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Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Replaces:
IC 11-8-2-5(a)(8) IC 11-8-2-9 IC 11-10-1-1 IC 11-10-2-1 IC 11-10-3-1 IC 11-11-6-1 IC 16-21-8-1.5 IC 35-42-4-1 IC 35-42-4-2 IC 35-42-4-8 IC 35-44.1 IC 35-45-4-5 USDOJ Standards to Prevent, Detect, and Respond to Prison Rape Final Rule	00-01-103 02-01-107 00-02-301 02-04-101 00-04-201 03-01-101 01-02-101 03-02-101 01-03-103 03-02-103 01-04-101 03-02-104 01-04-104 03-03-101 01-04-106 04-03-103 01-05-101 Health Services Sexual Assault Manual HCSD 2.22A HCSD 2.22Y	02-01-115, effective date 4-1-2020 / ED # 20-10

I. PURPOSE:

The purpose of this policy and administrative procedure is to establish guidance for staff and incarcerated individuals regarding the prevention of sexual assaults and those actions to be taken in cases of alleged sexual abuse and sexual harassment by staff or incarcerated individuals, including the establishment of a coordinated, multi-disciplinary team to respond to incidents of sexual abuse to ensure victims receive the medical and support services needed and that investigators obtain evidence to substantiate allegations and hold perpetrators accountable.

II. POLICY STATEMENT:

It is the policy of the Indiana Department of Correction to provide a safe and secure environment for all staff, volunteers, contractual staff, visitors, official visitors, and the incarcerated; and to maintain a program for the prevention of sexual abuse and sexual harassment in any facility

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operated by the Department or with which the Department contracts. The Department of Correction is committed to zero (0) tolerance for all forms of sexual abuse and sexual harassment between staff, volunteers, contractors, contractual staff, visitors, or official visitors, and incarcerated individuals whether committed by staff, volunteers, contractual staff, visitors, or other incarcerated individuals. Sexual activity between staff, volunteers, contractual staff, visitors, or official visitors, and incarcerated individuals, whether consensual or not, is strictly prohibited. In cases where sexual abuse and sexual harassment have been alleged, a prompt and thorough investigation shall be conducted. In those cases where it appears that sexual abuse and sexual harassment has taken place, prompt intervention shall be provided and all appropriate disciplinary actions shall be taken, including the possibility of criminal prosecution.

In accordance with Policy and Administrative Procedure 04-03-103, “Indiana Department of Correction Information and Standards of Conduct,” all staff, contractual staff, and volunteers have an affirmative duty to report all allegations or knowledge of sexual abuse, sexual harassment, or sexual activity that takes place within the jurisdiction of the Department of Correction. Upon substantiation of any allegations of sexual abuse and sexual harassment, appropriate disciplinary action will be taken against staff, contractual staff, volunteers, or incarcerated individuals, including possible criminal prosecution.

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are provided:

- A. **ABUSIVE SEXUAL CONTACT:** Non-penetrative contact of a sexual nature by an incarcerated individual against another incarcerated individual without their consent, or of an incarcerated individual who is unable to consent or refuse which includes intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any incarcerated individual. (Does not include kicking, punching, or grabbing the genitals when the intent is to harm or debilitate rather than to sexually exploit or contact is incidental to an altercation.)
- B. **DELTA:** The single source system of record for incarcerated individuals’ data.
- C. **ENDANGERED/VULNERABLE ADULT:** An individual who is
 - 1. At least eighteen (18) years of age;
 - 2. Incapable by reason of mental illness, intellectual and/or developmental disability, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual’s property or providing or directing the provision of self-care; and,

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3. Harmed, or threatened with harm as a result of neglect, battery, or exploitation of the individual's personal services or property.
- D. **DIRECTOR of PREA:** The employee appointed by the Commissioner to serve as the Department-wide PREA Administrator that oversees facility sexual assault prevention programs, sexual assault reporting and Department compliance with national PREA standards.
 - E. **GENDER IDENTITY:** A person's internal, deeply felt sense of being male or female regardless of the person's assigned sex at birth.
 - F. **INCARCERATED INDIVIDUAL:** An adult or juvenile person committed to a department of correction (federal, state, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including an adult or juvenile under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security assignment, including an assignment to a community transition program.
 - G. **INTERN:** An individual who is enrolled in a higher educational institution and who may receive academic credit for assisting in a facility's program.
 - H. **INTERSEX:** 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.
 - I. **NONCONSENSUAL SEXUAL ACT:** Contact of a sexual nature by an incarcerated individual against another incarcerated individual without their, or an incarcerated individual unable to consent or refuse including: contact between the penis and the vulva or the penis and the anus including penetration, however slight; contact between the mouth and the penis, vulva or anus; or, penetration of the anal or genital opening of another incarcerated individual by a hand, finger or other object. (Does not include kicking, punching, or grabbing the genitals when the intent is to harm or debilitate rather than to sexually exploit.)
 - J. **OFFICIAL VISITOR:** Any visitor who is visiting an incarcerated individual in regard to providing an official service for the benefit of the incarcerated individual or the community, such as attorneys, law enforcement, parole/probation officers, representatives of government agencies, elected officials, etc.
 - K. **PREA ABUSER LIKELY:** An incarcerated individual identified by the PREA Screening as having a history of sexually assaultive behavior or is determined to be likely to use aggression, coercion, force, or familiarity with the prison environment in

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order to manipulate/control a potential victim.

- L. **PREA COMPLIANCE MANAGER:** The employee designated by the Warden to oversee the sexual assault prevention program at the facility, sexual assault reporting, and facility compliance with national standards and Department policies and procedures.
- M. **PREA VICTIM LIKELY:** An incarcerated individual identified by the PREA Screening who may need special services due to being a victim of sexual assault or misconduct or who is potentially susceptible to becoming a victim of sexual assault or misconduct while in a correctional setting.
- N. **RESTRICTIVE STATUS HOUSING:** A form of housing for incarcerated individuals whose continued presence in the general population would pose a serious threat to life, property, self, staff, other incarcerated individuals, or to the security or orderly operation of a correctional facility. This definition does not include protective custody.
- O. **SEXUAL ABUSE:** Sexual abuse of an incarcerated individual by another incarcerated individual or staff member 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: Abusive Sexual Contact, Non-Consensual Sexual Act and Staff Sexual Misconduct.
- P. **SEXUAL ASSAULT FORENSIC EXAMINER (SAFE):** Specially trained physician from the community qualified and certified to perform forensic examinations of sexual assault victims to ensure proper victim care and proper collection of any evidence of the assault.
- Q. **SEXUAL CONTACT:** Contact between persons that includes any of the following:
 - 1. Touching of the intimate parts of one person to any part of another person whether clothed or unclothed; or,
 - 2. Any touching by any part of one person or with any object or device of the intimate parts of another person or any parts of the body that may result in sexual arousal or gratification for either party.
- R. **SEXUAL HARRASSMENT:**
 - 1. Verbal statements or comments of a sexual nature to an incarcerated individual by an employee, volunteer, contractor, official visitor, or Department representative or statements including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing; or obscene language

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or gestures.

2. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one incarcerated individual directed toward another.
- S. **STAFF MEMBER/EMPLOYEE:** Any and all persons employed by the Department, including contractors and volunteers.
- T. **STAFF/VOLUNTEER/CONTRACTOR SEXUAL MISCONDUCT:** Sexual abuse of an incarcerated individual by an employee, contractor, or volunteer includes any of the following acts, with or without consent of the incarcerated individual:
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 employee, 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 employee, 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 employee, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 6. Any attempt, threat, or request by an employee, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this definition;
 7. Any display by an employee, contractor, or volunteer of their uncovered genitalia, buttocks, or breast in the presence of an incarcerated individual, and
 8. Voyeurism by an employee contractor, or volunteer of a sexual nature unrelated to official duties.
- U. **SUBSTANTIATED:** An allegation that was investigated and determined to have occurred based on a preponderance of the evidence.

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- V. **TRANSGENDER:** A term describing persons whose gender identity and/or expression do not conform to the gender roles assigned to them at birth.
- W. **UNFOUNDED:** An allegation that was investigated and determined not to have occurred, based upon preponderance of evidence.
- X. **UNSUBSTANTIATED:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- Y. **VOLUNTEER:** An individual giving their time to Department facilities without compensation.
- Z. **VOYEURISM:** Knowingly or intentionally peeping (any looking of a clandestine, surreptitious, prying, or secretive nature) into an area where an incarcerated individual can reasonably be expected to be in a state of undress, for the purpose of sexual gratification, unrelated to official job duties, such as security checks.
- AA. **YOUTHFUL INCARCERATED INDIVIDUAL:** Any incarcerated individual under the age of eighteen (18) years who has been sentenced as an adult for a crime and committed to the Department.

IV. **PREVENTION PLANNING:**

A. **Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator (115.11/311)**

1. The Department shall maintain a position of zero (0) tolerance for all forms of sexual abuse and sexual harassment by staff, volunteers, contractors, or incarcerated individuals against incarcerated individuals. Sexual abuse and sexual harassment include abusive sexual contact by an incarcerated individual against another incarcerated individual; nonconsensual sexual acts by an incarcerated individual against another incarcerated individual; staff/volunteer/incarcerated individual/contractor sexual harassment of an incarcerated individual; and, staff/volunteer/contractor sexual misconduct against an incarcerated individual. These zero (0) tolerances of sexual abuse and sexual harassment applies to all Department facilities and all facilities and programs providing services to incarcerated individuals committed to the Department.
2. The Department 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 facilities.

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3. Each facility shall designate a PREA Compliance Manager with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards. The Warden shall designate an employee to serve as the PREA Compliance Manager. The employee designated to serve in this capacity should be in a supervisory position who has broad experience and the knowledge, skills and abilities to implement and evaluate the facility’s Sexual Abuse Prevention Program and compliance with all PREA standards. This person will be in the position of Deputy Warden for adult facilities.

The PREA Compliance Manager shall ensure the following duties are completed:

1. Monitoring for PREA standards compliance at the facility by conducting quarterly compliance reviews;
2. Monitoring the need for new SART first responders to attend training;
3. Ensuring that the facility has a program for the identification, evaluation, monitoring, treatment, and counseling of incarcerated individuals at risk for sexual victimization, sexual abuse victims, and sexual abuse perpetrators;
4. Assisting in the identification and utilization of community resources available for the provision or development of emotional support services for incarcerated individuals through victim advocates and collection of evidence through forensic exams by SANEs or SAFEs;
5. Logging all Sexual Incidents Reported for all allegations of sexual abuse and sexual harassment occurring in the facility. This information can be found through the use of the facility incident reports and any other sources deemed appropriate. Sexual abuse and sexual harassment incidents shall be logged into the PREA Reporting Application / Survey of Sexual Victimization no later than one week from the initial report or upon completion of the investigation. Where applicable the correlating Sexual Abuse Incident Review, Investigative Outcome Notification, Retaliation Monitoring, Sexual Harassment Report of Investigation, and any other incident documentation shall be uploaded upon completion.
6. Ensure the PREA Potential Abuser and PREA Potential Victim flags are reflected in DELTA based upon the most recent PREA Screening;
7. Serving as Facility PREA Committee Chairperson; and,
8. Managing and preparing the facility for PREA audits by:

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- a. Providing required facility documentation;
- b. Making staff and incarcerated individuals available for interview;
- c. Providing auditors a facility tour; and,
- d. Completing a corrective action plan, when applicable.

B. Contracting With Other Entities for the Confinement of Incarcerated individuals (115.12/312)

1. When the Department contracts for the confinement of its incarcerated individuals with private agencies or other entities, including other government agencies, it shall include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards.
2. Any new contract or contract renewal shall provide for Department contract monitoring to ensure the contractor is complying with the PREA standards. The Department shall ensure that all agencies and organizations housing incarcerated individuals committed to the Department, including county jails, group homes, private contractors, etc., are made aware of the Department’s position. During inspections of county jails, county juvenile detention facilities, group homes, community corrections facilities or any facility holding individuals for the Department, the Executive Liaison for Sheriff and County Jail Operations or Director of Policy Development and Accreditation or designee(s) shall ensure that the facility being inspected has a mechanism in place to address allegations of sexual abuse and sexual harassment. Additionally, when contracts are prepared with agencies and organizations to house incarcerated individuals for the Department, a provision shall be included to ensure that the agency/organization maintains zero (0) tolerance for sexual abuse and sexual harassment and has a mechanism in place to address allegations of sexual abuse and sexual harassment in accordance with PREA standards.

The Department shall share information with these agencies and organizations regarding the Department’s program to prevent sexual abuse and sexual harassment.

C. Supervision and Monitoring (115.13/313)

1. The Department shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video

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monitoring, to protect incarcerated individuals against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- a. Generally accepted adult/juvenile detention and correctional practices;
 - b. Any judicial findings of inadequacy;
 - c. Any findings of inadequacy from Federal investigative agencies;
 - d. Any findings of inadequacy from internal or external oversight bodies;
 - e. All components of the facility’s physical plant (including “blind-spots” or areas where staff or incarcerated individuals may be isolated);
 - f. The composition of the incarcerated population;
 - g. The number and placement of supervisory staff;
 - h. Institution programs occurring on a particular shift;
 - i. Any applicable State or local laws, regulations, or standards;
 - k. The prevalence of substantiated and unsubstantiated incidents of sexual abuse;
 - l. Staffing ratios of 1:8 during waking hours and 1:16 during sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented and include on security trained staff (**Division of Youth Services facilities Only**); and,
 - m. Any other relevant factors;
2. The staffing plan shall be reviewed, updated, and submitted to the assigned Executive Director of Adult Facilities, Executive Director of Youth Services, and PREA Director annually, no later than January 31 of each year.
 - a. In circumstances where the staffing plan is not compliant, the facility shall document and justify all deviations from the plan on shift reports.
 - b. During the annual review of each facility staffing plan the assigned Executive Director of Adult Facilities or Executive Director of Youth Services, in consultation with the PREA Director, shall assess,

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determine, and document whether adjustments are needed to:

- 1) The staffing plan established pursuant to paragraph (1) 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 adherence to the staffing plan.
- c. Each facility shall require intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment on each shift. Staff shall be prohibited from alerting other employees that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility. Rounds shall be documented in housing unit logs and/or facility shift reports.

D. 115.14 Youthful Incarcerated individuals

A youthful incarcerated individual shall not be placed in a housing unit in which the youthful incarcerated individual will have sight, sound, or physical contact with any incarcerated individual eighteen (18) years of age or older through use of a shared dayroom or other common space, shower area, or sleeping quarters.

Incarcerated youth shall be processed through a DYS Intake Unit when being received by the Department. Incarcerated youth will not be housed in adult facilities. They shall be housed in designated DYS facilities in accordance with Policy and Administrative Procedure 01-04-102, “Classification Assignments for Youthful Incarcerated Individuals.”

E. Limits to cross-gender viewing and searches (115.15/315)

1. Staff shall not conduct cross-gender strip searches or cross-gender visual searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. No staff shall conduct cross-gender strip searches except in emergency circumstances. Body cavity searches shall only be performed by medical personnel in accordance with Policy and Administrative Procedure 02-03-101, “Searches.”

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2. Female facilities shall not permit cross-gender pat-down searches of females, absent exigent circumstances. Facilities shall not restrict an incarcerated female access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. Staff shall not conduct cross gender pat searches of male or female youth except in exigent circumstances.

3. All cross-gender strip searches, cross-gender visual, cross-gender pat-down searches of female incarcerated individuals, and cross gender pat searches of youthful incarcerated individuals conducted during emergency circumstances shall be thoroughly documented and provide justification for the search. Each incident shall be reviewed by the Warden or designee to determine that the exigent circumstances standard was met. Body cavity searches shall only be performed by medical personnel in accordance with Policy and Administrative Procedure 02-03-101, "Searches."

4. All incarcerated individuals shall be afforded the ability to shower, perform bodily functions, and change clothing without nonmedical staff of a different gender viewing their breasts, buttocks, or genitalia, except in emergency circumstances or when such viewing is incidental to routine security rounds and cell checks. All staff of a different gender than the designation of the facility shall announce their presence by declaring, "Different gender staff on unit," when entering an offender housing unit or bathroom area. Custody staff may announce their presence to the offender population in the housing unit in which they are assigned at the beginning of their duty shift. This announcement must be clear and done so in a manner that ensures all incarcerated individuals in the unit were given reasonable notice of different gender staff being present. These announcements shall be documented in housing unit logs. Different gender staff shall make the announcements prior to entering bathroom and shower areas to give incarcerated individuals and youth a chance to cover up when they are in a state of undress.

5. Cross-gender video surveillance monitoring of incarcerated individuals who are confined to restrictive status housing or protective custody or are in an area where incarcerated individuals can be observed in a state of undress, other than incidental viewing or viewing for purposes of an investigation shall be prohibited. Incarcerated individuals who are placed on constant observation status by Mental Health staff shall be provided constant visual supervision by a person of the same gender.

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6. Staff shall not search or physically examine a transgender or intersex incarcerated individual for the sole purpose of determining the incarcerated individual’s genital status. If the incarcerated individual’s genital status is unknown, it may be determined during conversations with the incarcerated individual by medical and mental health staff, 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.
7. The Department shall train security/Custody staff in conducting cross-gender pat searches, and searches of transgender and intersex incarcerated individuals, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

F. Incarcerated Individuals with Disabilities and Incarcerated Individuals Who are Limited English Proficient (115.16/316)

1. The Department shall take appropriate steps to ensure that incarcerated individuals with disabilities (including, for example, incarcerated individuals 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 Department’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with incarcerated individuals 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 Department shall ensure that written materials are provided in formats or through methods that ensure effective communication with incarcerated individuals with disabilities, including incarcerated individuals who have intellectual disabilities, limited reading skills, or who are blind or have low vision. A facility 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.
2. Staff shall determine if an incarcerated individual needs accommodation by reviewing the incarcerated individual’s mental health, education, and classification records in addition to interviewing the incarcerated individual. Incarcerated individuals that have a disability may be accommodated in accordance with Policy and Administrative Procedure 00-02-202, “Incarcerated Individuals with Physical Disabilities.” Accommodations may be made using a Braille version of the PREA brochure, an American Sign

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Language interpreter through a State QPA, showing the PREA video with closed captioning, reading the PREA brochure, etc. Mental Health or Education staff may assist with communications with incarcerated individuals with developmental disabilities.

3. The Department shall take reasonable steps to ensure meaningful access to all aspects of the Department’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment to incarcerated individuals with limited English proficiency, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
4. Written materials that communicate the sexual abuse prevention program will be provided in Spanish. Interpretive services, in-person and telephonic, are available to incarcerated individuals with limited English proficiency through a State QPA. All facilities shall have an account with the contractor to use these services as needed. All staff shall be made aware that these services are available, and the staff designated to provide access to the interpretive service.
5. The Department shall not rely on incarcerated interpreters, incarcerated readers, or other types of incarcerated individual assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the incarcerated individual’s safety, the performance of first-response duties under 115.64/364, or the investigation of the incarcerated individual’s allegations. Incarcerated interpreters shall not be used to provide the PREA education to incarcerated individuals at intake to a facility.

G. Hiring and Promotion Decisions (115.17/317)

1. The Department shall not hire or promote anyone who may have contact with incarcerated individuals, and shall not enlist the services of any contractor who may have contact with incarcerated individuals, who:
 - a. 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);
 - b. 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

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- c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (1)(b) of this section. *(See also Policy and Administrative Procedure 04-03-103, "Information and Standards of Conduct")*
2. The Department 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 incarcerated individuals.
3. Before hiring new employees who may have contact with incarcerated individuals, the Department shall:
 - a. Perform a criminal background record check;
 - b. Consult any child abuse and sex incarcerated individual registry maintained by the State or locality in which the employee would work. A CPS (Child Protective Services) check shall also be completed (Juvenile Facilities only) and,
 - c. Human Resources staff shall make their best effort 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. The employment background check shall be documented on the PREA Questionnaire for Prior Institutional Employers form.
4. The Department shall also perform a criminal background record check before enlisting the services of any contractor who may have contact with incarcerated individuals.
5. The Department shall conduct criminal background records checks every four (4) years of current employees, contractors, and volunteers who may have contact with incarcerated individuals.
6. The Department shall ask all applicants and employees who may have contact with incarcerated individuals directly about previous misconduct described in paragraph 1 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 Department shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. Human Resource staff shall ensure the Mandatory PREA Questions form is completed by the applicant prior to hire or promotion.

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7. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
8. Unless prohibited by law, the Department 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. The PREA Release of Information form shall be used to document the release of that information. This form must be signed by the former employee before the Department can provide the information. *(Also, see Policy and Administrative Procedure 04-03-102, "Department of Correction Human Resources")*

H. Upgrades to Facilities and Technologies (115.18/318)

1. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Department shall consider the effect of the design, acquisition, expansion, or modification upon the Department's ability to protect incarcerated individuals from sexual abuse.
2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Department shall consider how such technology may enhance the Department's ability to protect incarcerated individuals from sexual abuse.

The facility PREA Compliance Manager shall be included in planning at the facility level and the PREA Director shall be consulted in planning at the agency level.

V. RESPONSIVE PLANNING:

A. Evidence Protocol and Forensic Medical Examinations (115.21/321)

1. To the extent the Department is responsible for investigating allegations of sexual abuse; the Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. *(See Policy and Administrative Procedure 00-01-103, "Investigations and Intelligence")*
2. 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

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authoritative protocols developed after 2011.

3. If the alleged incident occurred within one hundred twenty (120) hours of the report, staff shall ensure that appropriate actions are taken to preserve as much evidence as possible (e.g., if the sexual conduct involves intercourse, the alleged victim shall be instructed not to shower or otherwise clean themselves, drink, use the toilet, brush their teeth, remove clothing, etc.). If the alleged perpetrator is known, staff shall require them to follow the same actions as with the alleged victim in order to preserve any possible evidence of any sexual abuse.
4. The Department shall offer all victims of sexual abuse access to forensic medical examinations 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). If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The Department shall document its efforts to provide SAFEs or SANEs.
5. Health Services staff can aid in the preservation of evidence by instructing both the alleged victim and alleged abuser not to take any actions that could destroy physical evidence and assisting with the arrangement of a forensic exam by a SANE at a local hospital at no cost to the incarcerated individual whether they name an abuser or cooperate with the investigation. The Sexual Assault Nurse Examiner (SANE) is to provide the forensic exam component of the SART. Non-Facility SANE personnel will take a medical history, perform the physical assessment of the victim, collect, document, and initiate the preservation of physical evidence found on the victim and their personal effects. They will provide information on medical matters; document the examination and, if called upon, present expert testimony in court. Identification of SANE professionals in the local community shall be arranged by the PREA Compliance Manager and the Health Services vendor. Only qualified SANE professionals shall be used to conduct the forensic sexual assault examination.
6. The facility shall attempt to make available to the victim a community victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the facility shall provide these services with a qualified facility employee. The qualified employee shall be staff trained as a SART first responder that demonstrates an understanding of the role of a victim advocate from the SART victim advocate curriculum.
7. As requested by the victim, the community victim advocate, qualified SART first responder shall accompany and support the victim through the forensic medical

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examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

8. For the purposes of this section, a qualified employee 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 through the SART First Responder training.

B. Policies to Ensure Referrals of Allegations for Investigations (115.22/322)

1. The Department shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
2. All allegations of sexual abuse and sexual harassment shall be investigated even when the alleged perpetrator or alleged victim have left the Department’s employment or are no longer under Department authority. Allegations of sexual abuse shall be investigated by the facility’s Investigations and Intelligence (I&I) staff. Allegations of sexual harassment shall be investigated by staff designated by the Warden to conduct administrative investigations. I&I investigators shall complete all investigations where evidence indicates a possible criminal violation. All investigations shall be documented in an investigation report. (*See Policy and Administrative Procedure 00-01-103, “Investigations and Intelligence”*).

VI. TRAINING AND EDUCATION:

A. Employee Training (115.31/331)

1. The Department shall train all employees who may have contact with incarcerated individuals on:
 - a. The zero-tolerance policy for sexual abuse and sexual harassment;
 - b. How to fulfill their responsibilities under Department sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - c. Incarcerated individuals’ right to be free from sexual abuse and sexual harassment;
 - d. The right of incarcerated individuals and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e. The dynamics of sexual abuse and sexual harassment in confinement;

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- f. The common reactions of sexual abuse and sexual harassment victims;
 - g. How to detect and respond to signs of threatened and actual sexual abuse;
 - h. How to avoid inappropriate relationships with incarcerated individuals;
 - i. How to communicate effectively and professionally with incarcerated individuals, including lesbian, gay, bisexual, transgender, intersex, or gender non-conforming incarcerated individuals;
 - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and,
 - k. Relevant laws regarding the age of consent.
2. This training shall include an explanation of inappropriate contact with incarcerated individuals as described in Policy and Administrative Procedure 04-03-103, "Information and Standards of Conduct for Departmental Staff," and the prohibitions against sexual contact with incarcerated individuals as stated in the Indiana Code (IC 35-44.1). As a part of this training, staff shall be provided with a brochure created to assist staff in identifying incidents of sexual abuse and sexual harassment.
- a. Such training shall be tailored to the gender of the incarcerated individuals at the employee's facility and the unique needs and attributes of incarcerated youth (DYS facilities only). The employee shall receive additional training if the employee is reassigned from a facility that houses only incarcerated males to a facility that houses only incarcerated females, or vice versa.
 - b. All new employees shall complete the PREA training during the new employee training process and all current employees shall complete the PREA training annually as part of the in-service training requirement. (*See Policy and Administrative Procedure 01-05-101, "Workforce Engagement."*)
 - c. The Department shall document, through employee signature or electronic verification that employees understand the training they have received and shall be documented on the PREA Training Acknowledgement form.

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B. Volunteer and Contractor Training (115.32/332)

1. The Department shall ensure that all volunteers and contractors who have contact with incarcerated individuals have been trained on their responsibilities under the Department’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
2. All contractors, volunteers, interns, and community crew supervisors shall complete the PREA training curriculum that employees are required to complete. This training shall be completed prior to contact with an incarcerated individual and shall be completed annually. 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 incarcerated individuals, but all volunteers and contractors who have contact with incarcerated individuals shall be notified of the Department’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents by being provided with a copy of the Staff PREA Brochure.
3. The Department shall maintain documentation confirming that volunteers and contractors understand the training they have received. The training shall be documented on the PREA Training Acknowledgement form.

C. Incarcerated Individual Education (115.33/333)

1. During the Intake process, incarcerated individuals shall receive information explaining the Department’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment by being provided a copy of the PREA Brochure.

All incarcerated individuals housed in the Department shall receive as a part of the orientation to a facility an educational segment regarding sexual abuse and sexual harassment prevention. The incarcerated individual shall be provided with verbal, video and written information regarding:

- The Department’s zero tolerance of any sexual abuse and sexual harassment;
- Incarcerated individual rights to be free from sexual abuse and sexual harassment;
- Incarcerated individual rights to be free from retaliation for reporting sexual abuse and sexual harassment;
- How to prevent sexual abuse;

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- Self-protection;
- Reporting sexual abuse and sexual harassment; and,
- Treatment and counseling available to incarcerated individuals who are victims of sexual abuse.

As a part of the incarcerated individual’s orientation, they shall be given a brochure created by the Department advising the incarcerated individual of the potential dangers of sexual abuse and sexual harassment and the Department’s zero (0) tolerance for such behavior. Additionally, staff at the facility shall supplement the information in the brochure by providing information specific to reporting sexual abuse and sexual harassment at the facility. This information shall also be included in the facility’s orientation information given to the incarcerated individual. Staff shall address any questions the incarcerated individuals might ask regarding sexual abuse and sexual harassment.

2. Within seven (7) days of Intake or transfer, the facility shall provide comprehensive education to incarcerated individuals either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding Department policies and procedures for responding to such incidents.
3. All incarcerated individuals shall receive PREA education upon transfer to a different facility.
4. The Department shall provide education in formats accessible to all incarcerated individuals, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to incarcerated individuals who have limited reading skills.

The presentation of this information shall be in a manner that is easily understandable to the incarcerated individual. Staff shall determine if an incarcerated individual is in need of accommodations by reviewing the incarcerated individual’s mental health, education, and classification records in addition to interviewing the incarcerated individual. Incarcerated individuals with English language proficiency issues or disabilities (i.e. hearing or visual impairment, mental health or learning disabilities) shall be provided assistance to ensure effective communication of the Department’s Sexual Abuse Prevention policy and procedures for reporting abusive sexual behavior. This may involve staff reading the policy and procedure to the incarcerated individual or utilizing an interpreter.

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5. The Department shall maintain documentation of incarcerated individual participation in these education sessions.

Additionally, it shall be noted in each incarcerated individual’s record that the incarcerated individual received the brochure and was made aware of all appropriate information regarding the Department’s Zero Tolerance for all sexual abuse and sexual harassment, including how to report it and how to obtain treatment if they become a victim. The incarcerated individual shall sign an acknowledgement form indicating that this information was provided and understood. The acknowledgement form shall be filed in the incarcerated individual’s facility packet. (This shall be filed in Section 3 of the incarcerated adult’s record and Section 4 of the DYS Youth record.) Accommodations described in item 4 of this section shall be documented on the bottom of the Incarcerated Individual Education form.

6. In addition to providing such education, the Department shall ensure that key information is continuously and readily available or visible to incarcerated individuals through posters, handbooks, or other written formats. PREA brochures shall be available upon request in all housing units and law libraries.

D. Specialized Training: Investigations (115.34/334)

1. In addition to the general training provided to all employees pursuant to 115.31/331, the Department shall ensure that all investigators have received training in conducting sexual abuse investigations in confinement settings.
2. 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.
3. The Department shall maintain documentation that Department investigators have completed the required specialized training in conducting sexual abuse investigations.

E. Specialized training: Medical and Mental Health Care (115.35/335)

1. The Department shall ensure that all full and part-time Health Services and Behavioral Health care practitioners who work regularly in facilities have been trained in:
 - a. How to detect and assess signs of sexual abuse and sexual harassment;

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- b. How to preserve physical evidence of sexual abuse;
 - c. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and,
 - d. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
2. Facility Health Services staff shall not conduct forensic examinations unless required by contract. Health Services staff shall provide emergent medical care and preserve physical evidence, as required by all staff, in coordination with investigators.
 3. The Department shall maintain documentation that Health Services and its practitioners have received the training referenced in this standard either from the Department or elsewhere.
 4. Health Services practitioners shall also receive the training mandated for employees under 115.31/331 or for contractors and volunteers under 115.32/332, depending upon the practitioner’s status at the Department.

VII. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS:

A. Screening for Risk of Victimization and Abusiveness (115.41)

1. All incarcerated individuals shall be assessed during an Intake screening and upon transfer to another facility for their risk of being sexually abused by other incarcerated individuals or sexually abusive toward other incarcerated individuals.
2. Intake screening for risk of victimization and abusiveness shall ordinarily take place within seventy-two (72) hours of arrival at the facility.

Within twenty-four (24) hours of an incarcerated individual’s admission to a Department Intake unit, staff shall assess an incarcerated individual through interviews and reviews of the incarcerated individual’s record to attempt to determine whether the incarcerated individual may be a potential sexual aggressor or a potential sexual abuse victim. Within seventy-two (72) hours of arrival at a facility, Intake staff shall ensure a new Adult PREA Screening is completed based on information from the interview with the incarcerated individual and the incarcerated individual’s record. The PREA Screening Questionnaire shall be used to conduct the incarcerated individual interview.

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The Questionnaire will be filed in the incarcerated individual's facility packet in the confidential section. Access shall be in accordance with Policy and Administrative Procedure 01-04-104, "Incarcerated Individual Records."

3. Such assessments shall be conducted using an objective screening instrument. This assessment shall use the Adult PREA Screening assessment tool.
4. The Intake screening shall consider, at a minimum, the following criteria to assess incarcerated individuals for risk of sexual victimization:
 - a. Whether the incarcerated individual has a mental, physical, or developmental disability;
 - b. The age of the incarcerated individual;
 - c. The physical build of the incarcerated individual;
 - d. Whether the incarcerated individual has previously been incarcerated;
 - e. Whether the incarcerated individual's criminal history is exclusively nonviolent;
 - f. Whether the incarcerated individual has prior convictions for sex offenses against an adult or child;
 - g. Whether the incarcerated individual is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - h. Whether the incarcerated individual has previously experienced sexual victimization;
 - i. The incarcerated individual's own perception of vulnerability.
5. The initial 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 Department, in assessing incarcerated individuals for risk of being sexually abusive.
6. Within a set time period, not to exceed thirty (30) days from the incarcerated individual's arrival at the facility, the facility shall reassess the incarcerated individual's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the Intake screening.

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Twenty-one (21) days from the incarcerated individual’s transfer, but not to exceed thirty (30) days, staff shall reassess the incarcerated individual’s risk of victimization or abusiveness considering any additional information received by the facility since the Intake assessment and complete a new 30-day review PREA Screening.

7. An incarcerated individual’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 incarcerated individual’s risk of sexual victimization or abusiveness. Any incident of sexual abuse or sexual harassment shall trigger a review of the alleged victim and alleged perpetrator Adult PREA Screening, unless the incident is unfounded.
8. Incarcerated individuals may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked pursuant to paragraphs (4)(a), (4)(g), (4)(h), or (4)(i) of this section.
9. The Department 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 incarcerated individual’s detriment by staff or other incarcerated individuals. The results of this assessment shall be considered confidential and will be maintained in Delta.

B. Obtaining Information from Incarcerated Individuals. (Applies to DYS Facilities Only 115.341)

1. Within seventy-two (72) hours of the incarcerated individual’s arrival at the facility and periodically throughout an incarcerated individual’s confinement, the Department shall obtain and use information about each incarcerated individual’s personal history and behavior to reduce the risk of sexual abuse by or upon an incarcerated individual.
2. Such assessments shall be conducted using an objective screening instrument. This assessment shall be completed using the Juvenile PREA Screening.
3. At a minimum, the facility shall attempt to ascertain information about:
 - a. Prior sexual victimization or abusiveness;
 - b. Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the incarcerated individual may therefore be vulnerable to sexual abuse;

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- c. Current charges and offense history;
 - d. Age;
 - e. Level of emotional and cognitive development;
 - f. Physical size and stature;
 - g. Mental illness or mental disabilities;
 - h. Intellectual or developmental disabilities;
 - i. Physical disabilities;
 - j. The incarcerated individual’s own perception of vulnerability; and,
 - k. Any other specific information about individual incarcerated individual that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other incarcerated individuals.
4. This information shall be ascertained through an interview with the incarcerated individual during the Intake process using the Juvenile PREA Screening Questionnaire and Medical and Behavioral Health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the incarcerated individual’s files.
5. The Department 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 incarcerated individual’s detriment by staff or other incarcerated individuals.

C. Use of Screening Information (115.42)

- 1. The Department shall use information from the risk screening required by 115.41/341 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those incarcerated individuals at high risk of being sexually victimized from those at high risk of being sexually abusive.
- 2. The Department shall make individualized determinations about how to ensure the safety of each incarcerated individual.
- 3. In deciding whether to assign a transgender or intersex incarcerated individual to a facility for male or female incarcerated individuals (see Policy and Administrative Procedure 02-01-118, “Inclusive Gender Practices for Incarcerated Individuals”), and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the incarcerated individual’s health and safety, and whether the placement would present management or security problems.

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4. Placement and programming assignments for each transgender or intersex incarcerated individual shall be reassessed twice each year to review any threats to safety experienced by the incarcerated individual.
5. A transgender or intersex incarcerated individual’s own view with respect to their own safety shall be given serious consideration.
6. Transgender and intersex incarcerated individuals shall be given the opportunity to shower separately from other incarcerated individuals.
7. The Department shall not place lesbian, gay, bisexual, transgender, or intersex incarcerated individuals 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 incarcerated individuals.

D. Placement of Youth in Housing, Bed, Program, Education, and Work Assignments. (Applies to DYS Facilities Only 115.342)

1. The Department shall use all information obtained pursuant to 115.34/341 and subsequently to make housing, bed, program, education, and work assignments for youth with the goal of keeping all incarcerated individual safe and free from sexual abuse.
2. Youth may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other incarcerated individuals safe, and then only until an alternative means of keeping all incarcerated individuals safe can be arranged. During any period of isolation, the Department shall not deny incarcerated individuals daily large-muscle exercise and any legally required educational programming or special education services. Incarcerated individuals in isolation shall receive daily visits from a Health Services or Mental Health clinician. Incarcerated individuals shall also have access to other programs and work opportunities to the extent possible.
3. Lesbian, gay, bisexual, transgender, or intersex incarcerated individuals shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall the Department consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.

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4. In deciding whether to assign a transgender or intersex youth to a facility for male or female incarcerated individuals, and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the youth’s health and safety, and whether the placement would present management or security problems in accordance with Policy and Administrative Procedure 03-02-112, “Transgender and Intersex Youth.”
5. Placement and programming assignments for each transgender or intersex incarcerated individual shall be reassessed twice each year to review any threats to safety experienced by the incarcerated individual.
6. A transgender or intersex youth’s own views with respect to their own safety shall be given serious consideration.
7. Transgender and intersex incarcerated individuals shall be given the opportunity to shower separately from other incarcerated individuals.
8. If a youth is isolated pursuant to paragraph (2) of this section, the facility shall clearly document:
 - a. The basis for the facility’s concern for the youth’s safety; and,
 - b. The reason why no alternative means of separation can be arranged.
9. Every thirty (30) days, the facility shall afford each incarcerated individual described in paragraph (4) of this section a review to determine whether there is a continuing need for separation from the general population.

E. Protective Custody (Applies to Adult Facilities Only 115.43)

1. Incarcerated individuals at high risk for sexual victimization shall not be placed in involuntary protective custody unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the incarcerated individual in involuntary protective custody for less than twenty-four (24) hours while completing the assessment.

This assessment shall be documented on the PREA Housing Assignment Review form.

2. Incarcerated individuals placed in protective custody for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the

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facility shall document:

- a. The opportunities that have been limited;
 - b. The duration of the limitation; and,
 - c. The reasons for such limitations.
3. The facility shall assign such incarcerated individuals to involuntary protective custody only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
 4. If an involuntary protective custody assignment is made pursuant to paragraph 1 of this section, the facility shall clearly document:
 - a. The basis for the facility’s concern for the incarcerated individual’s safety; and,
 - b. The reason why no alternative means of separation can be arranged.
 5. Every thirty (30) days, the facility shall afford each such incarcerated individual a review to determine whether there is a continuing need for separation from the general population.

Protective custody reviews for incarcerated adults shall be conducted and documented in accordance with Policy and Administrative Procedure 01-04-101, “Adult Classification,” and Policy and Administrative Procedure 02-01-107, “Protective Custody.”

VIII. REPORTING:

A. Incarcerated Individual Reporting (115.51/351)

1. The Department shall provide multiple internal ways for incarcerated individuals to privately report sexual abuse and sexual harassment, retaliation by other incarcerated individuals or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Incarcerated individuals shall be able to make reports via an internal hotline on the phone system, verbal or written reports to any staff, filing a grievance, or having a third party make the report on their behalf. If the incarcerated individual is not comfortable with making the report to the immediate point of contact line staff, the incarcerated individual shall be allowed to make the report to an employee with whom they are comfortable in speaking about the allegations. Staff shall ensure that incarcerated individuals are aware of the manner in which reports can be made.

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2. The Department shall also provide at least one way for incarcerated individuals to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the Department, and that is able to receive and immediately forward incarcerated individual reports of sexual abuse and sexual harassment to Department officials, allowing the incarcerated individual to remain anonymous upon request. Incarcerated individuals shall be permitted to make these reports to an outside organization that has been arranged through a Community Partnership Agreement or to another State agency. The Department **does not** have incarcerated individuals detained solely for civil immigration purposes. All incarcerated individuals have a sentence for a felony conviction.
3. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. All reports of sexual abuse and sexual harassment shall be documented in an Incident Report prior to the end of the shift.
4. The Department shall provide a method for staff to privately report sexual abuse and sexual harassment of incarcerated individuals. Staff reporting sexual abuse and sexual harassment shall be afforded the opportunity to privately report such information to the Shift Supervisor, Investigations and Intelligence Investigator, PREA Compliance Manager, or the PREA Director via the Department Sexual Assault Hotline or PREA email posted on the Department website.

B. Exhaustion of Administrative Remedies (115.52/352)

1. The Department has administrative procedures to address incarcerated individual grievances regarding a report of sexual abuse. (*See Policies and Administrative Procedures 00-02-301, "Grievance Process," and 03-02-105, "Student Grievance Process"*)
2. The Department shall not impose a time limit on when an incarcerated individual may submit a grievance regarding an allegation of sexual abuse.
3. The Department may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.
4. The Department shall not require an incarcerated individual to use any informal grievance process, or to otherwise attempt to resolve with staff an alleged incident of sexual abuse.
5. Nothing in this subsection shall restrict the Department's ability to defend

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against an incarcerated individual lawsuit on the grounds that the applicable statute of limitations has expired.

6. The Department shall ensure that:
 - a. An incarcerated individual who alleges sexual abuse may submit a grievance without submitting it to an employee who is the subject of the complaint, and,
 - b. Such grievance is not referred to an employee who is the subject of the complaint.
7. The Department shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance.
 - a. Computation of the 90-day time period shall not include time consumed by incarcerated individuals in preparing any administrative appeal.
 - b. The Department may claim an extension of time to respond, of up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision. The Department shall notify the incarcerated individual in writing of any such extension and provide a date by which a decision will be made.
8. At any level of the administrative process, including the final level, if the incarcerated individual does not receive a response within the time allotted for reply, including any properly noticed extension, the incarcerated individual may consider the absence of a response to be a denial at that level.
9. Third parties, including fellow incarcerated individuals, employees, family members, attorneys, and outside advocates, shall be permitted to assist incarcerated individuals in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of incarcerated individuals.
 - a. If a third party, other than a parent or legal guardian, files such a request on behalf of an incarcerated individual, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on their behalf and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

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- b. If the incarcerated individual declines to have the request processed on their behalf, the Department shall document the incarcerated individual's decision.
 - c. A parent or legal guardian of a youth shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such youth. Such a grievance shall not be conditioned upon the youth agreeing to have the request filed on their behalf.
10. The Department shall establish procedures for the filing of an emergency grievance alleging that an incarcerated individual is subject to a substantial risk of imminent sexual abuse.

After receiving an emergency grievance alleging an incarcerated individual is subject to a substantial risk of imminent sexual abuse, the Department 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 forty-eight (48) hours, and shall issue a final Department decision within five (5) calendar days. The initial response and final Department decision shall document the Department's determination whether the incarcerated individual is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

11. The Department may discipline an incarcerated individual for filing a grievance related to alleged sexual abuse only where the Department demonstrates that the incarcerated individual filed the grievance in bad faith.

C. Incarcerated Individual Access to Outside Confidential Support Services (115.53/353)

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

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mandatory reporting laws.

3. The Department shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide incarcerated individuals with confidential emotional support services related to sexual abuse. The Department shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

D. Third-party reporting (115.54/354)

The Department 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 an incarcerated individual.

Third party reports by family, friends, and other members of the public can be made electronically by submitting an email to IDOCPREA@idoc.in.gov or telephoning (toll free) the Department Sexual Assault Hotline at (877) 385-5877. This contact information shall be posted in visiting rooms, published in incarcerated individual and visitor brochures, and on the Department’s website.

IX. OFFICIAL RESPONSE FOLLOWING AN INCARCERATED INDIVIDUAL REPORT (See Facility Directive):

A. Staff and Indiana Department of Correction reporting duties (115.61/361)

1. The Department shall require all staff to report immediately and according to Department 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 Department; retaliation against incarcerated individuals or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
2. The Department shall also require all staff to comply with any applicable mandatory child abuse reporting laws in accordance with Policy and Administrative Procedure 00-01-105, “The Reporting, Investigation, and Disposition of Child Abuse.”
3. 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 Department policy, to make treatment, investigation, and other security and management decisions.

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4. Unless otherwise precluded by federal, State, or local law, medical and behavioral health practitioners shall be required to report sexual abuse pursuant to paragraph 1 of this section and to inform incarcerated individuals of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services.
 - a. Medical and behavioral health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph 1 of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.
 - b. Such practitioners shall be required to inform incarcerated individuals at the initiation of services of their duty to report and the limitations of confidentiality. This shall be documented on the PREA Duty to Report form during the medical intake process.
5. Upon receiving any allegation of sexual abuse, the Warden or their designee shall promptly report the allegation to facility investigators.

For youths, the alleged victim’s parents or legal guardians shall be notified, unless the facility has official documentation establishing that the parents or legal guardians should not be notified:

- a. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim’s caseworker instead of the parents or legal guardians.
 - b. If a juvenile court retains jurisdiction over the alleged victim, the Warden or designee shall also report the allegation to the juvenile’s attorney or other legal representative of record within fourteen (14) days of receiving the allegation.
6. If the alleged victim is under the age of eighteen (18) the incident shall be reported to the Child Protective Services as required in Policy and Administrative Procedure 00-01-105, “The Reporting, Investigation, and Disposition of Child Abuse.” If the alleged victim is considered a vulnerable adult under the State vulnerable person’s statute, the Department shall report the allegation by contacting the Adult Protective Services at Indiana Family and Social Service Administration (FSSA) in accordance with mandatory reporting laws.
 7. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated

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investigators. Sexual abuse allegations shall be referred to Investigations and Intelligence investigators. Sexual harassment allegations shall be referred to staff designated to conduct administrative investigations.

B. Indiana Department of Correction Protection Duties (115.62/362)

When staff learns that an incarcerated individual is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the incarcerated individual. This may include placing the incarcerated individual in Administrative Restrictive Status housing (pending protective custody), Isolation, or any other appropriate action.

C. Reporting to other confinement facilities (115.63/363)

1. Upon receiving an allegation that an incarcerated individual was sexually abused while confined at another facility, the Warden that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
2. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.
3. The Department shall document that it has provided such notification.
4. The Warden that receives such notification shall ensure that the allegation is investigated in accordance with the PREA standards and this policy and administrative procedure.

D. Staff First Responder Duties (115.64/364)

1. Upon learning of an allegation that an incarcerated individual was sexually abused, the first security employee to respond to the report shall be required to:
 - a. Separate the alleged victim and abuser;
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - c. If the abuse occurred within a one hundred twenty (120) hour time frame, 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,

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- d. If the abuse occurred within a one hundred-twenty (120) hour time frame, 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.
2. First Responders are to ensure that the victim is removed from the area and receives prompt medical intervention. They must ensure that the location of assault and any evidence collected, in coordination with Investigations and Intelligence investigators, is preserved and that the evidence chain of custody is handled properly if the scene cannot remain secured due to facility safety concerns. They shall arrange for the removal of any suspected perpetrator, as well.
3. If the first staff responder is not a security employee, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and notify security staff.

E. Coordinated Response (115.65/365)(See Facility Directive)

The Warden at each facility shall establish a Sexual Assault Response Team (SART) and develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and behavioral health practitioners, investigators, and facility executive staff. The plan shall be written in a facility directive.

A SART provides a coordinated, efficient, and supportive response to victims of sexual assault. The members of the SART shall provide a full range of comprehensive services to sexual assault victims who have made the decision to report a sexual assault. Persons assigned to the facility's SART First Responders shall receive specialized training in providing comprehensive services to victims of sexual assault.

The Warden shall ensure that there is an alternate for every first responder of the SART who is also qualified to fulfill the team member's role when they are unavailable. SART First Responders are to be scheduled so that First Responders are available at all times.

Arrangements shall be made to ensure that SART First Responders who must interact with the sexual assault victim are able to communicate directly, through interpretive technology, or through incarcerated individual interpreters during exigent circumstances, with incarcerated individuals who have limited English proficiency, are deaf, or speech impaired. Accommodations shall be made to convey all written information verbally to incarcerated individuals with limited reading skills or who are sight impaired.

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The goals and objectives of the facility SART are:

- Meet the needs of the victim with crisis intervention and support services.
- Arrange a comprehensive forensic examination for sexual abuse victims, without financial cost, where evidentiary or medically appropriate.
- Provide a joint, effective, and sensitive approach to victims of sexual assault.
- Document and preserve forensic evidence for potential prosecution.
- Conduct investigations of the crime from notification through prosecution.

The members of the SART and their respective duties include, but are not limited to:

1. Staff Designated as First Responders

First Responders are to ensure that the victim is removed from the area and receives prompt medical intervention. They must ensure that the location of assault and any evidence collected, in coordination with Investigations and Intelligence Investigators, is preserved and that the evidence chain of custody is handled properly if the scene cannot remain secured due to facility safety concerns. They must inform the victim not to take any actions that could destroy physical evidence before an investigator or other member of the SART arrives. If the report is made within the one hundred twenty (120) hour time frame, staff shall ensure that the alleged victim and alleged abuser do not take any action(s) that could destroy physical evidence, including, as appropriate: washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. They will also arrange for the removal of any suspected perpetrator.

All SART First Responders shall be provided with specialized training for the initial response to reports of sexual abuse and protection of sexual abuse victims. Once staff have completed the initial SART First Responder training, they are required to complete the refresher course every three years to remain a SART First Responder.

2. Investigations and Intelligence Investigators

Investigations and Intelligence Investigators are to investigate and report the facts of the case. The Investigators shall consider the immediate safety of the victim. They shall arrange and conduct victim, suspect and witness interviews and perform all other duties normally associated with their respective duties. They shall also notify the State Police liaison of the assault to request assistance, if needed, and consult with local prosecutors if there is a potential criminal violation. The Investigators may not happen to be on grounds when the initial

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report is made and shall be utilized on an on-call basis. All investigators shall receive training in conducting sexual abuse investigations in a confinement setting prior to completing investigations of sexual abuse/assaults. This training shall be documented in the employee’s training records.

3. Medical Staff

Medical First Responders shall provide care and treatment as outlined in the Sexual Assault Manual. Health Services staff shall respond to provide immediate medical care and evaluate the victim for life threatening injuries. Should a victim refuse or decline medical treatment the victim shall sign State Form 9262, “Refusal and Release of Responsibility for Medical, Surgical, Psychiatric and Other Treatment,” which shall be documented in their medical file. Medical staff can aid in the preservation of evidence by instructing both the alleged victim and alleged abuser not to take any actions that could destroy physical evidence and assisting with the arrangement of a forensic exam by a SANE at a local hospital at no cost to the incarcerated individual/student whether they name an abuser or cooperate with the investigation. The Sexual Assault Nurse Examiner (SANE) is to provide the forensic exam component of the SART. Non-Facility SANE personnel will take a medical history, perform the physical assessment of the victim, collect, document and initiate the preservation of physical evidence found on the victim and their personal effects. They will provide information on Health Services matters; document the examination and, if called upon, present expert testimony in court. Identification of SANE professionals in the local community shall be arranged by the PREA Compliance Manager and the Health Services vendor. Only qualified SANE professionals shall be utilized to conduct the forensic sexual assault examination.

4. PREA Compliance Manager

The PREA Compliance Manager shall be informed of the sexual abuse report by the Shift Supervisor. The PREA Compliance Manager shall assist the Shift Supervisor in coordinating the response and notifying the Superintendent. The PREA Compliance Manager shall ensure all PREA requirements are followed in response to a report of sexual abuse. The PREA Compliance Manager shall ensure the victim is offered access to a victim advocate or SART First Responder to accompany them to the forensic exam or during investigative interviews. The PREA Compliance Manager shall also manage the facility SART, ensuring training is completed as needed and an appropriate number of first responders are assigned to each shift. SART members shall be included in the monthly PREA Committee meetings whenever possible.

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F. Preservation of Ability to Protect Incarcerated individuals from Contact with Abusers (115.66/366)

The State of Indiana does not have collective bargaining units for State employees or the Department. It is the Warden’s discretion to determine if staff must be re-assigned to another post and prohibited from contact with an alleged victim. Staff may also be placed on an emergency suspension when supported by evidence of a serious violation of policy or State law.

G. Protection Against Retaliation (115.67/367)

1. The Department shall establish a policy to protect all incarcerated individuals and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other incarcerated individuals or staff. The Warden shall designate which staff members or departments are charged with monitoring retaliation.
2. The facility shall employ multiple protection measures, such as housing changes or transfers for incarcerated individual victims or abusers, removal of alleged staff or incarcerated abusers from contact with victims, and emotional support services for incarcerated individuals or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least ninety (90) days following a report of sexual abuse, the staff designated to monitor for retaliation shall monitor the conduct and treatment of incarcerated individuals or staff who reported the sexual abuse and of incarcerated individuals who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by incarcerated individuals or staff and shall act promptly to remedy any such retaliation. Items the PREA Committee should monitor include any incarcerated individual disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The PREA Committee shall continue such monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.
4. In the case of incarcerated individuals, such monitoring shall also include periodic status checks. Meetings shall occur with incarcerated individuals once every 30 days. Staff monitoring shall consist of one meeting to inform the staff to report retaliation during the 90 days to the designated monitoring staff.
5. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect that

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individual against retaliation. This may require the initiation of an investigation of the retaliation.

6. A facility’s obligation to monitor shall terminate if the investigation determines that the allegation is unfounded.

H. Post-Allegation Protective Custody (115.68/368)

Any use of restrictive status housing to protect an incarcerated individual who is alleged to have suffered sexual abuse shall be subject to the requirements of 115.43 for adult facilities and 115.342 for DYS Facilities.

X. INVESTIGATIONS:

A. Criminal and Administrative Indiana Department of Correction Investigations (115.71/371)

1. The Department shall conduct its own investigations into allegations of sexual abuse and sexual harassment. Investigations shall be prompt, thorough, and objective for all allegations, including third-party and anonymous reports. *(See Policy and Administrative Procedure 00-01-103, “Investigations and Intelligence,” Section IX)*
2. Where sexual abuse is alleged, the Department shall use investigators who have received special training in sexual abuse investigations pursuant to 115.34/343.
3. 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. Staff shall ensure that any crime scene or evidence collected is maintained in accordance with Policy and Administrative Procedure 00-01-103, “Investigations and Intelligence.” The Warden is responsible for ensuring that First Responders and Investigators follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for Department disciplinary and criminal proceedings.
4. When the quality of evidence appears to support criminal prosecution, the Department Investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

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5. 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 incarcerated individual or staff. The Department shall not require an incarcerated individual 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.
6. Administrative investigations:
 - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and,
 - b. 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.
7. 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.
8. Substantiated allegations of conduct that appears to be a violation of Indiana criminal code shall be referred for prosecution.
9. The Department shall retain all written reports referenced in paragraphs 6 and 7 of this section for as long as the alleged abuser is incarcerated or employed by the Department, plus five (5) years, unless the abuse was committed by a juvenile and applicable law requires a shorter period of retention.
10. The departure of the alleged abuser or victim from the employment or control of the facility or Department shall not provide a basis for terminating an investigation.

B. Evidentiary Standard for Administrative Investigations (115.72/372)

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

C. Reporting to Incarcerated individuals (115.73/373)

1. Following an investigation into an incarcerated individual’s allegation that they suffered sexual abuse in a Department facility, the facility PREA Compliance Manager shall inform the incarcerated individual as to whether the allegation

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has been determined to be substantiated, unsubstantiated, or unfounded.

2. If the facility or agency did not conduct the investigation, the PREA Compliance Manager shall request the relevant information from the facility or agency that did in order to inform the incarcerated individual.
3. Following an incarcerated individual’s allegation that an employee has committed sexual abuse against the incarcerated individual, the Department shall subsequently inform the incarcerated individual (unless the Department has determined that the allegation is unfounded) whenever:
 - a. The employee is no longer posted within the incarcerated individual’s unit;
 - b. The employee is no longer employed at the facility;
 - c. The Department learns that the employee has been indicted on a charge related to sexual abuse within the facility; or,
 - d. The Department learns that the employee has been convicted on a charge related to sexual abuse within the facility.
4. Following an incarcerated individual’s allegation that they have been sexually abused by another incarcerated individual, the Department shall subsequently inform the alleged victim whenever:
 - a. The Department learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or,
 - b. The Department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications shall be documented on the PREA Investigation Outcome Notification form. A copy of the form shall be provided to the incarcerated individual and placed in their facility packet.
6. A facility’s obligation to report under this standard shall terminate if the incarcerated individual is released from the Department’s custody.

XI. DISCIPLINE:

A. Disciplinary Sanctions for Staff (115.76/376)

1. Staff shall be subject to disciplinary sanctions up to and including termination

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for violating Department sexual abuse or sexual harassment policies. (See Policy 04-03-103, "Information and Standards of Conduct for Department Staff")

2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse (Staff Sexual Misconduct).
3. Disciplinary sanctions for violations of Department 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 employee's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
4. All terminations for violations of Department 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. These referrals shall be documented.

B. Corrective Action for Contractors and Volunteers (115.77/377)

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with incarcerated individuals, removed from the facility and shall be reported to law enforcement agencies, unless the activity was clearly not criminal. A substantiated finding for sexual abuse shall be reported to relevant licensing bodies where applicable and documented.
2. The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with incarcerated individuals, in the case of any other violation of Department sexual abuse or sexual harassment policies by a contractor or volunteer.

C. Disciplinary Sanctions for Incarcerated Individuals (115.78/378)

1. Incarcerated individuals shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the incarcerated individual engaged in incarcerated individual-on-incarcerated individual sexual abuse or following a criminal finding of guilt for incarcerated individual-on-incarcerated individual sexual abuse. (See Policy and Administrative Procedures 02-04-101, "The Disciplinary Code for Adults," and 03-02-101, "Code of Conduct for Youth")

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2. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the incarcerated individual’s disciplinary history, and the sanctions imposed for comparable offenses by other incarcerated individuals with similar histories. In the event a disciplinary sanction results in the isolation of a youth, the facility shall not deny the youth daily large-muscle exercise or access to any legally required educational programming or special education services. Youth in isolation shall receive daily visits from a medical or mental health care clinician. Youth shall also have access to other programs and work opportunities to the extent possible.
3. The disciplinary process shall consider whether an incarcerated individual’s mental disabilities or mental illness contributed to their behavior when determining what type of sanction, if any, should be imposed.
4. 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 incarcerated individual to participate in such interventions as a condition of access to programming or other benefits. A DYS facility may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.
5. The Department may discipline an incarcerated individual for sexual contact with staff only upon a finding that the employee did not consent to such contact.
6. 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.
7. The Department shall prohibit all sexual activity between incarcerated individuals and shall discipline incarcerated individuals for such activity in accordance with the appropriate disciplinary code or code of conduct. The Department shall not deem such activity to constitute sexual abuse if it determines that the activity is consensual and not coerced. Staff shall make every effort to determine if coercion was involved. Incarcerated individuals shall be advised in PREA education that cases of sexual abuse shall be referred for criminal prosecution and to Child Protective Services as appropriate.

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XII. MEDICAL AND MENTAL HEALTH CARE:

A. Medical and Behavioral Health Screenings / History of Sexual Abuse (115.81/381)

1. If the screening pursuant to 115.41/341 indicates that an incarcerated individual has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the incarcerated individual is offered a follow-up meeting with a medical or behavioral health practitioner within fourteen (14) days of the intake screening.
2. If the screening pursuant to 115.41/341 indicates that a prison incarcerated individual or incarcerated individual has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the incarcerated individual is offered a follow-up meeting with a behavioral health practitioner within fourteen (14) days of the intake screening.
3. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and behavioral health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, State, or local law.
4. Medical and behavioral health practitioners shall obtain informed consent from incarcerated individuals before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the incarcerated individual is under the age of 18.

B. Access to Emergency Medical and Behavioral Health Services (115.82/382)

1. Incarcerated individual 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 behavioral health practitioners according to their professional judgment. *(See the Sexual Assault Manual)*
2. If no qualified medical or behavioral 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 115.62/362 and shall immediately notify the appropriate medical and behavioral health practitioners.

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3. Incarcerated individual 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.
4. 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.

C. Ongoing Medical and Behavioral Health Care for Sexual Abuse Victims and Abusers (115.83/383)

1. The facility shall offer a medical and behavioral health evaluation and, as appropriate, treatment to all incarcerated individuals who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
2. 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.
3. The facility shall provide such victims with medical and behavioral health services consistent with the community level of care.
4. Incarcerated individual victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
5. If pregnancy results from the conduct described in (4) such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
6. Incarcerated individual victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
7. 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.
8. All facilities shall attempt to conduct a mental health evaluation of all known incarcerated individual-on-incarcerated individual abusers within sixty (60) days of learning of such abuse history and offer treatment when deemed appropriate by Behavioral Health practitioners.

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XIII. DATA COLLECTION AND REVIEW:

A. Sexual Abuse Incident Reviews (115.86/386)

1. The facility PREA Committee 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.
2. Such review shall ordinarily occur within thirty (30) days of the conclusion of the investigation.
3. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or behavioral health practitioners.
4. The review team shall:
 - a. Consider whether the allegation or investigation indicates a need to revise policy or practice to better prevent, detect, or respond to sexual abuse;
 - b. 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;
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during different shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;
 - f. Prepare a report of its findings on the *Sexual Abuse Incident Review*, including but not necessarily limited to determinations made pursuant to paragraphs (4)(a)-(4)(e) of this section, and any recommendations for improvement and submit such report to the Warden and the PREA Director; and,
 - g. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so on the *Sexual Abuse Incident*

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B. Data Collection (115.87/387)

1. The Department 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. All reports of Nonconsensual Sexual Acts, Abusive Sexual Contact, Staff Sexual Misconduct and Sexual Harassment as defined in this policy and administrative procedure shall be reported on a *Sexual Incident Report*. The facility PREA Compliance Manager shall submit a *Sexual Incident Report* for each allegation that is a PREA related incident via the PREA Reporting Application – Survey of Sexual Victimization. All incident reports, investigation reports, or written statements shall be attached. It shall not be released to incarcerated individuals or the public, unless court-ordered.
2. The Department shall aggregate the incident-based sexual abuse data at least annually.
3. 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 Victimization conducted by the Department of Justice.
4. The Department shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. The Department also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its incarcerated individuals.
6. Upon request, the Department shall provide all such data from the previous calendar year to the US Department of Justice upon request by the set due date.

C. Data Review for Corrective Action (115.88/388)

1. The Department shall review data collected and aggregated pursuant to 115.87/387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and,

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Title			
SEXUAL ABUSE PREVENTION			

- c. Preparing an annual report of its findings and corrective actions for each facility, as well as the Department as a whole. Each facility shall submit their annual Sexual Abuse Prevention report to the assigned Executive Director of Adult Facilities and Executive Director of Youth Services, and the PREA Director by January 31.
2. 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 facility and Department progress in addressing sexual abuse.
3. The Department report shall be approved by the Commissioner and made readily available to the public through the Department website.
4. The PREA Director 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.

D. Data storage, publication, and destruction (115.89/389)

1. The Department shall ensure that data collected pursuant to 115.87/387 are securely retained.
2. The Department 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 the Department website.
3. Before making aggregated sexual abuse data publicly available, the Department shall remove all personal identifiers.
4. The Department shall maintain sexual abuse data collected pursuant to 115.87/387 for at least ten (10) years after the date of the initial collection.

XIV. APPLICABILITY:

This policy and administrative procedure is applicable to all Department facilities, staff, volunteers, contractual staff, and agencies and organizations housing incarcerated individuals on behalf of the Department, except where noted within.

 (signature on file)
 Christina Reagle
 Commissioner

 8/15/24
 Date