13619: Protections against retaliation should be expanded to include explicit references to the right to be free from intimidation and threats. While the Standards address the most blatant forms of retaliation—such as placement in harsh conditions or permitting further attacks and verbal abuse—the pressures against reporting abuse can be more subtle and insidious.</p>		
Suggestion	All	Advocate
<p>13620: Protections from retaliation should also be expanded to prevent more "formal" measures that are experienced by prisoners as retaliation for complaining, such as placement in segregation or transfer far from family or home. This is already contemplated by the Standards at PP-2, Heightened Protection for Vulnerable Inmates, but it needs to be made clear here that inmates who report abuse will be likewise housed in the "least restrictive setting possible and must have access to the same privileges as inmates housed in general population." It should also be made clear that an inmate will be transferred following a report of abuse only if there is no other way to maintain her safety.</p>		
Suggestion	All	Advocate
<p>13621: The Standard should ask the facility to take steps beyond just "checking in" with the alleged abuse victim to see if she or he has experienced retaliation. Retaliation chills prisoners from coming forward and impacts the integrity of the investigation. As a result, the Standard should require that steps be taken if the victim reports retaliation, including opening a new investigation into the allegations. The Standard should also require the Agency to impose consequences for violating the confidentiality of ongoing investigations without good cause.</p>		
Suggestion	All	Corrections Professional
<p>10272: A system to provide protection to any witness to a sexual assault should be implemented as well as a safe way for the witness to come forward.</p>		
Suggestion	Discussion	Corrections Professional
<p>11416: example is contained in AD-1 where the discussion says, "Fear of retaliation . . . prevents many inmates and staff from reporting..." This appears as an unsupported opinion, not buttressed by findings. It should be restated as, "Agencies should encourage reporting by protecting inmates and staff from retaliation." There are also references to 'monitoring staff' in several places instead of monitoring inmates or areas, and the standards require strategies for 'overcoming staff resistance to change'; that should be restated as, ensuring these standards are incorporated into organizational culture, or the like.</p>		
Suggestion	All	Corrections Professional
<p>10518: Guidelines would be helpful.</p>		

# Public Comment Report

Prison/Jail

AD-1: Agency duty to protect against retaliation

Type of Comment	Standard Components	Source
Suggestion	All	Corrections Professional
12833: In good faith, DOC agencies should have the option of discipline for offenders who report sexual abuse where there is substantive evidence that it is fabricated for malicious intent or manipulative reasons. Currently, incidents do require an investigative process, which requires the offender to be placed on administrative segregation during the course of the investigation.		
Suggestion	All	Corrections Professional
12888: A system to provide protection to any witness to a sexual assault should be implemented as well as a safe way for the witness to come forward.		
Suggestion	All	SINA
10879: The notion of protection needs a language change indicating that the agency has a stated policy regarding this but I can't protect you from anything in this institution. The agency protects is not accurate. I understand the proactive nature of this but needs to include more language to support the efforts of the agency.		
Support/Agreement	All	Corrections Professional
13242: WYDOC agrees with this standard and the Department supports the duty to protect against retaliation.		
Support/Agreement	All	SINA
10930: This is important to stress that inmates will not be retaliated against but that they also will be charged if they make it up. The crime is usually a cmiss, which means that they have to mow grass for a week, this is not strong enough.		
Support/Agreement	All	SINA
11072: I also like the SART TEAM to make sure that we are responding to inmates.		

**Public Comment Report**  
**Prison/Jail**  
**IN-1: Investigations**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Concern/Disagreement</b>	<b>All</b>	<b>Advocate</b>

12232: IN-1: By failing to involve fully the alleged victim in the investigative process this standard fails to comport with international human rights requirements. To meet these standards, language should be introduced affording the alleged victim a right to be kept fully informed of both the progress of the investigation and its eventual outcome.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Advocate</b>
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13623: In IN-1, many important requirements for an investigation to be fairly and appropriately conducted are contained only in the Discussion section, such as the requirement that prior complaints against an officer be reviewed or that investigators be trained to take into account the unique nature of sexual assault in jail and prison in assessing complaints. These should be understood to be mandatory requirements, not simply best practices and should be put into the Standard itself. Although there is a Checklist question about prior complaints, this is an example of the confusing structure of these Standards and why it is important to have all requirements in the Standard itself.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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10791: IN-1: Using outside investigators will be difficult for most jurisdictions considering that local law enforcement agencies are lacking resources and manpower as well.

<b>Concern/Disagreement</b>	<b>Checklist</b>	<b>Corrections Professional</b>
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11455: AD-1, Compliance Checklist 33, (e):  
 IN-1, Compliance Checklist 34, (g): this standard has the potential to revictimize an individual by continuing to address an issue that s/he want to put behind them. This component of this standard should be eliminated.

<b>Concern/Disagreement</b>	<b>All</b>	<b>Corrections Professional</b>
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11520: The mandate requires the Department to afford inmates unimpeded access to external victim advocates and/or mental professionals foregoing critical safety and security requirements, creating significant opportunity for breaches. There is no definition or parameters regarding "access" such as how it occurs, who sets it up, confidentiality requirements, reporting requirements, time frames, credentialing, etc.

<b>Concern/Disagreement</b>	<b>Checklist</b>	<b>Corrections Professional</b>
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11531: Compliance Checklist 34: Investigations IN-1  
 (g): During the course of an investigation, does the investigator check with the complainant to make sure that s/he is not being subjected to or threatened with retaliation?

Impact: The case investigator may be unable to "check in" with complainant to make sure that s/he is not being subjected to or threatened with retaliation. It may be in the best interest of the complainant to be transferred to another location in the institution or to another institution at which point "check(ing) in" with the complainant is not feasible. Further, other professionals are qualified and appropriate to assume this duty.

<b>Concern/Disagreement</b>	<b>Checklist</b>	<b>Corrections Professional</b>
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11600: (a) (b) This point on the checklist is redundant and unnecessary, in that it refers to and repeats requirements on another checklist. Even if the point is retained on this checklist, it is inaccurate and should be corrected. The reference to Checklist 24, (a) – (k) refers partially to training required by Classification Staff and only a portion of the training required by Investigators. The correct reference should be klist 24, (d) – (n).

**Public Comment Report**  
**Prison/Jail**  
**IN-1: Investigations**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	Corrections Professional
12642: IN 1: Investigations: There is a need to define prompt, thorough, objective and fair' in the context of the investigatory process. There may also be cost implication for smaller local facilities and/or jails relating to compliance with this section of the standards.		
Concern/Disagreement	All	Corrections Professional
12775: The Department's Inspector General is given the jurisdiction by Section 944.31 Florida Statutes, to investigate these allegations. The assumption that outside investigations are somehow more objective is misplaced.		
Concern/Disagreement	All	Corrections Professional
12776: The proposed standard would impose substantial additional costs compared to the costs presently expended by state prison authorities.		
Concern/Disagreement	All	Corrections Professional
12836: the standard does not appear to take offender credibility into account. There appears to be too much reliance on outside agencies to accomplish many of the requirements in the standards.		
Concern/Disagreement	All	Corrections Professional
13051: There is reference to the use of an "outside investigator whenever possible". However the term outside is not defined. Presumably the intention of this Rule would not be to preclude a sheriff's office that operates a jail from also assigning investigators to investigate crime that occur within that jail. However, we believe it should be made clear that this is not the intention.		
Concern/Disagreement	Discussion	Government
11862: The BOP Prisons would not be able to take action against staff based on sexual abuse allegations that are not substantiated. Accordingly, this mandate regarding categorization of allegations of sexual abuse is relevant only for data collection purposes.		
Concern/Disagreement	Checklist	Individual
10638: G): Victim Service Responder fills this role (not the investigator). (H): We feel this is a bad question as our inmates are not compelled to speak. (J): We feel this is a bad question because each case is a stand-alone case. Repeat offenders are dealt with internally, or past offenses are used if the crime is enhancable or used at sentencing. (K): Victim Service Responder fills this role (not the investigator). (O): Victim Service Responder fills this role (not the investigator).		
Concern/Disagreement	Discussion	Labor Union
10656: page 37, Allegations unsubstantiated but not categorized as unfounded. Supersede legal rights that violate collective bargaining. Concern about the last paragraph and the phrase "pattern of unsubstantiated allegations" may be intentionally abused or manipulated by inmates making false allegations		



# Public Comment Report

Prison/Jail

IN-1: Investigations

Category of Comment	Standard Components	Source
Concern/Disagreement	All	Labor Union
<p>11799: If an employee has been exonerated or not been proven guilty in the past, those past events should not prejudice decisions regarding current events or those in the future. Furthermore, a prior complaint, especially one that has not led to disciplinary action, does not demonstrate a propensity by the employee for unlawful behavior. The retention of unsubstantiated allegations against an employee holds the potential for prejudicing current investigations and is inherently unfair... those infractions are irrelevant to a finding of culpability for current complaints which, obviously, are based on the facts of the current situation.</p>		
Concern/Disagreement	All	Labor Union
<p>13714: This standard allows a cloud of suspicion to hang over a staff member even where specially trained investigators failed to uncover adequate evidence of misconduct... Such an approach runs counter to established principles of just cause, and the Council 75 will guard against investigations which fail to produce evidence of sexual abuse but are nonetheless left permanently open. Where a thorough investigation fails to discover substantial evidence of guilt, the subject staff member is entitled to be exonerated.</p>		
Concern/Disagreement	All	Prisoner
<p>12400: IN-2: we object to use of a preponderance standard. Given the stigma and other consequences of being branded a sexual offender or sexually dangerous person by virtue of disciplinary finding, we believe a higher standard of proof is necessary.</p>		
Concern/Disagreement	All	Professional Organization
<p>12523: the terms "prompt, thorough, objective, fair" are subjective terms, which cannot be objectively measured. This is another proposed standard in which the Commission could have addressed the deep concern by correctional staff about deliberately false allegations by inmates.</p>		
Concern/Disagreement	All	SINA
<p>10620: We have some pretrial that can be bailed at any time, what if someone makes an allegation and then is bailed and we can't find them?</p>		
Concern/Disagreement	All	SINA
<p>11143: Staff is concerned about false charges and the change in policy from in-house investigations to outside investigations.</p>		
Current Practice	All	Corrections Professional
<p>12777: All investigators with the Office of Inspector General have received formal training relating to interview and interrogation techniques, crime scene preservation, evidence collection and submission, report preparations and case presentation. Additionally, all investigators have received specialized training relating to the requirements and intent of PREA, investigating staff sexual misconduct, sexual assaults and inmate orientation.</p>		
Current Practice	All	Corrections Professional
<p>12778: Regardless of the outcome of the criminal case, the Department would still initiate administrative action against any staff member found to have violated personnel rules and regulations.</p>		
Current Practice	All	Corrections Professional
<p>12779: The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation prior to interrogation, and he or she must be informed of the names of all complainants. All identifiable witnesses must be interviewed, wherever possible, prior to the beginning of the investigative interview of the accused officer. No disciplinary action, demotion, or dismissal be undertaken against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date that the IG's Office receives notice of the allegation.</p>		

**Public Comment Report**  
**Prison/Jail**  
**IN-1: Investigations**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Current Practice	Checklist	Corrections Professional
13222: IN-1, Compliance Checklist 34, Investigations: NOTE: The Colorado Department of Corrections, Office of the Inspector General, (OIG), has its own governing statute. All Investigators hired by the OIG are required to be Peace Officer Standard Trained (POST) certified and may enforce all the laws in the State of Colorado... It is not clear how we would apply this standard.		
Current Practice	Standard Statement	Corrections Professional
13278: D. Investigations and Discipline IN-1: Investigations "Investigations into allegations of sexual abuse are prompt, thorough, objective, fair, and conducted by investigators who have received special training in sexual abuse investigations."  OIG provides ongoing, extensive training in the area of Sexual Assaults, to include an annual OIG Conference with Sexual Assaults being the predominant topic. OIG has specific policies and procedures relating to the investigation of sexual assault allegations. OIG is committed to conducting independent, prompt, thorough, objective, and fair investigations of all sexual assault allegations that occur on TDCJ property or authorized		
Current Practice	All	SINA
10451: We don't have an annual review. There was an allegation that was reported and the system was in place. This was an inmate on inmate allegation and there was an investigation done. Boston Police department sexual assault unit took the report.		
Current Practice	All	SINA
10452: •We do a preliminary screen before we call the sexual assault unit. This is not a formal written agreement with the organization. •They will take a referral or consult on the phone to decide if they will come in to check it out.		
Current Practice	All	SINA
10816: -Our nurses are not trained to conduct forensic exams. We would isolate the inmate, secure the area, and wait for investigators to come in. then send the inmate out – no collection here by our staff.		
Current Practice	All	SINA
10907: We use the same benchmark as we would with any crime as they are investigated.		
Current Practice	All	SINA
11032: Once we're notified, depending on what is reported, if it occurred in a cell, we'll have that cell locked down as a crime scene. And then our investigator will go and we'll interview the victim and find out specifics of the case to give us an idea of what we're looking for as far as what went on with the assailant, and what not. We've got equipment here as far as the alternative light source and we can get in and try and look for DNA evidence on any bedding or clothing or towels or anything like that over the cell.		
Current Practice	All	SINA
11039: You don't need any proof to start an investigation, as long as the offender comes to you and claims something we start looking into it at that moment... And it doesn't necessarily have to be the offender that does it. Another offender can tell us, a staff member can tell us... And in every single allegation of sexual assault it is investigated and it is logged as sexual assault.		
Current Practice	All	SINA
11101: •With sexual assaults we often polygraph people before talking with the perpetrator. If it is a rape or something serious we will interview and polygraph them – we still need to determine the validity of the allegation.		

**Public Comment Report**  
**Prison/Jail**  
**IN-1: Investigations**

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11203: We have a system where, we do not have a detective assigned to the jail, but our office share in the same building as the jail. I rely on the jail staff to be a filter of rumors, and cases that are based on innuendo and stuff that is not really the focus of PREA. When they sort through all of that and they feel needs a real criminal investigation I will send a detective down. Filter is important – otherwise the system gets gummed up. False allegations... if we were to assign a detective to do w full investigation on every little hint they system would grind to a halt.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11232: County investigators will let us know what is the statute and what is the criminal code so if we are looking into something and it even hints at being criminal the investigation is stopped and the county investigators are called in.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11233: •If it is found to be criminal it is a pretty open and shut investigation in terms of an administrative investigation. There is often back and forth... then turned back to the internal administrative investigation.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
12249: We polygraph the inmate within 24 hours, we know that this is not admissible in court but we can use this against employees. With false allegations, we need to process the inmates through but there is pressure against this because the inmates may not want to report. We need to do something about this however. Inmates use this to try to get out of a housing unit or other reasons.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
13993: The big investigations are done when there is a staff member.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
14070: We all practice discretion.		
<b>Observation</b>	<b>All</b>	<b>Corrections Professional</b>
10271: Inmates reporting instances of other inmates exposing themselves and/or masturbating in assaultive manners should be taken more seriously by agency authorities. . . All reports of sexual harassment, abuse, or assault should be investigated no matter how minor the reported incident may seem.		
<b>Observation</b>	<b>All</b>	<b>Corrections Professional</b>
13175: There does not appear to be a substantiated difference between this type of investigation and any other professional investigation.		
<b>Observation</b>	<b>All</b>	<b>SINA</b>
10797: Some facilities have sworn officers and we do not have that power so we depend on police to do things also. Hands on criminal stuff we are not as involved in. Some things—criminal investigations, e.g.—won't be handled by MCCF necessarily.		
<b>Observation</b>	<b>All</b>	<b>SINA</b>
11105: •In older facilities – this facility is almost 20 years old – the systems need to be upgraded. There are facilities across the US that do not even have cameras.		
<b>Observation</b>	<b>All</b>	<b>SINA</b>
11204: •Reality is there is a high level of false allegations – directed not only at staff, but other inmates as well.		

**Public Comment Report**  
**Prison/Jail**  
**IN-1: Investigations**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Observation</b>	<b>All</b>	<b>SINA</b>
14071: The problem in this facility is that the inmates have no problem and the inmates have no confidentiality among the inmates. The inmates share this information freely and the inmates inform the staff members and there is no confidentiality.		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
11768: Inmate testimonies should be reviewed for credibility on its merits and never automatically be discounted because they are presented by someone who is incarcerated (IN-2).		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
12095: •The Standards should make explicit that investigators should be free of conflicts of interest, such as a close relationship with the victim or the accused.		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
12344: In IN-1, the following language, or language with the same effect, should be added: "Procedures must be put in place to ensure that the accused are treated humanely and fairly and that their civil, constitutional and human rights are not violated during the pendency of investigations. Personal biases or stereotypes of investigators with regard to race, sexual orientation, gender identity, disability, religion, or other inappropriate factors must never influence the conduct or outcome of investigations."		
<b>Suggestion</b>	<b>Standard Statement</b>	<b>Advocate</b>
13374: The Statement needs to be clearer about the required communication abilities of the investigator. •Amend the Statement to read: "Investigations into allegations of sexual abuse are prompt, thorough, objective, fair, and conducted by investigators who have received special training in sexual abuse investigations and have developed, in particular, skills for communicating with the vulnerable populations."		
<b>Suggestion</b>	<b>Checklist</b>	<b>Advocate</b>
13404: The Checklist does not contain a provision to ensure that reported abuses of youth are investigated through to completion, regardless of whether the victim recants. Add a question to Checklist 34: "Are all investigations of sexual abuse of inmates under age 18 carried through to completion, regardless of whether the victim decides to recant his or her allegation?" [This question comes directly from the parallel Juvenile standards on this topic.]		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
13624: We believe that the Standard should require that a range of investigative tools be available, including the use of polygraphs and the wiring of prisoners responsibly and with adequate protections. Cameras can also be an important investigative tool; thus, even if cameras are not located in a particular area where abuse is alleged to have occurred, a camera should be required to be placed there and used to investigate reported abuse. As we noted above, staff should have to cooperate with requests for DNA and physical examinations. In addition, they should have to comply with requests for searches of their property, including in lockers in the jail or prison.		

# Public Comment Report

Prison/Jail

IN-1: Investigations

Text of Comment	Standard Components	Source
Suggestion	All	Advocate

13626: The Discussion states that in cases of alleged staff-on-inmate sexual abuse or harassment, the Agency should use outside investigators "whenever possible" to assure the appearance as well as the reality of impartiality. However, no guidance is given about what this means. In New York State, investigators from the Department's Inspector General's Office conduct investigations into staff sexual misconduct. These investigators are former correctional staff with limited training. New York, and other comparable systems, should be required to use independent investigators, it should not simply be a suggestion.

Suggestion	All	Advocate
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13628: As we also stated above in conjunction with Standard RP-9, the terms unsubstantiated and unfounded need to be defined. In any case, tracking all reports of sexual abuse, regardless of whether they or not they are substantiated, is an important step toward holding abusers accountable. However, the Standard and Checklist do not say what should be done if repeated allegations of abuse are noticed.

Suggestion	All	Advocate
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13629: Checklist questions (m) and (n) ask whether staff-on-inmate, or inmate-on-inmate, investigations are carried through to completion regardless of whether the subject of the investigation transfers/is transferred, resigns, retires or is released. We urge the Commission to also include a requirement in both the Standard and Checklist about whether the investigations are carried through regardless of whether the victim is no longer interested in pursuing her complaint or even recants. Just as in rape outside prison, the investigation should not terminate simply because the victim decides she does not want to pursue the complaint.

Suggestion	All	Advocate
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13636: Because we do not believe this Standard will result in changes in the actual outcomes of investigations, we have some additional concrete suggestions that will at least help to alleviate the problem. First, as recognized by the Commission, even unsubstantiated complaints need to be reviewed (RP-9). Because of the above stated concerns, there must be a requirement that as part of the Agency review it consider the need to enhance the supervision of the staff member about whom there is reasonable suspicion of misconduct and, if the Agency decides not to enhance supervision, its reasons must be documented (RP-9 and AD-1). Second, we believe that the only potentially effective remedy for staff sexual abuse is through the installation of cameras, RFID and other meaningful technology... Third, because compliance with this Standard will be very difficult to assess, the Auditor should have to review the underlying documentation showing how investigations were

Suggestion	Standard Statement	Corrections Professional
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11703: Revision:

## IN-1: Investigations

Investigations into allegations of sexual abuse are prompt, thorough, objective, fair, and conducted by investigators who have received special training, such as sexual abuse investigations and other types of criminal investigation training.

Suggestion	All	Corrections Professional
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12886: Inmates reporting instances of other inmates exposing themselves and/or masturbating in assaultive manners should be taken more seriously by agency authorities. "Gunslingers" are a serious problem in all custody levels and are the inmates who typically end up raping another inmate.

Suggestion	All	Corrections Professional
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12817: The commission should consider clarifying what is special training and the documentation of that training.

**Public Comment Report**  
**Prison/Jail**  
**IN-1: Investigations**

Type of Comment	Standard Components	Source
Suggestion	Checklist	Corrections Professional
13455: the Compliance Checklist should account for the possibility that investigations are conducted in partnership with an outside police agency that may bear primary responsibility in conducting interviews, especially of any identified suspect.		
Suggestion	All	Corrections Professional
13456: The proposed standards should not mandate a specific level of proof, although it may be appropriate to recommend a maximum appropriate level of proof. The standard should not preclude use of a lower standard of proof.		
Suggestion	All	SINA
10817: -If we got this standard, we'd need training. We couldn't do this now. -If this were to come down – is the Commission, are there any plans to provide training for facilities that do not have the ability to do this on their own? We cannot do the training, no money, no resources.		
Suggestion	Checklist	SINA
14072: D, time frame I am not set into... H conducting interviews. The state police would do this... K we don't to investigations and gather information. The state police... O we don't do this – State Police... E We doesn't do this... Q Need more clarity for this. If a guy yells wolf here, we will send the inmate to jail... We don't have arrest authority yet. It has been written into the state code but it has not been activated yet.		
Support/Agreement	Discussion	Advocate
12234: IN-1 (discussion) <i>"sexual abuse is less likely to be witnessed, cause visible injury, or leave other physical evidence,. It is therefore crucial that investigators have a protocol for making credibility assessments, which includes reviewing any prior reports of sexual abuse against the accused abuser. ....Where there is a reasonable suspicion that the incident in question occurred, it may be determined to be unsubstantiated, but it should not be characterized as unfounded."</i> <i>"Where a pattern of unsubstantiated allegations emerges that involves the same alleged abuser, work shift or areas of the facility, facility heads should review relevant post assignments, and the use of cameras and other monitoring technology..."</i> These are important points. Since these allegations often can't be proved, the important thing is to identify patterns so that precautionary measures can be taken.		
Support/Agreement	Standard Statement	Advocate
13622: We commend the Commission for recognizing the unique nature of jail and prison assault, and for emphasizing how important it is that investigators understand these issues and not re-traumatize victims during the course of an investigation.		
Support/Agreement	All	Advocate
13635: The Investigation Standards (IN-1 and IN-2), if followed, make substantial progress in improving the types of investigations conducted by jail and prison investigators by making clear that credibility assessments must be made, that physical proof is not supposed to be required, that the standard of proof is a preponderance of the evidence and that prior complaints involving the same staff member are to be considered.		
Unintended Consequence	All	SINA
11106: •It is such a deterrent to have them. We will have an interview with someone and they deny everything. you then pull the video and they will confess		

**Public Comment Report**  
Prison/Jail

IN-2: Level of proof required to substantiate sexual abuse allegations for disciplinary action

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	Advocate
13632: We believe that a "preponderance of the evidence" is the strictest standard that an Agency should be able to rely upon in determining whether a staff member or inmate should be disciplined for sexual abuse violations. We suggest making clear, however, that the Standards allow for action based upon less than a preponderance since, as we understand it, some systems (those without union contracts) are able to move staff from their positions if they have a reasonable suspicion that misconduct has occurred and we do not believe the Commission intended to bar such actions.		
Concern/Disagreement	All	Corrections Professional
11522: If after a complete and thorough investigation, the allegations are proven to be false, this standard does not mention/address consequences for making false allegations. Commission should consider the protocol when false allegations are knowingly lodged.		
Concern/Disagreement	All	Corrections Professional
12836: the standard does not appear to take offender credibility into account. There appears to be too much reliance on outside agencies to accomplish many of the requirements in the standards.		
Concern/Disagreement	All	Corrections Professional
13118: The commission's proposed standard places investigators in the position of making decisions regarding the legal sufficiency of evidence, which is outside the purview of their mission and training. The preponderance of the evidence standard is a legal concept that should be applied to the facts gathered from the investigation by trained legal staff. The investigators' role is to gather facts and then submit the facts for further appropriate action by Department administrators or prosecutors and not to weigh evidence.		
Concern/Disagreement	All	Corrections Professional
13177: VARJ strongly objects to the use of preponderance of the evidence as the standard, but fully supports beyond a reasonable doubt for our staff.		
Concern/Disagreement	All	Labor Union
13715: This standard would establish an unreasonably low standard of proof for disciplinary action that fails to adequately safeguard the rights of staff. In recognition of the stigmatizing effect of severe discipline, there is extensive arbitral authority for the adoption of the highest standard of proof in sexual harassment cases and cases involving criminal conduct or other serious offenses. In such cases, the intermediate standard of "clear and convincing evidence" is most frequently applied.		
Concern/Disagreement	All	Professional Organization
12524: The proposed standard language is confusing in terms of its applicability - to employees, to inmates? It is overreaching and intrusive to proscribe the level of proof required in agency-level discipline.		
Concern/Disagreement	All	Professional Organization
12525: Additionally, this is another missed opportunity for the Commission to provide guidance about administrative and criminal investigations and provide resources to agencies who are seeking to write or update policies. It is presumptuous that the Commission would choose to inject itself into a local agency's employee and the inmate discipline system. Investigations proceed regardless of the threat of civil action, as it should be.		

**Public Comment Report**  
Prison/Jail

IN-2: Level of proof required to substantiate sexual abuse allegations for disciplinary action

Type of Comment	Standard Components	Source
Concern/Disagreement	All	SINA
11104: •For disciplinary action against the inmate – it is the preponderance of the evidence 51% - I think it needs to be more than that. We are talking about people's lives and their credibility. Not beyond a reasonable doubt – preponderance is only 51% - low standard. When talking about someone getting set-up – think it should be at a higher standard.		
Current Practice	Checklist	Corrections Professional
13225: IN-2, Compliance Checklist 35: In our agency, the investigator does not make a -determination of substantiation on a case involving staff and does not handle civil suits... It is not clear how we would use this checklist.		
Current Practice	All	SINA
11040: Well, with a preponderance of evidence if a defender is found guilty of sexual assault it goes to the disciplinary hearing officer, it's investigated... Loss of good time, solitary, restrictions, commissary, recreation. The most substantial is loss of good time. After the disciplinary process is over they go to UCC and their custody is reviewed. A lot of times, a lot of them will go to Administrative Segregation if they're a general population offender found guilty of sexual assault.		
Current Practice	All	SINA
11101: •With sexual assaults we often polygraph people before talking with the perpetrator. If it is a rape or something serious we will interview and polygraph them – we still need to determine the validity of the allegation.		
Current Practice	All	SINA
12238: If staff who are alleged to have assaulted an inmate quit before they are fired] they are still prosecuted if there is a preponderance of evidence... If there is enough evidence to pursue this they will but we can't tell the special prosecutors to force the state to pursue. Once O has the evidence, they will move this forward.		
Current Practice	All	SINA
14073: We only need some evidence in our policy, which is less than preponderance.		
Observation	All	Corrections Professional
11521: Standard indicates investigators use preponderance of the evidence standard which is typically used in civil or administrative actions.		
Observation	All	Corrections Professional
12892: The Department of Correctional Services is not an independent agency that sets its own policies and procedures... PREA standards will not override the authority and discretion granted to other state entities or established through negotiations by contracts covering DCS and other state agencies. It is unlikely that the NDCS will ever be likely to insure compliance, because of these limitations on the Department's establishment of personnel policies.		
Observation	All	SINA
11105: •In older facilities – this facility is almost 20 years old – the systems need to be upgraded. There are facilities across the US that do not even have cameras.		
Question	All	SINA
10314: I get lost in here. Does this preclude due process hearings?		



## Public Comment Report

### Prison/Jail

#### IN-2: Level of proof required to substantiate sexual abuse allegations for disciplinary action

Type of Comment	Standard Components	Source
Question	Discussion	SINA
<p>10815: -Staff and inmates have the ability to seek criminal charges on their own. When that happens, our timeframes change completely. It gets tricky – if criminal charges are sent out, then what happens to us and our process?</p>		
Suggestion	All	Advocate
<p>12096: •Inmate testimonies should be reviewed for credibility on their merits and never automatically be discounted because they are presented by someone who is incarcerated.</p>		
Suggestion	Checklist	Advocate
<p>13633: We commend the Commission for requiring factors beyond DNA evidence to be examined by investigators (Checklist question (b)), as in rape investigations outside prisons. However, it is unclear from the Standards the range of factors that they expect prison investigators to consider. These should include whether there is any type of corroboration and if so what type (inmate testimony, staff testimony etc). We applaud the Commission for requiring that an investigator should consider "prior complaints reports of sexual abuse involving the same alleged perpetrator" (IN-1 Checklist question (j)) as well as reports involving the same crime scene and the same modus operandi, although we believe that this requirement should be contained in the Standard as well as in the Checklist. We also suggest that guidance about how these prior reports should be considered needs to be provided so that if a similar modus operandi is found, that is sufficient to justify a</p>		
Suggestion	All	Advocate
<p>13636: Because we do not believe this Standard will result in changes in the actual outcomes of investigations, we have some additional concrete suggestions that will at least help to alleviate the problem. First, as recognized by the Commission, even unsubstantiated complaints need to be reviewed (RP-9). Because of the above stated concerns, there must be a requirement that as part of the Agency review it consider the need to enhance the supervision of the staff member about whom there is reasonable suspicion of misconduct and, if the Agency decides not to enhance supervision, its reasons must be documented (RP-9 and AD-1). Second, we believe that the only potentially effective remedy for staff sexual abuse is through the installation of cameras, RFID and other meaningful technology... Third, because compliance with this Standard will be very difficult to assess, the Auditor should have to review the underlying documentation showing how investigations were</p>		
Suggestion	Standard Statement	Corrections Professional
<p>13250: IN-2, Pg 38: Level of proof to substantiate sexual abuse allegations for disciplinary action: This should read for administrative policy violations of sexual abuse, as sexual abuse allegations that violate criminal law require more than a preponderance of evidence.</p>		
Suggestion	All	SINA
<p>10315: Maybe leave out civil – don't confuse with my administrative action – completely separate.</p>		
Suggestion	Checklist	SINA
<p>14075: C would be different depending on the agency and the state. I don't think that you need these three things.</p>		
Support/Agreement	All	Advocate
<p>13635: The Investigation Standards (IN-1 and IN-2), if followed, make substantial progress in improving the types of investigations conducted by jail and prison investigators by making clear that credibility assessments must be made, that physical proof is not supposed to be required, that the standard of proof is a preponderance of the evidence and that prior complaints involving the same staff member are to be considered.</p>		

**Public Comment Report**

Prison/Jail

IN-2: Level of proof required to substantiate sexual abuse allegations for disciplinary action

Type of Comment	Standard Components	Source
Support/Agreement	All	SINA
11234: •Pretty reasonable and accurate description of the action		

**Public Comment Report**  
 Prison/Jail  
 DI-1: Disciplinary sanctions for staff

Type of Comment	Standard Components	Source
Concern/Disagreement	Discussion	Advocate
<p>12600: Under proposed Standard DI-1 (p. 38), the Committee notes in the Discussion section that "the agency should refer any substantiated allegations for criminal prosecution." However, there is no requirement that correctional agencies refer incidents of employee sexually abusive conduct for prosecution. It would be a much stronger deterrent if staff knew that sexual misconduct of a criminal nature would not only result in termination, but also would result in the mandatory notification of prosecuting authorities.</p>		
Concern/Disagreement	All	Advocate
<p>13638: As we have repeatedly made clear, we do not believe that this Standard (along with IN-1) will effect much change. Arbitrators and investigators are still unlikely to credit an inmate's word over an officer's without physical proof.</p>		
Concern/Disagreement	Standard Statement	Corrections Professional
<p>11474: Standard DI-1 states, "Staff is subject to immediate termination following an administrative ruling that the staff member engaged in actual or attempted staff-on-inmate sexually abusive contact or penetration ..." This proposal fails to comprehend how the civil service system works in most jurisdictions.</p>		
Concern/Disagreement	Checklist	Corrections Professional
<p>11602: (b) The standard and discussion appears to give the agency flexibility in determining appropriate sanctions within a defined schedule. However, the checklist refers specifically to administrative leave without pay or reassignment as possible sanctions. If this terminology is used, there should be clarification by what is meant, as Ohio is not permitted to use administrative leave without pay. Instead, appropriate sanctions should be determined by the agency, under existing regulations.</p>		
Concern/Disagreement	All	Corrections Professional
<p>12643: DI 1: Disciplinary Sanctions for Staff: Disciplinary action against staff is established through existing policy and procedure as well as with bargaining units that represent correctional staff that incorporates state law and as noted collective bargaining agreements. Do the proposed standard trump provisions of state personnel regulations or collective bargaining agreements? Also, if a staff member resigns there is no authority in the confines of a DOC to discipline the individual.</p>		
Concern/Disagreement	All	Corrections Professional
<p>12840: Proposed language is too restrictive as stated, "staff must be immediately terminated." Investigative findings of serious misconduct or criminal activity often result in termination, but administrators need the flexibility to evaluate each case and impose lesser disciplinary actions when warranted and in compliance with collective bargaining agreements.</p>		
Concern/Disagreement	All	Corrections Professional
<p>12842: Suggested language could read, "...will constitute grounds for disciplinary action up to and including discharge." Other language in the standard such as, "staff must be informed of their rights..." is redundant since we have a standard investigative process and labor union contracts that specify staff rights.</p>		
Concern/Disagreement	All	Corrections Professional
<p>13054: It is completely inappropriate to hold a law enforcement or correctional agency responsible for the prosecution of an offense, or hereof, when they have no authority in that regard.</p>		
Concern/Disagreement	Checklist	Corrections Professional
<p>13057: we believe that provision exceeds the scope of PREA and is a matter of labor law and labor relations.</p>		

**Public Comment Report**  
 Prison/Jail  
 DI-1: Disciplinary sanctions for staff

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	Corrections Professional
13179: How does this standard reconcile with IN – 2? This standard creates liability and risk exposure for the facility.		
Concern/Disagreement	All	Corrections Professional
13339: Staff discipline is governed by collective bargaining agreements.		
Concern/Disagreement	All	Corrections Professional
13530: Discharge decisions should be left to agency discretion considering the myriad of issues that arise during these processes. While a discharge may be appropriate for a sexual assault, a low-level sexual harassment finding, which may have a broad range of circumstances may not be appropriate and other remedial actions may be more appropriate. Once again the standards should be written to define what the expectation is such as "staff that has been found to have engaged in sexual abuse through an administrative investigation shall not be allowed to have any direct contact with inmates."		
Concern/Disagreement	All	Labor Union
13718: While it is admittedly difficult to imagine a case where actual or attempted staff-on-inmate sexually abusive contact or penetration would not result in severe discipline, the collective bargaining agreement's procedural protections and the usual just cause standard must always be upheld, even in the most egregious misconduct cases. This standard can never be applied to lessen any of those protections.		
Concern/Disagreement	All	Professional Organization
13557: The Commission's setting sanctions is clearly over-reaching and intrusive. a. Each jail system and sheriff's office has a well-established employee discipline system which is consistent with state law, collective bargaining agreements and local administrative regulations.		
Concern/Disagreement	All	Professional Organization
12526: NSA agrees that employees should be sanctioned for illegal behavior and sustained violations of agency policy, the Commission's setting such sanctions is clearly over-reaching and intrusive. Each jail system and sheriff's office has a well-established employee discipline system which is consistent with state law, collective bargaining agreements and local administrative regulations. Ironically, the proposed standard language calls for employee sanctions for violating agency policy, when the standards as proposed don't call for any agency policies to be developed.		
Concern/Disagreement	Discussion	Professional Organization
12527: The tone of the Discussion section is punitive. While employee discipline is a topic of great seriousness, the overly prescriptive language of both paragraphs needs editing, including deletion of statements of opinions, not supported by facts. It is critical to note that inmates are charges of the facility and are therefore protected individuals.		
Current Practice	All	Corrections Professional
13686: Staff that engage in sexual activity with an inmate are subject to termination only. No second chances are afforded to the staff member. Other types of disciplinary sanctions up to termination can be given to a staff member that is guilty of sexual harassment, failure to report sexual abuse, etc.		

**Public Comment Report**  
**Prison/Jail**  
**DI-1: Disciplinary sanctions for staff**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Current Practice:</b>	<b>Discussion</b>	<b>Government</b>
11864: In the BOP, the first step in a criminal prosecution is a referral to the Department of Justice's Office of the Inspector General (OIA), which will make an initial determination as to whether a case is investigated as a criminal or administrative matter. If prosecution is declined, the OIG or the BOP investigates the allegation. It is not clear if a second referral for prosecution would be required after any administrative action was taken in these cases.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
10560: Officers can bid for positions based on seniority, but we prevent officers who have had previous allegations from being in women's floors.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
10610: Talked about obligation to notify staff of their rights when they're accused. We would read them their Miranda rights according to MA law. If a staff feels something is unjust, we might get arbitration, complaint. If it's non-criminal, I'd be reluctant to tell them about their right to grieve it because they probably would.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
10820: -If there's a criminal finding of guilt, the person is definitely terminated. If it is administrative violation looked at by a case by case basis. What it actually entailed with respect to the incident. That is the mindset of our administration. Zero-tolerance.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
10821: -If staff resigns during the course of an investigation, it depends on what we've gathered up to that point. If we have strong facts that something criminal occurred we will refer to it to the police. We may refer to the state's attorney. If there's something criminal, we'll continue to pursue it. Regardless if the resigned or not.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
10909: •Put on leave. In this case they went to do polygraph and she finally confessed. It was very scary time. He was on administrative leave... -we follow through criminal investigation first, maybe there is not a crime but maybe an administrative issue we then follow-up. If there were a crime then they would not be working here either.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11033: Well of course we'll Mirandize the suspect, and say the allegations against him, giving him his opportunity to either deny the allegation or admit to it, confess to it		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11041: Of course if the unit has substantial information to feel like in the meantime waiting on a criminal charge that the preponderance of evidence is there that this happened they could go ahead and charge him. He'd go through the unit authorities, the warden, and if he found him guilty then he'd be terminated. So there's two separate things going on here. There's a unit administrative investigation and then there's a criminal investigation.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11051: Our facility handles that that if we know that the offender was actively involved in a relationship with the staff member, they're subject to discipline and especially if we know that they were, they initiated the relationship and it's completely clearly consensual. So we hold the employee to a higher standard of course because they get terminated but the offender knows that it is against the rules to be involved in a relationship with an employee so they have some accountability as well.		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
11107: •With staff members - if they are accused - that staff member is put of leave. They are not here and cannot influence the investigation. Once the investigation is done it depends on the outcome of the investigation. If found to be true they are terminated. Prosecuted or not - the DA decides what to do.		

**Public Comment Report**  
**Prison/Jail**  
**DI-1: Disciplinary sanctions for staff**

Content of Comment	Standard Components	Source
Current Practice	All	SINA

11202: zero tolerance policy and they will sit in front of me and I don't think that they will remain on my staff.

I think that it depends on the situation and if there were prior complaints and if there were witnesses such as custody staff. There would be immediate attention.

This would have to be substantiated and validated. There is no tolerance. We are not union employees.

Current Practice	All	SINA
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11242: •Can still be charged

•We do not quit the investigation even if he resigns

...if he resigns – it would be documented in the file that there was an internal investigation being done and then he resigned.

•If he tries to be hired somewhere else that would be in his file and we would tell them

•Our sheriff is pretty tough and will get people decertified that he thinks ought to be decertified... We report everyone who leaves our organization to a state agency

Current Practice	All	SINA
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13984: Incidents of sexual abuse are now required to be placed on the employee/inmate file.

Current Practice	All	SINA
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13989: Immediate termination, we go to state police. Inmates also go to lockup. We don't terminate immediately but wait for a criminal determination or an admission from the state police... If the staff member resigns, the investigator will turn over the report to the police. This is more likely to happen if there is a sexual report than alcohol, drugs or a phone.

Current Practice	All	SINA
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14000: Consensual sex, the staff receives disciplinary sanctions.

Current Practice	All	SINA
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14076: If it goes to the police and continues. If the staff member resigns, I would look into this and turn it over to the police.

We are supposed to do the exit interview with the staff and we can put something in the file.

There are ways to get information through informal relationships but legally; I don't think that you can put something in the file that indicates their past records of allegations. If the staff signs a release of information form, we can release this.

Observation	All	Corrections Professional
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12892: The Department of Correctional Services is not an independent agency that sets its own policies and procedures... PREA standards will not override the authority and discretion granted to other state entities or established through negotiations by contracts covering DCS and other state agencies. It is unlikely that the NDCS will ever be likely to insure compliance, because of these limitations on the Department's establishment of personnel policies.

Suggestion	All	Academic
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13324: This too should be incorporated into labor agreements.

**Public Comment Report**  
**Prison/Jail**  
**DI-1: Disciplinary sanctions for staff**

Type of Comment	Standard Components	Source
Suggestion	All	Advocate
11769: • In addition to terminating staff who sexually abuse inmates (DI-1), staff perpetrators should be referred for prosecution.		
Suggestion	All	Advocate
12046: •The Standards should use education and treatment as first line response to hold staff accountable rather than criminalization; criminalization alone does not address the root of the behavior.		
Suggestion	All	Advocate
12097: •The Standards should add a positive incentive framework, such as preferences for promotion or other appropriate rewards for staff that show excellence in complying with the Standards and identifying and responding appropriately to incidents of sexual abuse.		
Suggestion	All	Advocate
12098: •Discipline should also cover “sexual abuse by proxy” committed by staff.		
Suggestion	All	Advocate
12099: •Sanctions should also include further education and training; termination and criminal prosecution should not be the only options.		
Suggestion	All	Advocate
12100: •We recommend adding that sexual contact of any kind between staff and prisoners is never allowed and is presumptively abusive.		
Suggestion	All	Advocate
12236: <b>DI-1 and DI-2:</b> As previously discussed, to comply with international human rights obligations to hold accountable those involved in acts of rape or other sexual abuse, these standards should make clear that any officer who commits such abuse or acquiesces in it will be criminally prosecuted and the victim afforded adequate redress for their injuries.		
Suggestion	All	Advocate
12346: In DI-1, the following language, or language with the same effect should be added: “Counseling and education designed to rehabilitate and prevent further misconduct should be among the possible disciplinary sanctions to be imposed. In addition to the imposition of discipline for sexual abuse or other misconduct, a positive incentive framework should be developed to reward staff excellence in achieving full compliance with the Standards, developing skills in cultural competence, and improving facility detection, prevention, and response to sexual abuse.”		
Suggestion	All	Advocate
13223: We suggest that the Commission consider recommending the creation of a national do-not-hire database so that anyone terminated under this section cannot move and be hired in a new jurisdiction simply by failing to disclose the previously terminated employment.		

**Public Comment Report**  
**Prison/Jail**  
**DI-1: Disciplinary sanctions for staff**

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
<p>13639: The Checklist asks only whether "administrative leave without pay and reassignment" are included in the "range of sanctions." Rather, the Checklist should set forth a wider range of possible sanctions including termination. While we appreciate that the Commission did not believe that it could dictate the appropriate sanction for each type of misconduct that could be alleged, we believe more detailed guidance, both in the Standards and the Checklist, as to the appropriate sanction for behavior should be provided. In most workplaces, an employee caught having sex on the job would be fired. A jail or prison should not be different. If an officer is found, by a preponderance of the evidence, to have kissed an inmate, fondled an inmate, required her to have or perform oral sex, or had any sexual contact with an inmate, or attempted sexual contact with an inmate, the officer should be permanently removed from supervising inmates of that gender</p>		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
<p>13640: The jail or prison should be required to offer any evidence of prior complaints and of a similar unique modus operandi at any administrative hearing concerning sexual misconduct by staff, the propriety of which is recognized by Rule 415 of the Federal Rules of Evidence. Such testimony will help to bolster the statement by the victim, so that it will not be her word alone against the officer's, and so will assist victims of abuse in prison in meeting the preponderance of the evidence standard.</p>		
<b>Suggestion</b>	<b>All</b>	<b>Advocate</b>
<p>13642: Finally, the Standards should require that jail and prison officials advise inmates about the results of their reports of sexual abuse, including whether any action (either administrative or criminal) was taken against the perpetrator. Right now this is only required in connection with RP-6, which requires a memorandum of understanding with law enforcement to contain a requirement that the victim be informed of the results of her complaint. Such a requirement should not be limited to outside law enforcement; rather the Agency should have to communicate with the victim the results of their investigation and any actions taken as a result.</p>		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
<p>10745: DI 1 Immediate Termination - this criterion is based on Florida Department of Law Enforcement Criminal Justice Standards and Training Commission with regards to Police Officer Certification. Discipline should be based on agency findings, policies, and not regulated by an agency.</p>		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
<p>10793: language that addresses consensual behavior between inmates as well. While the behavior should not be tolerated, it should not receive the same/similar punishment as coercive sexual activity.</p>		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
<p>13052: at most the Rules should recommend that the case be "referred for prosecution" as opposed to actually prosecuting.</p>		
<b>Suggestion</b>	<b>All</b>	<b>Corrections Professional</b>
<p>13056: we recommend that reference to an administrative hearing in this section be deleted and only the reference to referral for criminal prosecution be retained.</p>		
<b>Suggestion</b>	<b>Checklist</b>	<b>Corrections Professional</b>
<p>13056: DI-1, Compliance Checklist 36, (b): Reword this line to read:          Should the agency consider termination of staff members following an administrative ruling that the staff member engaged in actual or attempted staff-on-inmate sexual abuse or a criminal finding of guilt for staff-on-inmate sexual abuse or staff-on-inmate harassment?</p>		



**Public Comment Report**  
 Prison/Jail  
 DI-1: Disciplinary sanctions for staff

Type of Comment	Standard Components	Source
Suggestion	All	Individual
<p>12449: A record should be made of who was on staff when a prisoner reports a sexual assault. Guards on duty when prisoners are assaulted by other prisoners or guards should be disciplined. Discipline needs to include a restorative justice aspect to it. Whether the guard actually perpetrated the sexual assault or if the guard was on duty when the assault happened there needs to be a process of addressing the trauma that was caused to the individual victimized. Guards should not be allowed to resign or be transferred or suspended before a process has been engaged in by all those involved.</p>		
Suggestion	All	SINA
<p>10880: Include – sexual conduct “including harassment”. This should cover this and would cover one-time incidents and would make it proportional to the violation.</p>		
Support/Agreement	All	Corrections Professional
<p>12651: DI-1 This standard will clearly support a No Tolerance stance by the agency and allow administrators to enforce PREA standards consistently.</p>		
Support/Agreement	All	Individual
<p>10410: Officers who have been challenged with corrupt behavior in our prison systems need to be reprimanded and punished immediately and given the same jail time as any other rapist on the outside would receive. In addition, their license or authority needs to be revoked for the rest of their lives.</p>		
Unintended Consequence	All	SINA
<p>10561: If we get a resignation, is there a possibility of negligent referral if they go somewhere else and get a job?</p>		

**Public Comment Report**  
**Prison/Jail**  
**DI-2: Disciplinary sanctions for inmates**

<b>Text of Comment</b>	<b>Standard Components</b>	<b>Source</b>
11947: Mandating punishments for consensual/harmless acts will dissuade inmates to seek help with abusive relationships. The prohibitions on sex are also used to punish and stigmatize LGBT and gender non-conforming prisoners, who are often assumed to be having sex with other prisoners based on their gender identity or sexual orientation.	All	Advocate
11447: DI-2, Discussion: The agency process for ensuring that disciplinary sanctions imposed for inmate on inmate sexual abuse need to be fair and proportionate to the offense committed irrespective of past disciplinary sanctions or comparable offenses by other prisoners with similar histories. Also, if the evidence in an investigation proves that the allegation is bogus and did not occur, appropriate disciplinary action should be taken.	Discussion	Corrections Professional
11578: (n) ODRC strongly disagrees that offenders involved in consensual sexual behavior with staff not be subject to disciplinary sanctions. This would not be acceptable. There are inmates who work on staff to gain favor and this can sometimes lead to sexual behavior. By Ohio Law, staff are subject to criminal charges for having sex with an offender under their supervision. But to flatly require that offenders not be subject to sanctions, when their behavior is consensual, is not reasonable!	Checklist	Corrections Professional
11603: ODRC strongly disagrees that offenders involved in consensual sexual behavior with staff not be subject to disciplinary sanctions. This would not be acceptable. There are inmates who work on staff to gain favor and this can sometimes lead to sexual behavior. By Ohio Law, staff are subject to criminal charges for having sex with an offender under their supervision. But to flatly require that offenders not be subject to sanctions, when their behavior is consensual, is not reasonable!	All	Corrections Professional
12583: DI-2 Inmates who try to manipulate staff with offers of sexual favors should have to face disciplinary action.	All	Corrections Professional
12780: This section suggests that only in the case of forcible rape of a staff member by an inmate should the inmate be sanctioned and that in every other case of sexual activity between staff and inmate, the inmate should be held harmless... Prisons need to be able to discipline inmates who engage in sexual misconduct to harass or intimidate staff.	All	Corrections Professional
12896: Disciplinary Sanctions for Inmates (DI-2) omits any discussion about consensual sexual activities between inmates and appropriate disciplinary sanctions.	Discussion	Corrections Professional
13119: The Department disagrees with the issue of not making inmates subject to disciplinary sanctions for some instances of staff-on-inmate sexual abuse. While there can be no instance of "consensual" behavior by the inmate with staff, the inmates are aware of the rules and their participation in some of these activities needs to be sanctioned to prevent them from repeating this type of behavior.	All	Corrections Professional
13293: The discussion section states that inmates should never be subject to disciplinary sanctions for apparent consensual sexual activity with a staff member. While we agree that inmates would generally not be disciplined such a scenario, "never" is too restrictive.	Discussion	Corrections Professional

# Public Comment Report

## Prison/Jail

### DI-2: Disciplinary sanctions for inmates

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional

13688: standard assumes that the inmate has no culpability in the activity and did not initiate the contact. By not providing for administrative sanctions on a case-by-case basis, the standard sets the tone for inmates to further manipulate and compromise staff without repercussions. Staff should be terminated, but there should be some measure of accountability for the inmate for compromising staff after an investigation has been completed.

Concern/Disagreement	All	Corrections Professional
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13951: Standard DI-2, Disciplinary sanctions for Inmates, also drew concerns. The Standard reads "In instances of staff-on-inmate sexual abuse, as opposed to forcible rape of a staff member by an inmate, inmates are not Subject to disciplinary sanctions." These two circumstances are not the only two types of sexual misconduct that may occur between staff and inmates. In circumstances where the inmate manipulates or coerces a staff member into participating in sexual activity the staff member will likely be terminated for over-familiarity and the inmate will receive a rule violation report. It is recommended that this language be adjusted to specifically address staff initiated sexual abuse toward an inmate and omit all other references.

Concern/Disagreement	All	Government
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11865: While staff must be held fully accountable for any sexual activity with inmates, to prohibit inmates from being subject to disciplinary sanctions in these cases would allow inmates to manipulate susceptible staff to their advantage, draw them into sexual situations, make questionable allegations based on the behavior of the inmate and the staff member, and embellish the circumstances of the event to their advantage, with impunity.

Concern/Disagreement	All	Government
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11866: It might be difficult to prove the situation is not "apparently consensual" if the inmate exposes himself or herself to a staff member or attempts to kiss a staff member. Such behaviors must be fully enforceable prohibited acts to deter inmates from engaging in such behavior to their advantage. Further, even if a staff member is cleared of any wrong doing in such situations, the allegation, the suspicions, and the creation of doubt could place an unnecessary "cloud" over the employee's integrity and reputation based solely on the claim by the inmate that the activity was consensual.

Concern/Disagreement	All	Prisoner
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12401: **DI-2:** We object to use of disciplinary sanctions against abusive prisoners and propose instead mandatory treatment and counseling programs to rehabilitate the offender and thereby prevent future abuse, simply put, disciplinary sanctions solve nothing but is more likely to create more problems.

Concern/Disagreement	All	Professional Organization
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11357: The Commission's setting sanctions is clearly over-reaching and intrusive.  
a. Each jail system and sheriff's office has a well-established employee discipline system which is consistent with state law, collective bargaining agreements and local administrative regulations.

Concern/Disagreement	All	Professional Organization
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12528: Jails have systems of inmate discipline, and the proposed standards language is unnecessary.

**Public Comment Report**  
**Prison/Jail**  
**DI-2: Disciplinary sanctions for inmates**

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	All	SINA
10593: If an inmate has a mental illness and commits a sexual assault against someone, are the commissioners envisioning that this person could go back to general population? I'd be reluctant to put them back in general population as long as they are receiving mental health treatment.		
Concern/Disagreement	All	SINA
10599: We're overcrowded, we can't single bunk sexual offenders. We have a waiting list for our SHU, how can we protect people given our overcrowding?		
Concern/Disagreement	All	SINA
11050: But many times, especially with new staff, the offenders are more the predator then the prey. And I feel like that in cases where the unit knows this through the course of investigation has determined that although the staff member was wrong and should be terminated the offender may have played as much of a role or more of a role in pursuing the staff member than the employee did.		
Concern/Disagreement	All	SINA
11512: They will specifically target what they perceive to be a weak employee and go after that employee. And if there are no sanctions, if there is no consequence for them doing it. The employee is going to get their disciplinary and their termination and possibly be prosecuted. The inmate should also still have a consequence.		
Current Practice	All	Corrections Professional
13182: This contradicts with Virginia law. In Virginia, consensual sex, inmate to staff, is against the law and is a felony.		
Current Practice	All	Corrections Professional
13687: Disciplinary sanctions for inmates are dealt with on a case-by-case basis. Inmates found guilty at a disciplinary hearing of engaging in sexual activity are subject to disciplinary sanctions.		
Current Practice	All	Corrections Professional
13814: Inmates are not subject to discipline in instances of staff on inmate sexual abuse: however, an inmate may be disciplined for unrelated conduct.		
Current Practice	All	SINA
10937: We hold the inmates accountable for sexual harassment for inmate to inmate or inmate to deputy. We charge the inmate.		
Current Practice	All	SINA
11033: Well of course we'll Mirandize the suspect, and say the allegations against him, giving him his opportunity to either deny the allegation or admit to it, confess to it		
Current Practice	All	SINA
11051: Our facility handles that that if we know that the offender was actively involved in a relationship with the staff member, they're subject to discipline and especially if we know that they were, they initiated the relationship and it's completely clearly consensual. So we hold the employee to a higher standard of course because they get terminated but the offender knows that it is against the rules to be involved in a relationship with an employee so they have some accountability as well.		
Current Practice	All	SINA
13983: Right now it is administrative and then it goes to law enforcement for new charges. We also have disciplinary options as well.		
Current Practice	All	SINA
13984: Incidents of sexual abuse are now required to be placed on the employee/inmate file.		

**Public Comment Report**  
**Prison/Jail**  
**DI-2: Disciplinary sanctions for inmates**

Type of Comment	Standard Components	Source
Current Practice	All	SINA
14077: The inmate would get charged if there were a consensual sex between the staff and the inmate.		
Question	All	Corrections Professional
13795: While we agree that there is no such thing as consensual sexual activity involving a ward in a correctional or detention facility, this statement is so sweeping that it may lead some to believe that inmates cannot be disciplined for any activity involving with consensual sex with staff... For example, if an inmate participates in a sexual affair with a staff member to induce that staff member to provide drugs to him, shouldn't a disciplinary system be able to issue sanctions for this activity?		
Question	Discussion, Standard Statement	Labor Union
10661: Is there a standard that addresses false reporting? What are the ramifications of knowingly making false reports? I see on page 39, DI-2: Disciplinary sanctions for inmates. Is this meant to address this issue?		
Question	Discussion, Standard Statement	Labor Union
10661: Is there a standard that addresses false reporting? What are the ramifications of knowingly making false reports? I see on page 39, DI-2: Disciplinary sanctions for inmates. Is this meant to address this issue?		
Question	Standard Statement	Labor Union
10662: What is meant by the sentence, "In instances of staff-on-inmate sexual abuse, as opposed to forcible rape of a staff member by an inmate, inmates are not subject to disciplinary action?"		
Question	All	SINA
14001: Why does the standard say that the inmate should not be disciplined if they have sex with a staff member?		
Suggestion	All	Advocate
11946: •The Standards should state that prisoners should never be disciplined for consensual sex or affectionate acts (hand holding, kissing, hugging, etc.) with one another or for private masturbation.		
Suggestion	All	Advocate
12102: •We strongly support language in the Standards stating that prisoners should never be disciplined for consensual sex or affectionate acts (hand holding, kissing, hugging, etc.) with one another, or for private masturbation... We recommend adding also that prisoners should not be subject to discriminatory discipline for consensual sex or affectionate acts because of their sexual orientation or gender identity or expression. Prohibitions on sex are also sometimes used to punish and stigmatize transgender, lesbian, gay, bisexual, and gender nonconforming prisoners, who are often assumed to be having sex with other prisoners based on their gender identity or sexual orientation.		
Suggestion	All	Advocate
12103: •A prisoner considered "likely to engage in sexually abusive conduct" should never be disciplined without proof that they have actually engaged in such conduct. The discipline for prisoners who are found to have sexually abused another prisoner should be humane, and should include counseling and treatment designed to effectively reduces or eliminate future occurrences.		

**Public Comment Report**  
**Prison/Jail**  
**DI-2: Disciplinary sanctions for inmates**

Content of Comment	Standard Components	Source
Suggestion	All	Advocate

12104: We recommend adding guidance on how the agency should provide even more counseling and medical treatment to abusive prisoners. Focusing more on prevention of reoccurrence rather than the length of disciplinary sanctions will better serve the safety of the prison population.

•Again, education and training should be made available; criminal prosecution should not be the only discipline available

Suggestion	All	Advocate
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12236: DI-1 and DI-2: As previously discussed, to comply with international human rights obligations to hold accountable those involved in acts of rape or other sexual abuse, these standards should make clear that any officer who commits such abuse or acquiesces in it will be criminally prosecuted and the victim afforded adequate redress for their injuries.

Suggestion	All	Advocate
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12328: We believe that it is also of great importance for the standards to state that prisoners should never be disciplined for consensual sex with other prisoners, for consensual affectionate contact (such as hand-holding, kissing, or hugging), or for private masturbation.

Suggestion	Standard Statement	Advocate
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12336: An additional sentence should be added to DI-2 that states: "Inmates are also not to be disciplined for consensual sexual or affectionate contact with adult inmates or for private masturbation."

Suggestion	Checklist	Advocate
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12337: An additional item should be added to compliance checklist 37 that states: "Does the agency inform inmates that they will not face sanctions for consensual sexual acts with other adult inmates?"

Suggestion	All	Advocate
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12348: In DI-2, the following language, or language with the same effect should be added:  
 "Procedures must be put in place to ensure that inmates are treated humanely and fairly and that their civil, constitutional and human rights are not violated when they are disciplined for sexual abuse. Counseling and education designed to rehabilitate the inmate and prevent further abuse should be made a primary means of responding to sexual abuse."

Suggestion	All	Corrections Professional
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10274: The best way to reduce and deter sexual assaults in prison is to implement a system of disciplinary measures so severe that the potential perpetrator of a sexual assault would consider said disciplinary measure not worth the risk of assaulting anyone.

Suggestion	Discussion	Corrections Professional
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10851: Third paragraph of discussion -- too board to say inmates will never be subject to disciplinary sanctions for apparently consensual sexual activity. Soften the wording to say inmates should "not be routinely" . . . . as in corrections, an exceptional case may occur.

Suggestion	Checklist	Corrections Professional
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11457: DI-2, Compliance Checklist 37, (e): This standard should be revised and all of the qualifiers imposed should be eliminated. This standard should read, "Does the agency have a process for ensuring that disciplinary sanctions imposed for inmate on inmate sexual abuse fair and proportional to the offense committed."

**Public Comment Report**  
**Prison/Jail**  
**DI-2: Disciplinary sanctions for inmates**

Type of Comment	Standard Components	Source
Suggestion	Standard Statement	Corrections Professional

11707: Revision:

DI-2: Disciplinary sanctions for inmates

Inmates are subject to disciplinary sanctions following an administrative ruling that the inmate engaged in sexual abuse/misconduct. Sanctions are comparable and proportional to the type of violation committed and the inmate's disciplinary history.

Suggestion	All	Corrections Professional
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12893: The best way to reduce and deter sexual assaults in prison is to implement a system of disciplinary measures so severe that the potential perpetrator of a sexual assault would consider said disciplinary measure not worth the risk of assaulting anyone... Start at 1 year of no commissary, no radio, no fan, and ad seg and you will have these rapists' attention!

Suggestion	Standard Statement	Corrections Professional
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13227: Recommend rewording the standard so it reads:

Inmates are subject to disciplinary sanctions following an administrative ruling that the inmate engaged in sexual abuse or a criminal finding of guilt for sexual abuse. Inmates are subject to disciplinary sanctions if the investigation finds the inmate falsely reported the sexual abuse. Sanctions are comparable and proportional to the type of violation committed and the inmate's disciplinary history... This more general wording would allow for the sanctions like Solicitation of Staff and False Reporting to be used in instances where the inmates obviously instigated the activity or falsely reported an incident.

Suggestion	Checklist	Corrections Professional
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13228: DI-2, Compliance Checklist 37, (b): Recommend omitting this item since there are cases when the inmate initiates the activity and preys on staff or falsely reports an incident.

Suggestion	Checklist	Corrections Professional
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13229: DI-2, Compliance Checklist 37, (e): Remove the phrase "inmate-on-inmate."

Suggestion	All	Corrections Professional
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13341: The standard should include language stating that inmates will be subject to disciplinary sanctions for filing false reports of sexual abuse by staff on other inmates.

Suggestion	All	Corrections Professional
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13457: The proposed standards should permit discipline of an inmate if the inmate physically threatens a staff member or attempts to extort or blackmail a staff member in connection with an attempted or completed sexual act committed by the inmate.

Suggestion	All	Government
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13398: the standard should specify that the prisoners are not subject to disciplinary sanctions for the sexual conduct, although they may be subject to discipline in cases of severe rule violations in the course of the incident.

Suggestion	All	Individual
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12452: Again, restorative justice practices need to be employed. There needs to be a greater focus on restoring the humanity of the survivor and the perpetrator rather than focusing on discipline and segregation.

**Public Comment Report**  
 Prison/Jail  
 DI-2: Disciplinary sanctions for inmates

Content of Comment	Standard Components	Source
Suggestion	All	Prisoner
10731: DI-2 Families must not be punished in any way of either party.		
Suggestion	All	Prisoner
10732: Visits and communication with them must NOT be used as punishment or alike or restriction. Perpetrator must be punished, not the victim, as here by moving victim to less freedom or less priveleges area, if victim wants to stay housed where they are.		
Suggestion	Checklist	SINA
14078: D – shouldn't be here. I don't understand this. If the inmate assaulted someone recently, they would be in segregation. C – the mental health doctors would see inmates and this doesn't need to be there.		
Support/Agreement	All	Advocate
12101: we strongly support the principle that the staff members, rather than the prisoners, should be held accountable for violations of this prohibition.		
Support/Agreement	All	Advocate
12326: We strongly support the Standards' position prohibiting discipline of prisoners for apparently "consensual" sex they engage in with staff. We agree with the Commission that the inherent power gap between staff and prisoners necessitate holding staff and only staff responsible for staff-perpetrated sexual abuse, including when the prisoner "consented" to the abuse.		
Support/Agreement	All	Corrections Professional
10792: DI-2: I agree that inmates should not be punished for engaging in sexual activity with a staff member.		
Unintended Consequence	All	Individual
12450: I would suggest that segregation does not help resolve any problems. Many international human rights organizations refer to solitary confinement and disciplinary segregation (and any other creative name prisons create) as a form of torture.		



# Public Comment Report

## Prison/Jail

### MM-1: Access to medical and mental health services

Content of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional
12846: This would create the need to make changes to our medical and mental health staff on-call system, which would require funding to increase staff resources.		
Concern/Disagreement	Discussion	Corrections Professional
13059: It appears generally gratuitous and attempts to use PREA Rules to mandate expensive correctional practices and reforms in areas that are beyond the scope of the Rules.		
Concern/Disagreement	All	Corrections Professional
13690: The standard does not provide for the type of sensitivity training that the medical and mental health staff is required to have. Having medical and mental health staff complete sensitivity training allows for the potential to have that staff compromised.		
Concern/Disagreement	All	Corrections Professional
13952: This standard will be very difficult to meet due to the difficulty within several of our Institutions to recruit and maintain qualified medical and mental health practitioners. In addition, contracts for outside mental health treatment services to our inmate population will need to be addressed by the Division of Correctional Health Care Services.		
Concern/Disagreement	All	Government
13401: Mental health practitioners' professional ethics codes already prevent them from practicing outside of their experience /expertise areas. Requiring additional sensitivity training before they could treat a prisoner seems an excessive requirement.		
Concern/Disagreement	All	Professional Organization
11358: "duty to care" is already constitutionally mandated and needs no further elaboration in this "Standard"... The requirement for "sensitivity training" for medical mental health practitioners implies the ability of the jail to modify or otherwise influence the training protocol for medical and mental health providers. That ability might lie only through contract modification which, in turn, would most likely result in a revision of the medical contract, perhaps leading to increased costs.		
Concern/Disagreement	All	Professional Organization
12529: The proposed standard language is overly prescriptive and limiting. The language in the standards is imprecise and subjective: for example unimpeded", "quality medical and mental health services", "sensitivity training".		
Concern/Disagreement	All	SINA
13959: If someone has the right to report an incident and not the perpetrator, this would cause a security challenge for our staff and a safety issue.		
Current Practice	All	Corrections Professional
12705: Due to security concerns, when possible, counseling is conducted in the presence of at least one other officer. If an inmate is involved in a situation that requires counseling in a private setting, the shift supervisor will be contacted to determine the appropriate ion.		

**Public Comment Report**  
**Prison/Jail**  
**MM-1: Access to medical and mental health services**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
<b>Current Practice</b>	<b>Checklist</b>	<b>Individual</b>
<p>10639: (C) This information is not posted specifically but provided orally and in writing in intake and a SART, responder will make referrals at the time of a sexual assault.</p> <p>(D) All of our medical and mental health professionals are peace officer certified and must report and alleged criminal behavior to investigations.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>10485: •If there is a need for treatment then we will see them, they may not want any treatment – we do not mandate treatment on anybody. We make sure they know how they can get treatment in the future. If they need treatment we will put together a treatment plan and they will get full treatment for the assault. We will refer them to the appropriate treatment upon release.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>10591: Our medical staff and mental health staff are trained in dealing with mental health issues and medicine. Our staff are good at making sure inmates receive medicine for mental health.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>11067: Accessing outside services while in the facility – not currently available.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>11188: There is medical staff here 24/7 and they would receive care here immediately. As far as them being followed after with someone who has received specialty training, I don't know that this is taking place because we have not been trained in this. The physician may have been trained in this area but I don't know.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>11467: •Mental health access – when the advocates give them the info they can write to them. Cannot accept collect calls, but they can write them.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>11575: That gets reported to mental health services too. We will schedule them for an assessment, and if counseling is needed we would do that. If they are exhibiting any sort of symptoms as a result we would refer them to the psychiatrist for further assessment, medication if necessary. And we would also refer them to CID.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>11606: If it's during working hours mental health would see them, if it's after hours a referral is left for us. If the guy is in crisis, there is an on-call mental health provider. It would be a member of the wider staff, not necessarily this unit, but a physician that is familiar with this agency.</p>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>12298: • They do have unimpeded access 24/7 – regardless of the complaint.</p> <ul style="list-style-type: none"> <li>• We do have psychiatry on call even after hours.</li> <li>• Nursing here 24/7</li> <li>• How it works with access to care – when an inmate feels that something is urgent or emergent they just have to let someone know and they have to do something until the issue is resolved. The officer does not do an assessment – they get the information and call medical, we determine if we can handle it from there (urgent) if they staff needs to send the patient out (emergent) then we do it.</li> </ul>		
<b>Current Practice</b>	<b>All</b>	<b>SINA</b>
<p>12304: We cannot do community standard because we do not have a SART team, but I think they receive care that is as good or better than community standards. We follow our policy – we send the person out – we are in compliance</p>		

**Public Comment Report**  
Prison/Jail

MM-1: Access to medical and mental health services

<b>Name of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Observation	All	Corrections Professional
13185: This assumes good faith actions on the part of an inmate. Insistent inmates will be seen first. Is not realistic.		
Observation	All	Corrections Professional
13458: The proposed standard does not contain any definition of what will meet the required sensitivity and cultural competency training.		
Question	All	SINA
10365: Mental health services are 24/7 but sexual assault services are not. Do I need to have someone on call 24/7? Events that happened several years ago do not require an immediate referral.		
Question	All	SINA
11187: This is stating that after an incident happens that a person must be triaged by a person who is trained?		
Question	All	SINA
11608: We have a lot of trainings going on all the time. Are you saying this is a training that requires a certificate of completion?		
Suggestion	All	Academic
13327: suggest language that defines such services "as appropriate to gender and other relevant inmate characteristics."		
Suggestion	All	Advocate
11700: Regardless of current community practices, all survivors should have access to possible exposure prophylaxis (PEP) for HIV and other sexually transmitted diseases.		
Suggestion	All	Advocate
11701: In addition, a qualified professional should be on call at all times to respond to a sexual assault report, and standard MM-1 should specify that "timely, unimpeded access to quality medical and mental health services" must occur within one or two hours after the report. Finally, follow-up and aftercare services must be available both during incarceration and upon reentry.		
Suggestion	Discussion	Advocate
11948: "Equal to the standards of care in the community" should be revised to read "equal to the standards of care accepted by the medical/mental health professional community."		
Suggestion	All	Advocate
12105: •Inmates should be allowed to have a "direct approved number" on their phone list with members of law enforcement so that they are able to directly phone and request immediate assistance in the event of potential or actual sexual assault. Once an inmate reports a rape or assault, a Watch Commander should immediately escort the inmate to the hospital and, from the hospital, to another location other than the original facility, so the inmate does not suffer retaliation from other staff.		
Suggestion	All	Advocate
12108: •It is important to provide counseling to sexual abuse survivors and those who abused them regarding transmission, testing and treatment of HIV and other sexually transmitted diseases, and to offer HIV and hepatitis testing immediately after an attack. We would amend that the Standards also provide that pre- and post-test counseling, and that HIV tests should not be administered without specific informed written consent of the inmate, and that all test results should be confidentially maintained.		

**Public Comment Report**  
**Prison/Jail**  
**MM-1: Access to medical and mental health services**

Type of Comment	Standard Components	Source
Suggestion	All	Advocate
12109: •Again, the Standards need more specifics as standards of care in communities vary widely. We suggest the Standards specify the standards of care should match levels generally accepted by the medical and mental health professional communities.		
Suggestion	All	Advocate
12239: Perpetrators of sexual abuse should also be provided quality mental health services.		
Suggestion	Standard Statement	Advocate
12338: An additional sentence should be added to MM-1 that states, "Condoms and instructions on how to use condoms correctly must be made available to prisoners."		
Suggestion	Checklist	Advocate
12340: Another item should be added to checklist 38 that states, "Are condoms and instructions for using condoms correctly made available to inmates in all facilities?"		
Suggestion	Checklist	Advocate
13405: •Add a follow-up question below Checklist 38(e): "When victims are under age 18, are those inmates treated by qualified medical and mental health practitioners who have experience working with children and have undergone specialized training, including sensitivity and cultural competence training, for treating young sexual abuse victims?"		
Suggestion	All	Corrections Professional
10777: MM-1: The Commission should consider allowing arresting or receiving officers to verbally inquire if an inmate has ever been assaulted or has been a victim of sexual abuse while in custody. Asking a few limited questions helps to evaluate quickly whether an inmate requires special considerations.		
Suggestion	Standard Statement	Corrections Professional
11710: MM-1: Access to medical and mental health services Inmate victims of sexual abuse have timely, unimpeded access to quality medical and mental health services free of charge following an incident of sexual abuse, regardless of whether or not they name an abuser. If no qualified medical or mental health practitioners are on duty at the time a report is made, staff should take preliminary steps to protect the victim (SD-2) and immediately notify the appropriate medical and mental health practitioners. Only licensed medical and mental health practitioners shall provide treatment services to sexual abuse victims.		
Suggestion	Discussion	Corrections Professional
13061: We recommend that paragraph be eliminated in its entirety.		
Suggestion	Checklist	Corrections Professional
13232: MM-1, Compliance Checklist 38, (d): Recommend omitting this item as some states/agencies require staff to report. The other option is to notify the inmate before the discussion of the staff responsibility to report.		
Suggestion	All	Corrections Professional
13459: The standard could be limited by requiring that such services be offered free of charge in systems where inmates are otherwise required to pay for medical treatment or make a co-payment.		

## Public Comment Report

Prison/Jail

### MM-1: Access to medical and mental health services

Type of Comment	Standard Components	Source
Suggestion	All	Labor Union
13719: To the extent that such staffing is not available and these added duties are imposed upon other employees, perhaps all staff should receive additional specialized sensitivity training as contemplated by standard TR-5.		
Support/Agreement	All	Advocate
12237: <b>MM-1:</b> This standard is important. Victims of sexual abuse must have access to timely and quality medical and mental health services following an incident of sexual abuse. The provision of these services should take priority over any investigation designed to identify the perpetrator.		
Unintended Consequence	All	SINA
10592: But if an inmate has a substance abuse issue and wants to get prescription drugs (med-seeking), can they shop around for mental health services that will provide them with drugs that in-house doctors would know not to?		

# Public Comment Report

Prison/Jail

MM-2: Medical and mental health screenings - history of sexual victimization

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional
11525: Sensitivity training is usually an interactive educational multi-session process that requires a variety of modalities including role playing, individual study and classroom discussion and interaction. This type of education cannot be effectively completed through self-study. The cost to implement may be significant.		
Concern/Disagreement	Checklist	Corrections Professional
12802: Checklists 20(TR-1,TR-4, 39(MM-2), and 41(MM-4)- The Department believes that a forensic medical exam should be performed within 48 hours of a reported occurrence of an incident, for clinical evidence purposes; 96 hours is too long.		
Concern/Disagreement	All	Corrections Professional
13120: Mental health staff collects this information at intake, assesses needs and offers follow-up services. There could be legal issues with sharing this type of information with classification staff without the express written consent of the inmate.		
Concern/Disagreement	All	Labor Union
13720: This standard, read literally, seems to confine an inmates' history of sexual victimization developed during intake strictly to classification and treatment staff. These confidentiality requirements imposed upon classification and treatment staff may be overly broad, as there are numerous standards which make it necessary for other staff to have such information in order to carry out the many added obligations imposed under other standards.		
Concern/Disagreement	All	Professional Organization
14000: The proposed standard language is overly prescriptive and limiting.		
Concern/Disagreement	Discussion	Professional Organization
12531: The Discussion section is not helpful in clarifying the different circumstances under which arrestees/inmates are screened in a jail or in a prison setting.		
Concern/Disagreement	All	SINA
10347: Other facilities don't have the resources to move people to other spaces.		
Concern/Disagreement	All	SINA
10437: Not sure what we will do housing wise for those people who identify themselves as a survivor – not sure that something needs to be done.		
Concern/Disagreement	All	SINA
10467: •One thing I would offer – is the funding, resources. There would be more referrals to mental health – it would change the pool of people who are currently contracted to see people and why – we currently see people for suicide and severe mental illness in booking – we also see self-referrals. If we add sexual abuse we would increase the number of referrals.		
Current Practice	All	SINA
10360: they would have talked to someone at intake and would have been identified and then referred to mental health, we then determine classification and risk. Anyone can bring this up at any time and receive a referral no matter what the circumstances are.		
Current Practice	All	SINA
10505: •Mental health – when someone is referred to us in mental health, we only seen those inmates that come to us when screened by nurses. Then we do our own screening when we see them and ask about psycho-social issues. We also ask about charges. Q5 – process, Mass. database – for suicide attempts - gets entered into a statewide database – the staff pulls this info when the individual enters the facility. Also ask about a history of violence.		

## Public Comment Report

Prison/Jail

MM-2: Medical and mental health screenings - history of sexual victimization

Content of Comment	Standard Components	Source
Current Practice	All	SINA
10466: If we were going to implement things about sexual abuse histories we would do that using the nurses so people who are not trained to help people do not open up wounds. The nurses can make a direct referral. •Not a problem to include that – would just mean we would have to change our database. We would have to make a recommendation to change the intake form.		
Current Practice	All	SINA
10749: We have a suicide risk form with questions that are asked by 3 different people within the first 6 hours. Trying to rule out suicidal tendencies and thoughts. Nurse, case manager and officer ask them. Risk for victimization would come out. If something comes out we place them in a high visibility area.		
Current Practice	All	SINA
11053: •We do an intake mental health assessment – not very thorough – about 45 minutes on every woman who enters the facility to see if they are a danger to themselves, or others or have a mental health problem that will impede their ability to function in the facility.		
Current Practice	All	SINA
11066: •If someone has been sexually abused (MM-2) – if they have a history of abuse they are referred to the survivors group we have here. They are also referred to, recently worked with someone who was sexually abused at another facility – I am referring her to rape crisis – they are helping her to set up appointments in the community when she leaves the facility.		
Current Practice	All	SINA
11177: could be a nurse referral or deputy in booking and it can also be at the time where they are put in general population and the deputy mental health staff will reevaluate an inmate to be moved to pod 7. It is typically at booking but they are also reviewed at medical appointments and other interactions.		
Current Practice	All	SINA
11190: medical staff do not ask this when they come into booking if they have been sexually assaulted. When they come in for their medical exam, there is a form that asks them at that point if they have been a victim of sexual assault as a child. When the last time that was, feelings regarding this and we then refer them to mental health.  Mental health will set up an appointment with the client when appropriate. The nurse will ask them how they are feeling about the former abuse and if they want follow up. If the event was long ago, I don't think that we would refer it to mental health. We would do this if it was recent or they are not handling this well.		
Current Practice	All	SINA
11575: That gets reported to mental health services too. We will schedule them for an assessment, and if counseling is needed we would do that. If they are exhibiting any sort of symptoms as a result we would refer them to the psychiatrist for further assessment, medication if necessary. And we would also refer them to CID.		
Current Practice	All	SINA
12274: All inmates that come into the prison get a mental health screening within 7 days of arrival and get screening for developmental disabilities. If they fail either they have further evaluation to determine if they meet the criteria... There is no good definition of what a vulnerable inmate means. Mental health and medical screenings only... Evaluation of the inmate we do ask about history of abuse.		
Current Practice	All	SINA
12355: •We have a standard form. We ask things various different ways. We do not even use the word "sexual" just "assault" and allow them to reveal things themselves.		

# Public Comment Report

## Prison/Jail

### MM-2: Medical and mental health screenings - history of sexual victimization

Type of Comment	Standard Components	Source
Observation	All	Corrections Professional
11526: Per the standard, all staff providing medical and mental health services will be trained however, not all staff performing medical or mental health functions are appropriate choices for interacting with sexually abused inmates and would not ordinarily be deployed for this purpose.		
Observation	All	SINA
11759: • Happens more in male than female – might have to lock up the victim as well, but not typical in female units • Sometimes people are so well known and might not feel safe we might transfer them to another facility • Use of this tool – asking about sexual abuse histories – whole point is to create a dialogue with the inmate – by the time you are asking those questions they have developed a relationship – ask all aspects of the needs of the inmates (education, parenting, work, sexual abuse, abusive relationships, etc)		
Question	All	Corrections Professional
12849: We request clarification from the Commission on how often this is accomplished. For example, are offenders screened every time they transfer between facilities and/or custody levels during an uninterrupted period of confinement? Is this done at initial admission and on subsequent supervised release violation returns?		
Question	All	SINA
10468: •Curious, if we get info at booking that someone was victimized, PREA standards are then looking for specialized housing based on that alone?		
Suggestion	All	Academic
13328: This standard should direct agencies and systems to develop programs and services to address prior victimization as discussed throughout these comments.		
Suggestion	Discussion	Corrections Professional
11448: MM-2, Discussion: Information related to sexual victimization should be limited to all health care staff, practitioners, and medical records staff.		
Suggestion	All	Corrections Professional
11524: The department's medical section uses contract/registry personnel when needed. Temporary staff includes Registered Nurses, Licensed Practical Nurses and Psychiatrists. Training for temporary employees is problematic and should be required for permanent staff only.		
Suggestion	All	Corrections Professional
13062: the Rules should make clear that it is not expected that intake staff will make those questions at the time of booking or the initial intake process. As noted above, this data is more appropriate to deal with medical and mental health issues at least initially and the logistics of acquiring it at the very initial intake create logistical problems as well as a diminished capacity for accuracy.		
Support/Agreement	All	Advocate
12599: It is important for this standard to remain intact, however the notification to victims of sexual violence seeking services need to be informed of the extent and limitations of confidentiality at the onset of the counseling relationship so that informed consent for services can be given. This should happen at the beginning before any services are rendered for both the medical and mental health professional.		



# Public Comment Report

Prison/Jail

MM-2: Medical and mental health screenings - history of sexual victimization

Name of Comment	Standard Components	Source
Report/Agreement	Checklist	Corrections Professional

12848: At the intake facilities, this can be accomplished. The checklist items can be added to the form already in use.

Unintended Consequence	All	Corrections Professional
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12986: pg 41, "sexual victimization must be handled with the utmost sensitivity and limited to the medical and/or mental health practitioners and classification staff..." – Comments: Without this information, we may not be able to initiation a heighten protection against sexual abuse unless Medical/Mental health staff get permission to do otherwise.

**Public Comment Report**  
**Prison/Jail**  
**MM-3: Detection**

<b>Type of Comment</b>	<b>Standard Components</b>	<b>Source</b>
Concern/Disagreement	Checklist	Advocate
11777: Written informed consent must be obtained from inmates before the start of any counseling services.		
Concern/Disagreement	Discussion	Corrections Professional
11450: MM-3, Discussion: There appears to be a contradiction between prisoner on prisoner sexual abuse and staff on prisoner sexual abuse regarding reporting responsibilities. In the first instance, confidentiality issues have been woven throughout the standards, and requires a prisoner's informed consent. However, in the second instance involving staff on prisoner sexual abuse, the practitioner is bound to report even a suspicion.		
Concern/Disagreement	All	Corrections Professional
11528: This requirement is unclear in that it suggests the inmate may dictate when and if the occurrence of sexual abuse should be reported. If an inmate can dictate whether medical or dental staff can report their suspicions, this may prevent a crime from being reported.		
Concern/Disagreement	All	Corrections Professional
12584: MM-3 Again, assaults should always be reported.		
Concern/Disagreement	All	Corrections Professional
12644: MM 3: Detection: This standard requires medical practitioners to report sexual abuse unless the inmate requests that the same not be reported. Medical practitioners should be required to report such abuse regardless of the inmates wishes.		
Concern/Disagreement	All	Corrections Professional
12652: Medical and Mental health personnel should be subject to the same reporting requirements as other staff to report incidents of sexual abuse.		
Concern/Disagreement	All	Corrections Professional
12781: The Department disagrees with the recommendation that an exemption be given to medical or mental health staff when they suspect abuse but the inmate does not want the incident reported. There should be no exceptions to any staff member not reporting. If the allegations are not brought to light then the administration would not be able to take action to protect the victim since they would have no knowledge of the abuse or suspected abuse.		
Concern/Disagreement	Checklist	Corrections Professional
13068: Compliance Checklists 40 and 41 appear to relate primarily to outside medical practitioners, individuals beyond the scope of the authority to control a facility or a facility head. We again question the legal authority of PREA Rules to conduct audits in those areas.		
Concern/Disagreement	All	Corrections Professional
13121: Excusing medical practitioners from the requirement to report would conflict with department policy and state law, which may require legislative clarification.		
Concern/Disagreement	All	Corrections Professional
13244: WYDOC disagrees that the inmate should be able to override the staff's duty to report.		

# Public Comment Report

Prison/Jail

MM-3: Detection

Content of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional
<p>13343: MA DOC takes issue with the fact that the standards state that clinical staff must report signs of potential staff on inmate sexual abuse but may report signs of potential inmate on inmate sexual abuse only with the consent of the inmate.</p> <p>Absent an investigation, a clinician cannot make an informed judgment about whether or not he/she should report potential inmate on inmate sexual abuse to the Superintendent. Clinicians may not have all the facts. If clinicians learn that an inmate's the potential victim or perpetrator of sexual abuse involving another inmate, they should be required to report that information to Superintendents regardless of inmate consent. An investigation into potential sexual abuse can only be conducted when it is reported,</p>		
Concern/Disagreement	All	Corrections Professional
<p>13345: Superintendents are required by Massachusetts state law to report all felonies committed within their institutions. M.G.L. c. 127Section38C. Allowing clinicians to withhold known information about suspected inmate on inmate sexual abuse from Superintendents would create significant security and health concerns for both staff and inmates.</p> <p>Inmates can be informed in advance that clinical staff are required to report all known or suspected sexual abuse.</p>		
Concern/Disagreement	All	Corrections Professional
<p>13692: All staff are mandatory reporters when any crime is committed within the prison system. Additional training of medical and mental health staff can be provided to remind them of their mandatory reporting status, and should be encouraged by agency heads to communicate with the chain of command.</p>		
Concern/Disagreement	All	Government
<p>11867: Similar to our comments on the standard regarding staff duty to report sexual abuse (SD -1), we believe it is unreasonable to expect a medical or mental health staff member to become aware of a case of sexual abuse and then not do anything to respond to the assault.</p>		
Concern/Disagreement	Checklist	Government
<p>13485: this is not a function of Military corrections. Auditing proper forensic exam procedures and examiners acting within their scope is a function of hospital quality assurance.</p>		
Concern/Disagreement	All	Labor Union
<p>13721: This standard potentially requires medical and dental treatment staff to carry out functions falling outside their normal job duties and area of expertise. For example, if sexual abuse is suspected by a Dental Technician, he or she would be required to question the inmate about these concerns and attempt to obtain informed consent to report the suspected abuse. These expanded job duties may require additional training, and may expose staff to discipline where these new expectations are not carried out.</p>		
Concern/Disagreement	Discussion	Professional Organization
<p>12532: NSA believes that medical personnel working inside jails have a duty, either by contract or job description, to report suspected to the facility head regardless of the inmate's consent due to the overriding security considerations of such allegations. As noted with proposed standard SD-1, the language in the Discussion section permits a medical provider who learns an inmate is pregnant as a result of sexual abuse to withhold that information from the facility head if the inmate objects.</p>		

# Public Comment Report

Prison/Jail

MM-3: Detection

Type of Comment	Standard Components	Source
Concern/Disagreement	All	SINA
10488: The statement to promote the inmate to consent to care – to promote health care and get patient permission to report is not going to work here. Hard to get treatment for the inmate if they will not report. I have an obligation to report even without their consent – need to protect the inmate. Without reporting it is much more obvious when we send them out. I do not think it would protect them by not reporting. Tough to get an emergency trip out for care without reporting. I think it jeopardizes their safety by not telling. If for some reason he says he feels safe and later on he is put back into general population with the perpetrator put in the same areas they might be at risk but we will need to protect them.		
Concern/Disagreement	Checklist	SINA
11616: Under 40 C, that's sort of what I was talking about earlier. If it is a criminal offense, we have to report that. So this one would be a hard one to answer yes to.		
Current Practice	All	Corrections Professional
12705: Due to security concerns, when possible, counseling is conducted in the presence of at least one other officer. If an inmate is involved in a situation that requires counseling in a private setting, the shift supervisor will be contacted to determine the appropriate location.		
Current Practice	Checklist	Corrections Professional
13245: Compliance Checklist 40: Detection line items, b & c: Inmates have been notified that any staff told about an unreported allegation of sexual assault or misconduct will be reported to ensure the allegation does not occur again and proper medical and mental health can be offered.		
Current Practice	All	SINA
11471: if someone tells us something happened but not who did it – it makes it tough investigating something that no one is to know about. HIPAA comes in to play as well. Most of the time the victim is asking for help – a little disclaimer that they do not want anyone to know, more about not having repercussions for anything that happens. We tell them they are a victim and others might be victims until we find out and get the predator. We want to protect everyone. Might be more victims that we do not know about and we want to help everyone.		
Current Practice	All	SINA
11596: The same thing, we're going to call OIG, were going to get mental health in there, we're going to do the lab part of it, drawing our baseline labs if it's within a regular amount of time, and draw again in six weeks, six months and a year, and that's for hepatitis, syphilis and HIV. And if we have the assailant, we'll get them in and tested, to try to figure out who the aggressor is.		
Current Practice	All	SINA
11770: Mental health and mental health practitioners – disclosure – our policy requires them to disclose – checklist talks about disclosure versus reporting. We require them to report. If disclosure is going to be mandated we will have to look at how that will affect us.		
Current Practice	All	SINA
12296: In mental health we keep everything as confidential as possible. Probably only clinician and the supervisor – not something we discuss openly. Officer escorting individual over will probably hear something		
Current Practice	All	SINA
11468: •Handle everything as confidential •Privileged info goes right with who needs to know. If you need to know you are involved if not then we do not even discuss it with you. •We stick with confidential – higher standard.		

# Public Comment Report

Prison/Jail

MM-3: Detection

Line of Comment	Standard Components	Source
Observation	All	Corrections Professional
12681: Having a staff member required to maintain confidentiality concerning an accusation of sexual abuse will expose the facility to significant criminal and civil liability.		
Question	All	SINA
11063: informed consent. Are you talking about formal or informal? We get informal informed consent.		
Question	Checklist	SINA
11612: if a crime is committed we have to report it. But here, are they talking about being free from reporting, or that inmates can request services without having to disclose to security?		
Suggestion	All	Advocate
11775: The standards should more clearly defer to confidentiality standards for medical professionals in the community, rather than agency-created reporting requirements.		
Suggestion	All	Advocate
11776: SPR suggests that whether the suspected perpetrator is a staff member or an inmate, medical practitioners should be required to maintain confidentiality. While they should offer to report, such reports should require the inmate's consent.		
Suggestion	Checklist	Advocate
11778: in accordance with community practices, service providers (medical and mental health) should be required to discuss the extent and nature of their confidentiality at the onset of services.		
Suggestion	All	Advocate
13376: •The Standard Statement says consent is required before practitioners report, which is incorrect for inmates under the age of 18.		
•Amend the first sentence of the Standard Statement to read: "If medical practitioners detect signs of potential sexual abuse ..., they are required to ... report their suspicions unless the inmate tells them not to report, and in cases where the victim is under the age of 18 and reporting of child abuse is required by law, the practitioner must report regardless of consent (TR-4, TR-5, and SD-1)."		
Suggestion	Discussion	Advocate
13378: •The Discussion should make mention that practitioners should know the requirements of applicable mandatory reporting laws before encountering a victim.		
•Amend the second sentence of the Discussion: "They should know their reporting and treatment responsibilities prior to encountering a patient whom they suspect has been sexually abused, including their responsibilities under mandatory reporting laws, and they should also be trained in how to obtain informed consent from inmates age 18 or older before reporting sexual abuse (TR-5)."		
Suggestion	Checklist	Advocate
13406: Checklist 40(c) asks whether the agency has notified inmates that their consent is required before abuse is reported, but this is not necessarily true for young victims.		
and Checklist 40(c): "Has the agency notified inmates ages 18 and older that medical practitioners must obtain their informed consent before they can report sexual abuse disclosed to them by inmates, but made clear to inmates below age 18 that applicable law may require practitioners to report abuse regardless of whether consent is obtained?"		

# Public Comment Report

Prison/Jail

MM-3: Detection

Type of Comment	Standard Components	Source
Suggestion	All	Corrections Professional
11994: MM-3: Detection - The standard states that medical practitioners are to report suspicions of sexual assault unless the inmate tells them not to report. This is not an option in North Carolina. Our medical staff is required to report sexual assault. It is recommended that this standard be rewritten to reflect State laws addressing these types of issues.		
Suggestion	All	Corrections Professional
12149: it is recommended that this standard be rewritten to reflect State laws addressing these types of issues.		
Suggestion	All	Corrections Professional
12553: The commission should delete the conditional factor for reporting of "unless the inmate tells them not to report." Medical practitioners are bound to report all alleged and suspected criminal activity, and victims should not be authorized to waive that requirement.		
Suggestion	All	Corrections Professional
12653: Perhaps the Commission may want to separate the reporting processes for inmate-on-inmate from staff-on-inmate abuse to reduce the likelihood of retaliation. In other words inmate-on-inmate abuse reports would be made to the facility chain of command, while staff-on-inmate cases of abuse be reported to law enforcement agencies independent of the corrections department.		
Suggestion	All	Corrections Professional
12844: It is recommended that this standard be rewritten to reflect State laws addressing these types of issues.		
Suggestion	All	Corrections Professional
12851: We suggest consideration to change the word "potential" to "possible" as found in the first sentence of the draft proposal.		
Suggestion	All	Corrections Professional
13064: As the facility head may be inaccessible or far removed from medical staff, medical staff should be required to notify the chain of command.		
Suggestion	Standard Statement	Corrections Professional
13233: Recommend rewording this standard to read: If medical practitioners detect signs of potential sexual abuse during a routine medical or dental exam, they are required to discuss their concerns with the inmate and report their suspicions in accordance with facility reporting policy. Any necessary treatment will be provided regardless of whether the inmate confirms the abuse or names an abuser.		
Suggestion	Checklist	Corrections Professional
13235: MM-3, Compliance Checklist 40, (b): Recommend rewording to read: Have medical practitioners been trained on how to report instances of sexual abuse?		
Suggestion	Checklist	Corrections Professional
13236: MM-3, Compliance Checklist 40, (c): Recommend omitting this line due to staff responsibility to report in some agencies.		

**Public Comment Report**

Prison/Jail

MM-3: Detection

Type of Comment	Standard Components	Source
Suggestion	All	Corrections Professional
13296: If a medical practitioner believes a sexual assault has occurred, she/he should be required to report it regardless of whether the inmate consents.		
Suggestion	All	Corrections Professional
13460: There should be no exception to the duty to report for medical and mental health staff. Compliance check list 40(c), TR-4 and Compliance Checklist 20(u) must also be changed to account for this duty to report.		
Suggestion	All	Corrections Professional
13815: Your recommendation proposes that "in instances of suspected inmate on inmate abuse, practitioners 'may' report up the chain of command or directly to the facility or agency head" We would recommend that the word "may" should be changed to "shall.:"		
Suggestion	All	Government
13091: The commission should delete the conditional factor for reporting of "unless the inmate tells them not to report." Medical practitioners are bound to report all alleged and suspected criminal activity, and victims should not be authorized to waive that requirement.		
Suggestion	All	Government
137: Require more flexibility in reporting suspected incidents up the chain at least for inmate-on-inmate abuse. Add "federal/military" law as a provision that allows staff to report sexual abuse.		
Suggestion	All	Labor Union
13722: We suggest that it would be more appropriate for the standard to specifically dictate who or what entity the staff should report these matters to, and have those experts perform the investigation.		

# Public Comment Report

Prison/Jail

## MM-4: Medical and mental health care for sexual abuse victims

Type of Comment	Standard Components	Source
Concern/Disagreement	All	Corrections Professional
10852: Standard requires services equivalent to community standards of care. What does community of standards of care mean? This could be a very different standard across the facilities for some agencies, particularly the FBOP as it has facilities in numerous states across the country. Agencies with urban versus rural facilities or resource rich very poorly served community will have different community standards of care. Standards should be consistent at least within an agency.		
Concern/Disagreement	Discussion	Corrections Professional
11452: MM-4, Discussion: If vaginal penetration with an object has occurred, obviously no pregnancy test is appropriate. However, there is not a distinction made between penile penetration and other types of vaginal penetration.		
Concern/Disagreement	Checklist	Corrections Professional
12802: Checklists 20(TR-1,TR-4, 39(MM-2), and 41(MM-4)- The Department believes that a forensic medical exam should be performed within 48 hours of a reported occurrence of an incident, for clinical evidence purposes; 96 hours is too long.		
Concern/Disagreement	All	Corrections Professional
13066: MM-4 requires immediate medical and/or mental health evaluation and treatment...regardless of when or where the abuse occurred, including those sexually abused as a child. This increase in medical and mental health provisions is impractical and costly.		
Concern/Disagreement	Checklist	Corrections Professional
13068: Compliance Checklists 40 and 41 appear to relate primarily to outside medical practitioners, individuals beyond the scope of the authority to control a facility or a facility head. We again question the legal authority of PREA Rules to conduct audits in those areas.		
Concern/Disagreement	All	Corrections Professional
13188: Abuse suffered long ago becomes the financial burden of the jail. No statute of limitations applied and makes an assumption of unlimited access to services. The general public does not have this.		
Concern/Disagreement	All	Corrections Professional
13261: Concerned about providing equivalent to community standards of care in an institution without equivalent federal funding mechanism.		
Concern/Disagreement	Discussion	Corrections Professional
13461: The discussion regarding testing for Viral Hepatitis is too narrow. Testing must also be performed for Hepatitis B and C.		
Concern/Disagreement	All	Labor Union
13724: Council 75 supports staffing facilities at levels adequate to meet the requirements of this standard. With the increased focus on detecting and reporting sexual abuse, one would expect demand for services, and thus staffing needs, to increase.		
Concern/Disagreement	All	Professional Organization
12533: This proposed standard should be deleted		



## Public Comment Report

### Prison/Jail

#### MM-4: Medical and mental health care for sexual abuse victims

Name of Comment	Standard Components	Source
Concern/Disagreement	Standard Statement	SINA
10317: "When or where the abuse occurred"—needs clarification. Places that cannot do this – stick to prison rape elimination – not what happened 5 years ago		
Current Practice	All	Corrections Professional
13830: Currently the Mississippi Department of Corrections does not partner with outside agencies to meet the requirements of standards RE-1, RE-2, and MM-4.		
Current Practice	Checklist	SINA
10366: all options including abortion are available. We do not try to change their decisions or pay for abortions. Some outside resources are available for abortions for inmates. Out job is to make sure that the inmate is competent mentally for any decision.		
Current Practice	All	SINA
10473: •For us (medical, mental health) – our first step is to get in touch with classification. Our role is to immediately get them separate housing. •Sight and sound separation from other inmates at all times. Separate recreation and separate programming and medical services. •We would also do a report for investigators to look into it again.		
Current Practice	All	SINA
10492: •I think we meet up pretty well with community standards – both medical and mental health. For mental health we have someone on sight until 9pm and I am on duty 24 hours a day – I have been paged on an assault in the middle of the night and we can provide ment. alth care has someone on site 24 hours a day		
Current Practice	All	SINA
10591: Our medical staff and mental health staff are trained in dealing with mental health issues and medicine. Our staff are good at making sure inmates receive medicine for mental health.		
Current Practice	All	SINA
10902: At any point that someone wanted additional mental health services that we could not provide internally while in custody we have coordinated for someone before... . We have talked about upon release to give a pamphlet for places. In OR – there are limited mental health resources – a lot of the people with mental health issues end up in jail – probably have as good of mental health services here than people might be able to find on the outside. We have a pretty unique set-up – county mental health has one staff person located here in the jail – we have sent one of our deputies to county mental health to help with chronic folks and others that want law enforcement personnel.		
Current Practice	All	SINA
11054: •We do not have the authority to do a rape kit here. No SANE nurse		
Current Practice	All	SINA
11055: •Listen and tell them that we have to contact someone else – a commander or the warden. We also let them know we will need to send them out for an exam. We also do not let them out of our sight until they are transferred. We also have observation rooms to keep an eye on them. They have locked door and no one can have access to them... •We also tell women how they can contact mental health right away – they can make a request to see mental health or they can come in if it is an emergency.		

**Public Comment Report**  
**Prison/Jail**  
**MM-4: Medical and mental health care for sexual abuse victims**

Type of Comment	Standard Components	Source
Current Practice	All	SINA

11189: There are community support groups that are referred to at release. We don't know if they have received specialized training in this area unless it was in their formal training and we don't keep track of this.

If it was required, I don't think that this would be a problem for us to provide or keep track of.

Current Practice	All	SINA
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11191: depends on when the abuse occurred and how they are coping with this at the time. We will not do follow-up on incidents that happened years ago.

We are providing services that are available in the community. Our discharge planner sets up appointments with community agencies and make sure that they receive the follow up.

We are also NCCHC accredited which is the community standard that we follow.

Current Practice	All	SINA
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11596: The same thing, we're going to call OIG, were going to get mental health in there, we're going to do the lab part of it, drawing our baseline labs if it's within a regular amount of time, and draw again in six weeks, six months and a year, and that's for hepatitis, syphilis and HIV. And if we have the assailant, we'll get them in and tested, to try to figure out who the aggressor is.

Current Practice	N/A	SINA
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11598: [If OIG requests rape kit], offenders are sent to the hospital downtown. And the on call nurse will meet them there, and OIG and security will escort the individual there, and if they request for a SART team member... And we do the visual, checking for trauma, so we'll do that before they go downtown. And we try to preserve the evidence. And the offenders have the right to refuse their lab work if they don't wish to have it done, they can sign a refusal.

Current Practice	All	SINA
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11609: And on the mental health side, they are actually getting more than the community standard of treatment. The community standards only treats for diagnosis, and we will treat anyone. We'll treat PTSD, and that is not done through community mental health.

Current Practice	All	SINA
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12296: In mental health we keep everything as confidential as possible. Probably only clinician and the supervisor – not something we discuss openly. Officer escorting individual over will probably hear something

Current Practice	All	SINA
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12307: MM-4 – pregnancy response?

- Maybe family member wants the child. Always adoption. Do not want baby to go to child protective services. Also offer termination services – that is her choice.

G: state pay for that?

- Yes, absolutely.
- Have social worker that works with us and works with helping mothers and the placement of their children.
- We have the social worker and the patient sit down together to make certain that the family member truly wants the baby
- If the child is given to the child protective services the baby goes to the county of commitment not Madera County

Observation	All	Advocate
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12240: MM-4: The immediate and ongoing access to quality medical and mental health care for sexual abuse victims is crucial. While the prevention and elimination of sexual abuse are obvious goals, the treatment of such abuse must likewise remain a priority.

## Public Comment Report

### Prison/Jail

#### MM-4: Medical and mental health care for sexual abuse victims

Name of Comment	Standard Components	Source
Question	All	Corrections Professional
10853: What do you mean by prophylactic treatment?		
Question	Standard Statement	SINA
10362: Also, community standard of care. I hope that we follow this but I don't know what the community standard of care is. What are the specific steps that follow each stage is in the community? What are the standards of care?		
Question	All	SINA
10363: Do we provide ongoing treatment for a non-mentally ill person who may have had a trauma 10-12 years ago?		
Question	All	SINA
10364: What if we find something in the record, do we provide care based on that? Right now we say that it is up to the inmate to request care.		
Suggestion	Discussion	Advocate
<p>10715: This should be changed to should be provided counseling AND offered TREATMENT/PROPHYLAXIS for STI, not just counseling. The National Protocol chapter on STI treatment and care words this in the following manner, and this should how the chapter should be worded:</p> <ul style="list-style-type: none"> <li>• Offer patients information about the risks of STIs (including HIV), symptoms, what to do if symptoms occur, testing and treatment options, followup care, and referrals.</li> <li>• Consider the need for testing patients for STIs during the initial exam on a case-by-case basis. If testing is done, follow the guidelines of the Centers for Disease Control and Prevention (CDC).</li> <li>• Encourage patients to accept prophylaxis against STIs at the time of the initial exam. If accepted, provide care that meets or exceeds CDC guidelines. If declined, it is medically prudent to obtain cultures and arrange for a followup examination and testing.</li> <li>• Obtain informed consent of patients for treatment, according to exam facility policy.</li> <li>• Encourage followup STI examinations, testing, immunizations, and treatment as directed.</li> </ul>		
Suggestion	Discussion	Advocate
10716: a woman who is incarcerated <b>MUST</b> be afforded access to emergency contraception.....not just a pregnancy test! Emergency contraception in the advent of the trauma of rape is a basic need....and needs to be included as a right to inmates.		
Suggestion	Standard Statement	Advocate
11949: •This Standard should specifically state that all victims must receive “immediate, confidential, and ongoing medical and/or mental health evaluation and treatment.”		
Suggestion	Standard Statement	Advocate
11950: •In the Standard, the phrase “community standards of care” should be re-phrased “medical/mental health professional community standards of care.”		
Suggestion	Discussion	Advocate
11952: the Standards should state that “any information pertaining to an inmate’s HIV status must be handled with the utmost sensitivity and limited to the medical practitioners who need to know to develop treatment plans.”		
Suggestion	Discussion	Advocate
11953: •The Discussion should also specifically state that, before an HIV test is administered to an inmate, the inmate will be provided with pre-test counseling and informed written consent will be obtained from the inmate. In addition, the Discussion should state that post-counseling will be provided to each inmate to whom an HIV test is administered.		

**Public Comment Report**  
**Prison/Jail**  
**MM-4: Medical and mental health care for sexual abuse victims**

Type of Comment	Standard Components	Source
Suggestion	Discussion	Advocate
11954: •In the first sentence of the third Discussion paragraph, "female victims" should be changed to "victims." This sentence refers to a kind of sexual assault that transgender men may also experience.		
Suggestion	Discussion	Advocate
11955: •The last paragraph of this section should state that "[v]ictims have the right to refuse medical and/or mental health care, including tests for HIV and other STIs." In addition, the text should specifically state that inmates who refuse medical and/or mental health care should not be harassed or penalized in any way because of that decision.		
Suggestion	All	Advocate
12107: •In the first sentence of the third discussion paragraph, we recommend changing the phrase "female victims" to simply "victims." This sentence refers to a kind of sexual assault that transgender men may also experience.		
Suggestion	All	Advocate
12108: •It is important to provide counseling to sexual abuse survivors and those who abused them regarding transmission, testing and treatment of HIV and other sexually transmitted diseases, and to offer HIV and hepatitis testing immediately after an attack. We would recommend that the Standards also provide that pre- and post-test counseling, and that HIV tests should not be administered without specific informed written consent of the inmate, and that all test results should be confidentially maintained.		
Suggestion	All	Advocate
12109: •Again, the Standards need more specifics as standards of care in communities vary widely. We suggest the Standards specify the standards of care should match levels generally accepted by the medical and mental health professional communities.		
Suggestion	Checklist	Advocate
12110: •Reporting requirements created by the agency should never trump the confidentiality standards within the medical and mental health professions. Medical practitioners should not have reporting requirements, as suggested in this section. •It is unclear whether or not forensic exams must be offered after 96 hours or not.		
Suggestion	Checklist	Advocate
12112: The Checklist should include a greater focus on access to health care, and should specify that "counseling" should not include pressuring people to have (or not to have) abortions.		
Suggestion	All	Advocate
12241: We agree that it is important to provide counseling to sexual abuse victims and perpetrators regarding transmission, testing and treatment of HIV and other STI's and to offer HIV and hepatitis testing. We recommend that the standards also provide that pre-and post-test counseling be offered and that HIV tests should not be administered without specific informed written consent of the inmate and that all test results should be maintained confidential.		
Suggestion	All	Advocate
12242: In the discussion about offering pregnancy tests and counseling to "female victims" in the case of vaginal penetration, we recommend removing the word "female" to ensure that prisoners who have a male gender identity but female genitalia will also be covered by this provision.		

# Public Comment Report

Prison/Jail

## MM-4: Medical and mental health care for sexual abuse victims

Content of Comment	Standard Components	Source
Suggestion	Checklist	Advocate

13407: •Checklist 41(1)(a) – second bullet asks whether consent for treatment preceded the provision of treatment, but no consent is required in the parallel provisions of the Juvenile standards.  
•Amend Checklist 41(1)(a) – second bullet to read: "Where the victim is age 18 or older, obtain consent for treatment from the victim."  
•Amend Checklist 41(1)(f): "If the victim consents to a forensic exam or consent is not required according to applicable law because of the victim's youth, is the exam performed by a specially educated and clinically prepared forensic medical examiner who is not employed by the agency?"  
•Amend Checklist 41(1)(g): "If the victim consents to a forensic exam or consent is not required according to applicable law because of the victim's youth, is he or she offered the services of the mental health practitioner

Suggestion	Checklist	Advocate
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13408: •Special training required for forensic medical examiners in 41(1)(f) fails to include a requirement of special training for those treating youth.  
•Add a follow-up question below Checklist 41(1)(f): "If the victim is below age 18, is the exam performed by a specially educated and clinically prepared forensic medical examiner who is not employed by the agency and who has experience working with children, including knowledge of their unique needs as victims?"

Suggestion	Standard Statement	Corrections Professional
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11711: Revision:

### MM-4: Medical and mental health care for sexual abuse victims

All inmate victims of recent sexual abuse receive immediate medical and/or mental health evaluation and treatment, consistent with and equivalent to community standards of care. Ongoing treatment shall be at the request of the inmate, and type of treatment is determined by the agency.

Suggestion	All	Corrections Professional
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11995: MM-4: Medical and mental health care for sexual abuse victims - The standard states: "All victims of sexual abuse receive immediate and ongoing medical and/or mental health evaluation and treatment, consistent with and equivalent to community standards of care, regardless of when or where the abuse occurred." Legal review has recommended the word "immediate" be removed.

Suggestion	Standard Statement	Corrections Professional
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12150: Legal review has recommended the word "immediate" be removed.

Suggestion	All	Corrections Professional
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12585: MM-4 The word immediate should be changed to as soon as possible as small jails in rural communities will not always have the ability to provide immediate care by medical or mental health personnel.

Suggestion	Standard Statement	Corrections Professional
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12845: Legal review has recommended the word "immediate" be removed.

Suggestion	All	Corrections Professional
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177: MM-4: The Commission should consider changing "Sexually transmitted infections" (STI's) to reflect the commonly used term "sexually transmitted diseases" (STD's). Not all sexually transmitted diseases are infections.

# Public Comment Report

Prison/Jail

## MM-4: Medical and mental health care for sexual abuse victims

Type of Comment	Standard Components	Source
Suggestion	All	Corrections Professional
13023: MM-4: The Commission should consider changing "Sexually transmitted infections" (STI's) to reflect the commonly used term "sexually transmitted diseases" (STD's). Not all sexually transmitted diseases are infections.		
Suggestion	All	Corrections Professional
13067: There should be time frame limitations when determining eligibility for services.		
Suggestion	Checklist	Corrections Professional
13237: MM-4, Compliance Checklist 41: Perhaps the wording should refer to inmate victims since staff victims are handled differently.		
Suggestion	Checklist	Corrections Professional
13238: MM-4, Compliance Checklist 41, (g): Recommend rewording to read: If the inmate victim consents to a forensic medical exam, is he or she offered the services of the mental health practitioner or victim advocate?		
Suggestion	All	Corrections Professional
13262: Suggest wording of "appropriate" care.		
Suggestion	Discussion	Government
12858: The National Protocol recommends discussing the probability of pregnancy with all female patients and discussing treatment options with all patients at the time of the examination. (See page 111 of the National Protocol). This discussion should include the full range of options, including emergency contraception and should take into account the specific needs and preferences of the victim.		
Suggestion	Standard Statement	SINA
10316: Make "upon request." Staff does everything to stabilize, but needs must be assessed—this is very individualized.		
Suggestion	Standard Statement	SINA
10361: I'm concerned, this should say that "all known victims". I'd hate to be liable for those that we don't know about.		
Support/Agreement	Discussion	Advocate
11951: we agree that it is important to provide to victims and perpetrators of sexual abuse counseling regarding transmission, testing and treatment of HIV and other STIs, and to offer them HIV and hepatitis testing after an attack.		
Unintended Consequence	All	Corrections Professional
13263: Also, immediate and ongoing evaluation and treatment regardless of when or where abuse occurred opens the gates for providing open-ended treatment requirement at taxpayer expense for abuses occurring outside of facility.		
Unintended Consequence	All	SINA
10592: But if an inmate has a substance abuse issue and wants to get prescription drugs (med-seeking), can they shop around for mental health services that will provide them with drugs that in-house doctors would know not to?		