
	CORRECTIONAL SOLUTIONS GROUP, LLC (CSG) POLICY AND PROCEDURE MANUAL				
Chapter: Policy Title: 		Section:		Policy Number:	
Prison Rape Elimination Act (PREA) Policy					
PREA Community Confinement Standards					

I. PURPOSE:

To establish policies and procedures in compliance with PREA standards. All policies for PREA Standards are covered in this policy unless noted otherwise. A copy of the PREA Standards is included as a part of this policy. The PREA Standards indicate (in red font) which CSG policy that particular standard is addressed in.

II. FACILITY SPECIFIC POLICY DEVELOPMENT:

Each specific contract operated by CSG may in fact be required to adhere to specific contracting agency requirements pertaining to PREA that may differ at each CSG location. The Federal PREA Standards will in all cases be the standard in which any facility specific policy is required to follow. Any differences in policy between locations will be noted in the policy.

Contracting agency staff housed at the facility level adhere to CSG’s PREA policies. The contracting agency may develop PREA policies specific to their staff when applicable, e.g. PREA policies related to hiring personnel; contractor PREA training requirements.

III. DEFINITIONS:

All definitions in the PREA Standards are the definitions incorporated into policy development.

IV. POLICY & PROCEDURES:

CONTRACTING WITH OTHER ENTITIES FOR THE CONFINEMENT OF RESIDENTS

CSG enters into contractual agreements with governmental entities for the confinement of residents. CSG expects the adoption of and compliance with PREA standards to be stated in the contract due to the standards being federal law. CSG expects agencies in which CSG enters into a contractual agreement, to require contract compliance monitoring, as determined by the contracting agency, in order to monitor CSG’s compliance with the contract requirements, and PREA standards. CSG is committed to the prevention and elimination of sexual abuse/harassment within CSG facilities through compliance with the Prison Rape Elimination Act. CSG maintains compliance with PREA standards to ensure the efficacy of CSG as a contracting agency for governmental entities.

ZERO TOLERANCE OF SEXUAL ABUSE AND SEXUAL HARASSMENT

The [Prison Rape Elimination Act of 2003](#) is a federal law that prohibits sexual misconduct in correctional settings such as prisons, jails, lockups, juvenile facilities, and community corrections. Sexual misconduct under this law includes:

- Inmate-on-inmate sexual abuse and sexual harassment
- staff-on-inmate sexual abuse and sexual harassment
- It also applies to contractors and volunteers

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

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

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

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

(2) Contact between the mouth and the penis, vulva, or anus;

(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

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

Sexual harassment includes—

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

CSG has instituted a zero tolerance policy toward all forms of Sexual Harassment and Sexual Abuse in all of its facilities. All CSG, Employees, Contractors, and Volunteers have a responsibility to report all allegations or knowledge of Sexual Abuse, Sexual Harassment, romantic, or sexual contact that takes place within a CSG operated facility or other offender program. An investigation is conducted for all allegations of sexual misconduct. If sexual misconduct is substantiated, appropriate disciplinary actions will be taken against the Employee, Contractor, or individuals in a Correctional Solutions Group Facility or Program, including possible criminal prosecution.

APPROACH TO PREVENTING, DETECTING AND RESPONDING TO ALL FORMS OF SEXUAL ABUSE AND SEXUAL HARASSMENT & COORDINATED RESPONSE PLAN

Corresponding Form to this policy reviewed with staff during their Orientation Training (see Training Policy)

SUPERVISION AND MONITORING (Staffing Plans & Facility Layout)

CSG's **Staffing Plans** and corresponding **Facility Layout** are designed specifically for each of its facility locations. The staffing requirements are specific to each location and minimum requirements are stated in the contract. In addition to contractual staffing requirements, safety for staff and residents and prevention of sexual abuse/harassment is the main objective of the plan. Adequate supervision and staff oversight of all activities and areas of the facility are key elements of the plan. All of the following are Staffing Plan development considerations:

- (1) The physical layout of each facility;
- (2) The composition of the resident population;
- (3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (4) Any other relevant factors.

Prior to approving supervision employees for leave, a substitute is found to work in that employee's place during the time that they will be out. When there are unforeseen circumstances such as an employee being absent from work without notice, an attempt is made to find a replacement to cover that employee's absence to ensure the plan is adhered to and there is adequate coverage. In the rare event an employee's absence is unable to be covered, the Facility Administrator documents the circumstance and explains why coverage for that person's absence did not occur on the Staff Weekly Schedule. In addition, the Facility Administrator or Assistant Facility Administrator immediately determine an alternate plan to meet the requirements of the Staffing Plan when a position is vacated. The Staff Weekly Schedule will note if the schedule each week meets the Staffing Plan requirements. In the event an absence is unable to be covered causing a deviation from the Staffing Plan, there is a note made on the weekly schedule to explain why an absence was unable to be covered.

The Facility Administrator reviews the Staffing Plan when necessary, to include as a response to each incident of sexual harassment/sexual abuse (noted in the Investigational Summary Report), or at least annually to assess and determine the (1) adequacy of prevailing staffing patterns, (2) video monitoring systems or other monitoring technologies and (3) resources available to commit to ensure adequate staffing levels. All reviews are documented with each parameter in the previous sentence clearly addressed in the documentation and the Staffing Plan is updated if revisions are made. The Facility Administrator will advise and consult with CSG Corporate level and the PREA Coordinator if the result is that adjustments are needed to the Staffing Plan or if deployment of video monitoring systems or monitoring technologies are insufficient. The result of the consultation with CSG Corporate will be included in the documentation.

PREA COORDINATOR

CSG employs an upper-level PREA Coordinator that is located in the corporate office in Tyler, Texas. The PREA Coordinator is responsible for the oversight of all PREA Investigations completed by the Facility Administrator, from the commencement of the investigation through the conclusion.

In addition, the PREA Coordinator oversees all company efforts to comply with PREA Standards in all of its facility locations, to include development, and implementation of PREA policy and procedures. In order to ensure the PREA Coordinator has sufficient time for functioning as the coordinator, the PREA Coordinator's primary responsibilities are for PREA related duties. When time allows, CSG corporate may utilize the PREA Coordinator for non-PREA related tasks but this is done only as a secondary duty when time allows.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

SMART

All residents arriving at the SMART facility are assessed for their risk of being sexually abused and risk of being sexually abusive toward other residents, no later than 72 hours of arrival at the facility.

The PREA Risk Assessment in the Secure Manage system, an objective screening instrument, is utilized for determining a resident's risk of sexual victimization and being a perpetrator. Adult Probation counseling staff complete the risk assessment.

The PREA Risk Assessment in Secure Manage considers the following criteria, required by the PREA Standards, to assess residents for risk of sexual victimization:

- (1) Whether the resident has a mental, physical, or developmental disability;
- (2) The age of the resident;
- (3) The physical build of the resident;
- (4) Whether the resident has previously been incarcerated;
- (5) Whether the resident's criminal history is exclusively nonviolent;
- (6) Whether the resident has prior convictions for sex offenses against an adult or child;
- (7) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the resident has previously experienced sexual victimization; and
- (9) The resident's own perception of vulnerability.

The following criteria is considered in assessing a resident's risk of being a sexual predator:

- (10) Prior acts of sexual abuse;
- (11) Prior convictions for violent offenses;
- (12) History of prior institutional violence or sexual abuse as known;

Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions (1) (7) (8) and (9) above.

Edinburg Transition Center

All residents arriving at the Edinburg facility are assessed by CSG staff for their risk of being sexually abused and risk of being sexually abusive toward other residents upon arrival at the facility. The Correctional Solutions Group Staffing, PREA Risk Assessment form, is completed immediately and utilized to determine temporary housing due to offenders arriving at the facility anytime within a 24-hour period. No later than the next business day, the Edinburg Transition Center PREA Risk Assessment form is completed and the results of the two forms are entered into the PREA Risk Assessment in Secure Manage. Permanent housing is assigned after completion of this process. These risk assessment forms, as with the PREA Risk Assessment in Secure Manage, are objective screening instruments and cover criteria in addition to the criteria covered in Secure Manage's PREA Risk Assessment. And, as with the PREA Risk Assessment in Secure Manage, residents may not be disciplined for refusing to answer questions related to disability, resident's perception of being gay, lesbian,

bisexual, transgender, intersex or gender nonconforming, prior sexual victimization or their own perception of vulnerability.

Risk Reassessment

Each resident is reassessed for risk of victimization or abusiveness no later than 30 days from the resident's arrival at the facility. This reassessment is based upon any additional, relevant information that has become known since the former Risk Assessment in Secure Manage was conducted. In addition, a resident's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness. SMART utilizes the PREA Risk Assessment in Secure Manage to complete the reassessment; Edinburg utilizes the PREA Vulnerability 30-day Reassessment Questionnaire, and enters the results in the PREA Risk Assessment in Secure Manage.

The PREA section in Secure Manage is programmed where only designated staff may access information under this section in order to protect the privacy of PREA related data. It is only available to Facility Management and other designated staff as needed. This will ensure that sensitive information is not exploited to the resident's detriment by staff or other residents. Each CSG facility designates the staff person to complete the risk assessment. Information gathered from the Risk Assessment or the results of the assessment is not shared with the resident population. The assessment is completed in the designated area of the facility to ensure the privacy of the assessment.

USE OF SCREENING INFORMATION

Information from the risk screening for sexual victimization and abusiveness is used to determine housing, bed assignment, work (e.g. KP, outside work crews, garden duty), community appointments such as medical, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. Individual determinations are made about how to ensure the safety of each resident. Designated staff, to include management, line staff, medical/mental health, and supervision staff will make these decisions. CSG will not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status.

With regards to housing, CSG facilities that are comprised of a single dormitory housing unit are not able to house the two risk categories of residents in separate housing units. In these instances, residents at high risk of being abusive, will be bunked at opposite sides of the dormitory from residents at risk of being victimized. Additionally, potentially vulnerable residents for victimization will be bunked in areas more likely to receive additional staff supervision. Similarly, in facilities with a single housing unit, but multi-person cells (two or more residents per cell), vulnerable residents will be kept in separate cells from potentially abusive residents.

By contrast, facilities with multiple housing units provide far more options for keeping vulnerable and abusive residents separate. In such cases, vulnerable residents are kept in separate housing units from residents at risk to abuse. In cases where there are many housing units (e.g., more than ten), there must be compelling justification for any co-mingling within a housing unit and PREA auditors will require this.

With regards to programming, education, and work areas, the goal for facilities is to keep such residents separate. It is recognized that such separations may not always be feasible outside of housing units. In those cases, facilities, at a minimum, will prohibit unsupervised contact between vulnerable and potentially abusive residents. Even supervised contact between these categories of residents will be accompanied by heightened supervision and safeguards against sexual abuse and sexual harassment.

Justifications for decisions made as a result of the Risk Assessment, are documented in the resident's file. Staff involved in the decision making will be included in the documentation. The assessment is used for initial and subsequent decisions throughout the resident's stay at the facility.

In deciding whether to assign a transgender or intersex resident to a dorm for male or female residents, and in making other housing and programming assignment decisions, CSG will consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems. Serious consideration is given to transgender or intersex residents own views with respect to safety. The assessment, will also consider the transgender or intersex resident's gender identity – that is, if the resident self-identifies as either male or female. A resident's security threat level, criminal and disciplinary history, current gender expression, medical and mental health information, vulnerability to sexual victimization, and likelihood of perpetrating abuse, is considered in making these decisions. Facility-specific factors as well, including resident populations, staffing patterns, and physical layouts are also considered in making these decisions. Housing by gender identity is allowed when appropriate.

Transgender and intersex residents shall be given the opportunity to shower separately from other residents. This is to provide additional protections for these residents. The separation will be dependent on the layout of the facility, and may be accomplished either through physical separation (e.g., separate shower stalls) or by time-phasing or scheduling (e.g., allowing a resident to shower before or after others). In any event, each CSG facility will adopt procedures that will afford transgender and intersex inmates the opportunity to disrobe, shower, and dress apart from other residents and will document in the transgender and intersex residents file, how they are afforded this protection.

STAFF REPORTING DUTIES

All staff are required to verbally report immediately to facility management any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is a CSG facility or outside facility. Staff are also required to verbally report immediately if they become aware of any retaliation against residents or staff who reported such an incident. They must also report any known staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners are also required to report sexual abuse and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. Following a verbal report, staff must immediately complete a written Incident Report and submit to facility management.

When making the above reports verbally and in writing, staff may make these reports privately. They may request for their name to not be disclosed as the one reporting these matters. The manager receiving this request will proceed with an investigation of the matter but ensure the staff person's name is not disclosed verbally or in writing as the person reporting the concern.

Employees shall not reveal any information related to the incident to anyone other than to staff involved with investigating the alleged incident and facility management.

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, CSG will consult with the contracting agency to determine which entity will report the allegation to the designated State or local services agency under applicable mandatory reporting laws. In the event, it is determined CSG shall make the report, CSG will consult with an attorney for instructions on reporting requirements.

Facility management shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to CSG's PREA Coordinator who will immediately begin an investigation.

RESIDENT REPORTING

Multiple internal ways are provided for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Residents at each facility are informed of multiple ways to report abuse or harassment to a public or private entity or office that is not part of the facility and that is able to receive and immediately

forward resident reports of sexual abuse and sexual harassment to CSG officials, allowing the resident to remain anonymous upon request. All means of reporting are noted in the Resident Handbook and PREA Posters placed in the dorm.

CSG staff will not reject any reports of sexual abuse or sexual harassment, whether the report is made to them verbally, in writing, anonymously, or from third parties. Any verbal reports of sexual abuse or sexual harassment will be documented by the staff person receiving the verbal report. Any reports received or documentation of a verbal report will be forwarded to the Facility Administrator immediately (by phone notification if during non-business hours). The Facility Administrator will immediately review all reports and documentation of verbal reports with the PREA Coordinator to determine the appropriate course of action.

THIRD-PARTY REPORTING

CSG'S website provides an avenue for third-party reports of sexual abuse and sexual harassment on behalf of a resident. In addition, Resident Handbooks include information on how third-party persons may report concerns and there are also posters throughout public areas of the facility for hotlines where anyone entering the facility will see information on how to report sexual abuse/sexual harassment.

REPORTING ALLEGATIONS

When reporting allegations of sexual abuse and sexual harassment, provide all known information pertinent to the allegation to include the following, if known:

1. The names and locations of alleged persons involved
2. The names of any witnesses to the alleged incident; Individual's contact number if outside the facility;
3. A brief description of the alleged incident;
4. Date, time and location of where the alleged incident occurred;

PROTECTION AGAINST RETALIATION

CSG protects all residents and staff who report sexual abuse or sexual harassment, or cooperate with sexual abuse or sexual harassment investigations, from retaliation by other residents or staff. Facility management monitors for any signs of retaliation.

CSG shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

For at least 90 days following an initial report of sexual harassment or abuse, CSG Facility Administrator or designee completes a status check in order to monitor for retaliation for 90 days following a report of sexual harassment or sexual abuse. The designated staff monitors by meeting with the victim or residents/staff who reported sexual abuse to inquire of how they are being treated and if there are any concerns of retaliation. In addition, for sexual abuse, the staff monitor determines if there are changes that may suggest possible retaliation by residents or staff, and shall report any concerns immediately to the Facility Administrator who will act promptly to remedy any such retaliation. Items they will monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. CSG shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The CSG staff who monitors notes dates, all contacts and efforts to monitor for retaliation on the Protection Against Retaliation form and enters into Secure Manage which will prompt for 30, 60, and 90 day follow-ups.

If any other individual who cooperates with an investigation expresses a fear of retaliation, CSG shall take appropriate measures to protect that individual against retaliation in the same manner.

CSG's obligation to monitor shall terminate if it is determined that the allegation is unfounded.

REPORTING TO OTHER CONFINEMENT FACILITIES

Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Facility Administrator shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. This must be completed by the Facility Administrator and not another staff member. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The facility shall document that it has provided such notification and place the documentation in the resident's file.

CSG facilities that receive notice from an outside facility that sexual abuse/harassment allegedly occurred when a person was a prior resident of a CSG facility, will proceed with conducting an investigation in the same manner as if the resident were still residing at the CSG facility. The Facility Administrator and PREA Coordinator will ensure that the allegation is investigated in accordance with this policy.

STAFF FIRST RESPONDER DUTIES

Upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:

- (1) Separate the alleged victim and abuser to protect the victim;
- (2) Immediately notify the On-Duty Call Supervisor and remain on the scene;
- (3) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence (see below);
- (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (5) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

Preserving and Protecting crime scene-

- Close off the area where the incident took place using an item such as a rope, chairs, etc. to separate off the area.
- Make signs that say "do not enter" and place them along the outline of where the area is separated off.
- Do not allow any persons to enter the area that is closed off.
- Do not touch or clean any item in the area to include removing spills, blood, etcetera.
- The area must remain closed off until law enforcement has arrived and states it is permissible to re-open the area.

In addition to the above, security staff first responders shall immediately notify facility medical and mental health practitioners.

DUTY TO PROTECT (IMMINENT RISK)

Upon learning that a resident is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the resident. Management shall separate the alleged abuser and take all steps necessary to ensure the abuser has no contact with the victim in the dorm, or during recreation, meals, programming or work duties, while the matter is investigated.

INVESTIGATIONS

Sexual Abuse Investigations—all forms of sexual abuse allegations as defined by PREA, are referred to local law enforcement for investigation, an agency with the legal authority to conduct criminal investigations, unless the allegation

does not involve potentially criminal behavior. When law enforcement is involved it is requested that they endeavor to keep the facility informed about the progress of their investigation at least every 30 days until the investigation is concluded.

CSG attempts to obtain Memorandum of Understandings (MOU), or agreements at the least, with local law enforcement agencies that will conduct sexual abuse investigations for each facility (Adult Probation obtains the MOU for the SMART facility). All PREA standards applicable to law enforcement in conducting these investigations (**PREA 115.221**), is noted on the MOU when able to obtain. MOU's will contain **PREA 115.222** and **115.271** as CSG responsibilities. The responsibilities for each party, law enforcement and CSG administrative investigation, when sexual abuse allegations are referred to law enforcement, are included in the law enforcement MOU. If unable to obtain an MOU with law enforcement for investigations they will conduct, the responsibilities of CSG and investigating entities are noted in the attached Approach to Preventing, Detecting and Responding to Sexual Abuse and Sexual Harassment and Coordinated Response Plan document.

Administrative Investigation— Administrative investigations are internal investigations and are completed for sexual abuse allegations referred to law enforcement, sexual abuse investigations conducted internally, and sexual harassment investigations. All allegations of sexual abuse and sexual harassment are responded to and investigated promptly, and thoroughly, including 3rd party and anonymous reports. Sexual abuse investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

The credibility of an alleged victim, suspect, or witness may be assessed on an individual basis as warranted. A credibility assessment shall not be determined as warranted because of the person's status as resident or staff.

Residents who allege sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

All aspects of the investigation and the results of investigations are documented on the PREA Investigational Summary report. This format is used by all facilities. It also serves as a guide in conducting the investigation. The report includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. All witness statements or other documents used to establish facts and findings are attached to the report. Any areas of concern with policy and/or procedure that are discovered while completing the investigation are also noted in the report as Corrective Action needed. The report and attachments and any other documentation pertaining to the investigation are maintained in a file by CSGs PREA Coordinator, with restrictive access, for as long as the alleged abuser is confined in a CSG facility, or employed by the agency, plus five years.

The Facility Administrator or Assistant Facility Administrator, is responsible for conducting the investigation to include interviewing and collecting witness statements for PREA related incidents. The victim, perpetrator, and all persons who may have knowledge of the incident will be interviewed. Normal protocol is to interview the alleged victim first, witnesses second, and the alleged perpetrator last. Any exceptions to this order must be approved by the Facility Administrator. Witness statements are completed by the interviewee for all interviews conducted to have a written record of the information obtained. Interviewing and collecting witness statements may be obtained by other staff as necessary. When this occurs, the Administrator responsible for the investigation will provide direction for obtaining the witness statements and/or review and follow-up for clarification as needed. All witness statements must be fully completed to include residents' completion of statements. None of the sections of witness statements should be left blank by staff or residents. During interviews and collection of witness statements, the Administrator will review the witness statement to ensure it includes all information the resident or other person verbally stated. If the interviewee did not complete it fully, staff may note on the witness statement the additional information shared, and note they added the information. They will also ask the interviewee to sign and note it is accurate. If the interviewee refuses to complete a witness statement or complete it fully, the staff conducting the interview will document what was said verbally.

Investigators shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties or the investigation of the resident's allegations.

The PREA Coordinator oversees all aspects of conducting the investigation, providing assistance and giving directives in conducting the investigation and ensures the investigation is thorough, objective, timely, and that standard investigation methods are utilized i.e. interviewing victims, witnesses, and perpetrator, obtaining witness statements from all parties, including staff, that have information about or were involved in the incident, and viewing camera footage. The PREA Coordinator is kept informed by CSG management if issues arise with the victim or perpetrator, related or non-related to the PREA investigation.

Prior complaints and reports of sexual abuse and/or sexual harassment involving the suspected perpetrator will be reviewed. The SMART Facility employs a Residential Supervisor trained in conducting PREA Investigations that will assist the Facility Administrator in conducting the investigation.

Based upon the facts and findings of the administrative investigation, a determination is made whether the allegation is substantiated, unsubstantiated, or unfounded based upon the PREA standards definitions for each of these classifications. In making this decision, the standard imposed in determining whether allegations of sexual abuse or sexual harassment are substantiated is a preponderance of evidence.

The PREA Coordinator completes the associated PREA Investigational Summary Report that summarizes the investigation at the conclusion of the investigation and distributes it to CSG Corporate, facility management and designated contractor management staff. The SMART Facility PREA Residential Supervisor also assists the PREA Coordinator in writing the report as directed.

REPORTING TO RESIDENTS (INVESTIGATION RESULTS)

Following an investigation into a resident's allegation of sexual abuse, the resident is informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded as soon as this determination is made.

Following a resident's allegation that a staff member has committed sexual abuse against the resident, the resident is subsequently informed (unless the allegation is determined to be unfounded) whenever:

- (1) The staff member is no longer posted within the resident's unit;
- (2) The staff member is no longer employed at the facility;
- (3) Upon learning that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following a resident's allegation that he or she has been sexually abused by another resident, the resident (victim) shall subsequently be informed whenever:

- (1) It's learned that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- (2) It's learned that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

The facility's obligation to report the above to the resident shall terminate if the resident is released from CSG's facility. All such notifications or inability to inform the resident due to being released from CSG's facility, shall be documented in the resident's file.

SEXUAL ABUSE INCIDENT REVIEWS

A sexual abuse incident review, coordinated by facility upper-level management, will be conducted at the conclusion of every sexual abuse investigation, for substantiated and unsubstantiated allegations. A review is not conducted if the allegation has been determined to be unfounded. The review shall occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials, with input from line supervisors,

investigators, and medical or mental health practitioners.

The review team shall:

- (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
- (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- (4) Assess the adequacy of staffing levels in that area during different shifts;
- (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;

A report of the findings, including but not necessarily limited to determinations made pursuant to the above, and any recommendations for improvement, shall be submitted to facility management and the PREA Coordinator no later than 2 weeks from the date of the review. Recommendations for improvement noted in the report shall be implemented and a deadline for implementation will be included. If the recommendations can't be implemented, the report will document the reasons for not doing so.

OUTSIDE CONFIDENTIAL SUPPORT SERVICES

The facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible.

For CSG facilities, with inmate phone systems for resident use, the calls are recorded, subject to monitoring and fees are incurred by the resident. However, the contact numbers provided in their Resident Handbook for reporting abuse and gaining access to outside victim advocates, will be free and not charged to the resident when making the call through the inmate phone system and the calls will not be recorded or monitored. This is stated in their Resident Handbook.

For CSG facilities without inmate phone systems for resident use, facility staff do not have the ability to monitor resident calls. The client incurs costs for making calls through this regular phone system. However, toll free numbers are available for resident use in reporting abuse and gaining access to outside victim advocates. This is stated in their Resident Handbook.

CSG attempts to obtain MOU's, or agreements at the least, with local rape crisis centers or other community service providers that are able to provide residents with confidential emotional support services related to sexual abuse (Adult Probation obtains these MOUs for the SMART facility). All PREA standards applicable to provision of services through rape crisis centers or other community service providers (**PREA 115.253(c);115.282; 115.283**) noted are on the MOU when able to obtain.

MEDICAL AND MENTAL HEALTH CARE

Emergency medical treatment and crisis intervention services

Resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment, coordinated by facility medical and mental health practitioners. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners. They will contact the local rape crisis center to coordinate these services.

Resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate, through the Rape Crisis Center.

The Rape Crisis Center will provide treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Ongoing medical and mental health care for sexual abuse victims and abusers

The facility shall offer, or refer to appropriate community providers, medical and mental health evaluation services and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. CSG facilities that provide these services at the facility level, ensure such victims are provided with medical and mental health services consistent with the community level of care.

Treatment services referred to in this section are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility ensures referrals to Rape Crisis Center or other appropriate community providers for services will not charge for these services.

The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. If the facility does not employ qualified mental health providers to conduct the evaluation and treatment, the abuser is referred to the Rape Crisis Center or appropriate community service provider.

DATA COLLECTION/REVIEW/MAINTENANCE

Data collection-

Private facilities such as CSG must provide incident-based and aggregated PREA data to its contracting agency. Upon request, the contracting agency provides all such PREA data from the previous calendar year to the Department of Justice (DOJ) no later than June 30th. The DOJ utilizes a standardized instrument, Survey of Sexual Victimization (SSV), for collecting data from criminal justice agencies.

CSG therefore collects and maintains accurate, uniform data for every allegation of sexual abuse and sexual harassment at each CSG facility, utilizing the most recent SSV. This will ensure CSG is able to supply the contracting agency with the data the DOJ will request from them. The CSG PREA Coordinator notes the required data from each incident on the SSV (section II and III) at the conclusion of each incident. At the beginning of each year, the PREA Coordinator will complete an annual PREA report for the previous calendar year using aggregated incident-based PREA data from the SSV.

CSG's annual report for PREA Data will also include any corrective action CSG has taken up to the time of the report, to improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training to assist CSG's contracting agency in completing the requirements below (under Data review for corrective action).

CSG's annual report is provided to the contracting agency, facility management, and CSG Corporate.

The SSV can be viewed at <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=406> - Questionnaires

Data review for corrective action and maintenance-

All of CSG's contracting agencies are required to review the data collected and aggregated from CSG in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- (1) Identifying problem areas;
 - (2) Taking corrective action on an ongoing basis; and
 - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

The contracting agency's report will be approved by the agency's head and made readily available to the public through their website or, if it does not have a website, through other means. CSG's contracting agency will remove personal identifiers before making the aggregated PREA data publically available. Standards allow the agency to redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but they must indicate the nature of the material redacted.

CSG's contracting agencies are required to maintain sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise. CSG will also follow this directive and maintain all of the PREA data accordingly. CSGs PREA Coordinator maintains and restricts access to all PREA data.

AUDITS

The contracting agency arranges for an audit to be conducted at least once every three years. The purpose of an audit is to determine compliance with PREA Standards. Contracting agencies follow PREA standards in order to comply with qualifications for auditors and their compensation. The PREA Resource Center www.prearesourcecenter.org certifies and maintains an active list of certified auditors for contracting agencies to select from.

Auditors complete reports that will state whether policies and procedures comply with PREA standards. The report will provide detailed information required by PREA standards. CSG's contracting agency is required to publish CSG's audit report on their website if it has one, or otherwise make the report readily available to the public.

Any standard noted as not meeting the standard in the audit, requires a Corrective Action Plan to achieve compliance within 180 days. The Auditor will jointly develop the Corrective Action Plan with CSG, and CSG's contracting agency. After the 180-day corrective action period ends, the Auditor shall issue a final determination as to whether compliance has been achieved. Audit appeals may be lodged regarding any specific audit finding that is believed to be incorrect. A re-audit may be granted, but the findings of the re-audit are considered final.

The Governor of each state must determine whether the state is in full compliance with the PREA standards. The Governor considers the results of CSG's contracting agencies audits of CSG and all their other facility audits to make this determination. The Governor's certification applies to all facilities in the state under the operational control of the state's executive branch, including facilities operated by private entities on behalf of the state's executive branch.

See PREA Standards for further information and specifics regarding the parameters for how audits are conducted, auditor qualifications, audit findings, and appeals.

WEBSITE POSTINGS RELATED TO PREA

- Policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. (CSG posts this entire PREA policy, which addresses this requirement, on it's website)
- CSG'S website provides an avenue for third-party reports of sexual abuse and sexual harassment on behalf of a resident.
- Contact information for CSG's PREA Coordinator.
- CSG's contracting agency is required to publish CSG's audit report on their website. CSG may opt to post the audit report on CSG's website.

- CSG's contracting agency posts aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, to its website at least annually. CSG may opt to post this data to CSG's website.
- CSG's contracting agency's Annual Report (see Data Review for Corrective Action and Maintenance section above) is posted to their website. CSG may opt to post this report on CSG's website.

CORRESPONDING DOCUMENTS

PREA section of CSGs Website

Approach to Preventing, Detecting and Responding to Sexual Abuse and Sexual Harassment & Coordinated Response Plan

Edinburg Transition Center PREA Risk Assessment Forms (3)

Law Enforcement MOU's or Agreements

Rape Crisis Center MOU's or Agreements

PREA Investigational Summary Report

Staffing Plans & Facility Layout

Protection Against Retaliation Monitoring form

Resident Handbook

Facility Search, Visitor Property and Contraband Guidelines Policy

Resident Rights Policy

Employee Selection-Retention-Employment Verification Policy

Physical Plant Requirements Policy

Facility Training Policy

Resident Intake Processes/Discharges Policy

Resident Grievance/Disciplinary Appeal Policy

Resident Disciplinary/Behavioral Non Compliance Policy

Facility Access Security Procedures Policy

PREA STANDARDS

PREA STANDARD 115.5 General Definitions:

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

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

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

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

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

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

Facility head means the principal official of a facility.

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

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

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

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

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

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

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

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

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

(1) Under the control of a law enforcement, court, or custodial officer; and

(2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

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

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

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

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

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

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

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

Staff means employees.

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

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

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

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

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

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

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

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

PREA Standard 115.6 Definitions related to sexual abuse:

For purposes of this part, the term— **Sexual abuse includes**—

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

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

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

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) -(5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

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

Sexual harassment includes—

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

PREA Standard 115.211 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator PREA POLICY

(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.

(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator, with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities.

PREA Standard 115.212 Contracting with other entities for the confinement of residents PREA POLICY

(a) A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.

(b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

(c) Only in emergency circumstances in which all reasonable attempts to find a private agency or other entity in compliance with the PREA standards have failed, may the agency enter into a contract with an entity that fails to comply with these

standards. In such a case, the public agency shall document its unsuccessful attempts to find an entity in compliance with the standards.

PREA standard 115.213 Supervision and monitoring. PREA POLICY

(a) For each facility, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:

- (1) The physical layout of each facility;
- (2) The composition of the resident population;
- (3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (4) Any other relevant factors.

(b) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

(c) Whenever necessary, but no less frequently than once each year, the facility shall assess, determine, and document whether adjustments are needed to:

- (1) The staffing plan established pursuant to paragraph (a) of this section;
- (2) Prevailing staffing patterns;
- (3) The facility's deployment of video monitoring systems and other monitoring technologies; and
- (4) The resources the facility has available to commit to ensure adequate staffing levels.

PREA standard 115.214 Reserved

PREA standard 115.215 Limits to cross-gender viewing and searches. FACILITY SEARCH, VISITOR PROPERTY AND CONTRABAND GUIDELINES POLICY (a, c, e, f)

(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

(b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 residents, the facility shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances. Facilities shall not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision. **N/A-All CSG Facilities exceed 50 residents.**

(c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female residents.

(d) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing. **FACILITY ACCESS SECURITY PROCEDURES POLICY**

(e) The facility shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

§ 115.216 Residents with disabilities and residents who are limited English proficient. RESIDENT RIGHTS POLICY (a, b)

(a) The agency shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164.

(b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(c) The agency shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under § 115.264, or the investigation of the resident's allegations. **PREA POLICY**

§ 115.217 Hiring and promotion decisions. EMPLOYEE SELECTION-RETENTION-EMPLOYMENT VERIFICATION POLICY

(a) The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who—

- (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. § 1997);
- (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

(b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

(c) Before hiring new employees who may have contact with residents, the agency shall:

- (1) Perform a criminal background records check; and
- (2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

(d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents.

(e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.

(f) The agency shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self- evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

(h) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

§ 115.218 Upgrades to facilities and technologies. PHYSICAL PLANT REQUIREMENTS POLICY

(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse.

(b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect residents from sexual abuse.

Responsive Planning

§ 115.221 Evidence protocol and forensic medical examinations. PREA POLICY & LAW ENFORCEMENT MOU OR AGREEMENTS

(a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.

(c) The agency shall offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

(e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:

(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in community confinement facilities; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in community confinement facilities. N/A

(h) For the purposes of this standard, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

§ 115.222 Policies to ensure referrals of allegations for investigations. PREA POLICY & LAW ENFORCEMENT MOU OR AGREEMENT (as CSG responsibilities)

(a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

(b) The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

(c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

(d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have in place a policy governing the conduct of such investigations.

(e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have in place a policy governing the conduct of such investigations. N/A

Training and Education

§ 115.231 Employee training. FACILITY TRAINING POLICY

(a) The agency shall train all employees who may have contact with residents on:

- (1) Its zero-tolerance policy for sexual abuse and sexual harassment;
- (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Residents' right to be free from sexual abuse and sexual harassment;
- (4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with residents;
- (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(b) Such training shall be tailored to the gender of the residents at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.

(c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

(d) The agency shall document, through employee signature or electronic verification, that employees understand the training they have received.

§ 115.232 Volunteer and contractor training. EMPLOYEE SELECTION-RETENTION-EMPLOYMENT VERIFICATION POLICY

(a) The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

(b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

(c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

§ 115.233 Resident education. RESIDENT INTAKE PROCESSES/DISCHARGES POLICY (a, b, d, e)

(a) During the intake process, residents shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents,

and regarding agency policies and procedures for responding to such incidents. **RESIDENT HANDBOOK**

(b) The agency shall provide refresher information whenever a resident is transferred to a different facility.

(c) The agency shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills.

RESIDENT RIGHTS POLICY

(d) The agency shall maintain documentation of resident participation in these education sessions.

(e) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

§ 115.234 Specialized training: Investigations. FACILITY TRAINING POLICY

(a) In addition to the general training provided to all employees pursuant to § 115.231, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

(b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

(c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

(d) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

§ 115.235 Specialized training: Medical and mental health care. FACILITY TRAINING POLICY

(a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

(1) How to detect and assess signs of sexual abuse and sexual harassment; (2) How to preserve physical evidence of sexual abuse;

(3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and

(4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

(d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.231 or for contractors and volunteers under § 115.232, depending upon the practitioner's status at the agency.

Screening for Risk of Sexual Victimization and Abusiveness

§ 115.241 Screening for risk of victimization and abusiveness. PREA POLICY

(a) All residents shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents.

(b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility. 17

(c) Such assessments shall be conducted using an objective screening instrument.

(d) The intake screening shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:

(1) Whether the resident has a mental, physical, or developmental disability;

(2) The age of the resident;

(3) The physical build of the resident;

(4) Whether the resident has previously been incarcerated;

(5) Whether the resident's criminal history is exclusively nonviolent;

(6) Whether the resident has prior convictions for sex offenses against an adult or child;

(7) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

(8) Whether the resident has previously experienced sexual victimization; and

(9) The resident's own perception of vulnerability.

(e) The intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing residents for risk of being sexually abusive.

(f) Within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

(g) A resident's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

(h) Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section.

(i) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.

§ 115.242 Use of screening information. PREA POLICY

(a) The agency shall use information from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The agency shall make individualized determinations about how to ensure the safety of each resident.

(c) In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement

would ensure the resident's health and safety, and whether the placement would present management or security problems.

(d) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.

(e) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

(f) The agency shall not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.

§ 115.243 Reserved.

Reporting

§ 115.251 Resident reporting. PREA POLICY (a-d); RESIDENT HANDBOOK (a-b)

(a) The agency shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

(b) The agency shall also inform residents of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.

(c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

(d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.

§ 115.252 Exhaustion of administrative remedies. RESIDENT GRIEVANCE/DISCIPLINARY APPEAL POLICY (a-g); RESIDENT HANDBOOK (b-g)

(a) An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.

(b)(1) The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

(2) The agency may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

(3) The agency shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict the agency's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

(c) The agency shall ensure that—

(1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject

of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

(d)(1) The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(2) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.

(3) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.

(4) At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

(e)(1) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.

(2) If a third party files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(3) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.

(f)(1) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.

(2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(g) The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

§ 115.253 Resident access to outside confidential support services.

(a) The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible.

(b) The facility shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

PREA POLICY (a-b); RESIDENT HANDBOOK (a-b)

(c) The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse.

The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

PREA POLICY & RAPE CRISIS MOU OR AGREEMENTS (c)

§ 115.254 Third-party reporting. PREA POLICY; RESIDENT HANDBOOK

The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident.

Official Response Following a Resident Report

§ 115.261 Staff and agency reporting duties. PREA POLICY

(a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

(b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

(c) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

(d) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

(e) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

§ 115.262 Agency protection duties. PREA POLICY

When an agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.

§ 115.263 Reporting to other confinement facilities. PREA POLICY

(a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

(b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

(c) The agency shall document that it has provided such notification.

(d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

§ 115.264 Staff first responder duties. PREA POLICY

(a) Upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:

- (1) Separate the alleged victim and abuser;
- (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

(b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

§ 115.265 Coordinated response. PREA POLICY

The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

§ 115.266 Preservation of ability to protect residents from contact with abusers EMPLOYEE SELECTION-RETENTION-EMPLOYMENT VERIFICATION POLICY

(a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

(b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:

- (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.272 and 115.276; or
- (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

§ 115.267 Agency protection against retaliation. PREA POLICY

(a) The agency shall establish a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.

(b) The agency shall employ multiple protection measures, such as housing changes or transfers for resident victims or

abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

(d) In the case of residents, such monitoring shall also include periodic status checks.

(e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

(f) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

§ 115.268 Reserved.

Investigations

§ 115.271 Criminal and administrative agency investigations. NOTE- THESE STANDARDS ARE REQUIRED FOR INTERNAL ADMINISTRATIVE AND INTERNAL CRIMINAL PREA INVESTIGATIONS. CSG ONLY CONDUCTS INTERNAL ADMINISTRATIVE PREA INVESTIGATIONS. CRIMINAL PREA INVESTIGATIONS ARE REFERRED TO LAW ENFORCEMENT. HOWEVER, THESE STANDARDS DO NOT REQUIRE THAT YOU REQUEST FOR LAW ENFORCEMENT TO FOLLOW THE STANDARDS IF YOU REFER OUT FOR THEM TO CONDUCT THE CRIMINAL INVESTIGATION, AS 115.221 DOES. THEREFORE, THESE STANDARDS ARE NOT LISTED AS RESPONSIBILITIES OF LAW ENFORCEMENT IN THE MOU; REFERENCES TO LAW ENFORCEMENT MOU IN THIS SECTION ONLY REFERS TO CSG'S RESPONSIBILITIES THAT WILL BE INCLUDED IN THE MOU IN CONDUCTING THEIR ADMINISTRATIVE INVESTIGATION.

(a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. **PREA POLICY & LAW ENFORCEMENT MOU OR AGREEMENT**

(b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.234. **FACILITY TRAINING POLICY (b)**

(c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. **PREA POLICY & LAW ENFORCEMENT MOU OR AGREEMENT (c) (NOTE-CSG does not collect DNA evidence)**

(d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. **N/A-applicable to agencies that conduct their own criminal investigations**

(e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. **PREA POLICY**

(f) Administrative investigations:

(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. **PREA POLICY**

(g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. **PREA POLICY (Administrative investigations)**

(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. **PREA POLICY & LAW ENFORCEMENT MOU OR AGREEMENT**

(i) The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. **PREA POLICY**

(j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. **PREA POLICY**

(k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. **N/A**

(l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. **PREA POLICY & LAW ENFORCEMENT MOU OR AGREEMENT**

§ 115.272 Evidentiary standard for administrative investigations. PREA POLICY

The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

§ 115.273 Reporting to residents. PREA POLICY

(a) Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.

(c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:

(1) The staff member is no longer posted within the resident's unit;

(2) The staff member is no longer employed at the facility;

(3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

(4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:

- (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- (e) All such notifications or attempted notifications shall be documented.
- (f) An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

Discipline

§ 115.276 Disciplinary sanctions for staff. EMPLOYEE SELECTION-RETENTION-EMPLOYMENT VERIFICATION POLICY

- (a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
- (b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- (c) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- (d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

§ 115.277 Corrective action for contractors and volunteers. EMPLOYEE SELECTION-RETENTION-EMPLOYMENT VERIFICATION POLICY

- (a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- (b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

§ 115.278 Disciplinary sanctions for residents. RESIDENT DISCIPLINARY/BEHAVIORAL NON COMPLIANCE POLICY

- (a) Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
- (b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
- (c) The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- (d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or

motivations for the abuse, the facility shall consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

(e) The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

(f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

(g) An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Medical and Mental Care

§ 115.281 Reserved.

§ 115.282 Access to emergency medical and mental health services. PREA POLICY; RAPE CRISIS MOU OR AGREEMENTS

(a) Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

(b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.262 and shall immediately notify the appropriate medical and mental health practitioners.

(c) Resident victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

(d) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

§ 115.283 Ongoing medical and mental health care for sexual abuse victims and abusers. PREA POLICY (a-c, h); RAPE CRISIS MOU OR AGREEMENTS (a-h)

(a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

(b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

© The facility shall provide such victims with medical and mental health services consistent with the community level of care.

- (d) Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
- (e) If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy- related medical services.
- (f) Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
- (g) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- (h) The facility shall attempt to conduct a mental health evaluation of all known resident-on- resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Data Collection and Review

§ 115.286 Sexual abuse incident reviews. PREA POLICY

- (a) The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- (b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
- (c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
- (d) The review team shall:
 - (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - (4) Assess the adequacy of staffing levels in that area during different shifts;
 - (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement, and submit such report to the facility head and PREA compliance manager.
- (e) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

§ 115.287 Data collection. PREA POLICY

- (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- (b) The agency shall aggregate the incident-based sexual abuse data at least annually.

(c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. (Now called Survey of Sexual Victimization)

(d) The agency shall maintain, review, and collect data as needed from all available incident- based documents including reports, investigation files, and sexual abuse incident reviews.

(e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.

(f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

§ 115.288 Data review for corrective action. PREA POLICY

(a) The agency shall review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

(1) Identifying problem areas;

(2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

(b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

(c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

(d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

§ 115.289 Data storage, publication, and destruction. PREA POLICY

(a) The agency shall ensure that data collected pursuant to § 115.287 are securely retained.

(b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

(d) The agency shall maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Audits

§ 115.293 Audits of standards.

The agency shall conduct audits pursuant to §§ 115.401-405. PREA POLICY

Auditing and Corrective Action

§ 115.401 Frequency and scope of audits. PREA POLICY

(a) During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once.

(b) During each one-year period starting on August 20, 2013, the agency shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.

(c) The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.

(d) The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.

(e) The agency shall bear the burden of demonstrating compliance with the standards.

(f) The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.

(g) The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.

(h) The auditor shall have access to, and shall observe, all areas of the audited facilities.

(i) The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).

(j) The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.

(k) The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.

(l) The auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited.

(m) The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.

(n) Inmates, residents, and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

(o) Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

§ 115.402 Auditor qualifications. PREA POLICY

(a) An audit shall be conducted by:

- (1) A member of a correctional monitoring body that is not part of, or under the authority of, the agency (but may be part of, or authorized by, the relevant State or local government);
- (2) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or
- (3) Other outside individuals with relevant experience.

(b) All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.

(c) No audit may be conducted by an auditor who has received financial compensation from the agency being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the agency's retention of the auditor.

(d) The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency's retention of the auditor, with the exception of contracting for subsequent PREA audits.

§ 115.403 Audit contents and findings. PREA POLICY

(a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

(b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.

(c) For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

(d) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.

(e) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.

(f) The agency shall ensure that the auditor's final report is published on the agency's website if it has one, or is otherwise made readily available to the public.

§ 115.404 Audit corrective action plan. PREA POLICY

(a) A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.

(b) The auditor and the agency shall jointly develop a corrective action plan to achieve compliance.

(c) The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.

(d) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility

has achieved compliance with those standards requiring corrective action.

(e) If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

§ 115.405 Audit appeals. PREA POLICY

(a) An agency may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor’s final determination.

(b) If the Department determines that the agency has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. The agency shall bear the costs of this re-audit.

(c) The findings of the re-audit shall be considered final.

State Compliance

§ 115.501 State determination and certification of full compliance. PREA POLICY

(a) In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits.

(b) The Governor’s certification shall apply to all facilities in the State under the operational control of the State’s executive branch, including facilities operated by private entities on behalf of the State’s executive branch.

	
P O L I C Y A P P R O V A L	
AUTHORIZED SIGNATURE	EFFECTIVE DATE