

AA. PRISON RAPE ELIMINATION ACT

Prevention planning

POLICY – 115.211

The Taylor County Community Supervision and Corrections Department (CSCD)/Substance Abuse Treatment Facility (SATF) is committed to providing a safe and healthy environment for residents, staff, visitors, contractors and volunteers. We are committed to protecting residents from sexual abuse and sexual harassment. Sexual abuse and sexual harassment compromise the safety of everyone in our facility and will not be tolerated. The SATF's policy will serve as a mechanism for complying with the Prison Rape Elimination Act (PREA) and the PREA National Standards. [115.211(a), 115.262]

The SATF has mandated a zero-tolerance policy relating to any sexual misconduct and sexual harassment between staff, volunteers, contractors, and residents or their family members. All staff and volunteers will receive training to understand how to prevent, detect and respond to all allegations of sexual abuse and sexual harassment. All staff and volunteers will then use the skills learned in the training to prevent, detect and respond to all allegations of sexual abuse and sexual harassment. All allegations, regardless of the source, of coercive, or consensual sexual misconduct/harassment occurring among residents will be fully investigated, sanctioned (if authority to do so exists), and referred for prosecution if the prohibited conduct violates state criminal laws. When it is learned that a resident is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the resident. All alleged victims of sexual abuse or harassment will be provided a supportive and protective environment. [115.211 (a), 115.262] The SATF has a designated PREA Coordinator, who is the Facility Supervisor, who is given sufficient time and authority to develop, implement, and oversee facility efforts to comply with the PREA standards.

PREA covers incidents involving staff, residents, volunteers, and collateral contacts.

1. Prohibited behaviors include, but are not limited to the following: touching, hugging, kissing, sexual assault, penetration, fondling, inappropriate viewing, sexual conduct, sexual harassment, sexual abuse, sexual gratification, romantic relationships, relationships between staff/residents, volunteers/residents or outside the agency involvement between staff and resident.
2. Resident on Resident Sexual Abuse: Sexual contact between residents without the resident's consent, or in which the resident is unable to consent or refuse.
3. Staff Sexual Misconduct: Any behavior or act of a sexual nature whether it be consensual or non-consensual directed toward a resident by an employee, volunteer, contractor, visitor or other agency representative. Termination from employment shall be the presumptive disciplinary sanction for staff who engaged in sexual misconduct.

DEFINITIONS 115.5 & 115.6

1. **Agency** means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.
2. **Agency head** means the principal official of an agency.
3. **Community confinement facility** means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry programs), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

4. **Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
5. **Employee** means a person employed by Taylor County SATF as an approved full-time or part-time position that is designated as such in the authorized staffing pattern.
6. **Exigent Circumstances** means a set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the facility.
7. **Facility** means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.
8. **Gender nonconforming** means a person whose appearance or manner does not conform to traditional societal gender expectations.
9. **Intersex** means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.
10. **LGBTI** – Lesbian, Gay (Homosexual), Bisexual, Transgender, and Intersex. This acronym will include the term Gender Non-confirming.
11. **Medical practitioner** means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified medical practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
12. **Mental health practitioner** means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A "qualified mental health practitioner" refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
13. **Pat-down search** means a running of the hand over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possess contraband.
14. **Miranda and Garrity Warning** – Instructions provided at the start of an interview informing the interviewee of rights and liabilities outlined in the court decisions *Miranda v. Arizona* and *Garrity v. New Jersey*.
15. **PREA Compliance Manager** – An Administrative level manager (Operations Manager) appointed by the Facility Director who maintains responsibility for the facility's Sexual Abuse Response and Prevention Planning. The staff appointed to carry out these duties at the Taylor County SATF is **Leslie Scarborough**.
16. **PREA Coordinator**: The Facility has designated the PREA Coordinator to develop, implement and oversee agency efforts to comply with PREA requirements. The staff responsible for the coordination and compliance monitoring of PREA at the Taylor County SATF is **Jennifer Cauthen**.
17. **PREA Team** – A committee comprised of senior management, human resources, investigators and mental health professionals who review issues related to PREA reporting, incident response, investigation, and prevention. The PREA Team at the Taylor County SATF are **Debbie Rowland, Jennifer Cauthen, Leslie Scarborough and Brad Davis**.
18. **PREA National Standards** – Part 115 of Title 28 of the code of Federal Regulations, the Prison Rape Elimination Act National Standards specific to Community Confinement Facilities.
19. **PREA Staffing Plan** – An approved plan for staffing the facility in accordance with PREA guidelines developed by the facility in conjunction with the PREA Coordinator.

20. **PREA Staffing Plan Deviation** – When any position designated as a part of the PREA Staffing Plan is vacant for the period of an entire shift.
21. **Preponderance of the Evidence Standard** – An evidentiary standard under which an allegation is deemed substantiated if the weight of the available evidence indicates that the allegation is more likely than not to be truthful or correct.
22. **Qualified Health Care Professional (QHCP)** – Includes physicians, physician assistants, nurse practitioners, nurses, dentists, mental health professionals, and others who, by virtue of their education, credentials, and experience are permitted by law within the scope of their professional practice to evaluate and care for patients.
23. **Qualified Mental Health Professionals (QMRP)** – Includes psychiatrists, psychologists, psychiatric social workers, psychiatric nurses and others who, by virtue of their education, credentials, and experience are permitted by law within the scope of their professional practice to evaluate and care for the mental health needs of patients.
24. **Rape Crisis Center** – An entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(c), to victims of sexual assault.
25. **Resident** means a person confined or detained in a juvenile facility or in a community confinement facility.
26. **SAFE/SANE Provider** – A sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE) is a specifically trained registered nurse, physician assistant, or physician who provides comprehensive care, and timely collection of forensic evidence and testimony in sexual assault cases.
27. **Security Staff** means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas.
28. **Sexual Abuse:**
 - a. Sexual abuse of a resident by another resident.
 - b. Sexual abuse of a resident by another resident includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence or is unable to consent or refuse:
 - 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;
 - Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
 - c. Sexual abuse of a resident by a staff member, volunteer, or contractor.
 - d. Sexual abuse of a resident by a staff member, volunteer, or contractor, includes any of the following acts, with or without consent of the resident:
 - 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;
 - Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, volunteer, or contractor has the intent to abuse, arouse, or gratify sexual desire;
 - Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official

- duties or where the staff member, volunteer, or contractor has the intent to abuse, arouse, or gratify sexual desire;
 - Any attempt, threat, or request by a staff member, volunteer, or contractor to engage in the activities described in paragraphs (a)-(e) of this section;
 - Any display by a staff member, volunteer, or contractor of his or her uncovered genitalia, buttocks, or breast in the presence of a resident and,
 - Voyeurism by a staff member, volunteer, or contractor.
29. **Sexual Abuse Response Team (SART)** – A team comprised of four (4) or more individuals having a primary role in responding to reported incidents of sexual abuse, victim assessment and support needs, and ensuring policy and procedures are carried out that ensure resident safety.
30. **Sexual Harassment** includes
- a) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and
 - b) Repeated verbal comments or gestures of a sexual nature to a resident by a staff member, volunteer, or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
31. **Staff** means employees.
32. **Strip search** means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.
33. **Substantiated allegation** means an allegation that was investigated and determined to have occurred.
34. **Transgender** means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
35. **Unfounded allegation** means an allegation that was investigated and determined not to have occurred.
36. **Unsubstantiated allegation** means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
37. **Volunteer** means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
38. **Voyeurism** by a staff member, volunteer, or contractor means an invasion of privacy of a resident by staff for reasons unrelated to official duties, such as peering at a resident who is using a toilet in his or her room to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

CONFIDENTIALITY

- a) All information concerning an event of resident sexual abuse or sexual harassment is to be treated as confidential. Aside from reporting to designated supervisors or officials, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation and other security and management decisions. This information should never be shared with other residents.
- b) Appropriate controls shall be in place to safeguard the responses to questions asked during the screening for risk of victimization and abusiveness so that sensitive information is not exploited to the resident's detriment by staff or other residents.

- c) Security and management of documentation containing PREA information will be in accordance with facility policy regarding records management, records retentions, HIPPA, etc.

SUPERVISION AND MONITORING – 115.213

STAFFING PLAN

- a) The facility has developed a staffing plan that provides for expected levels of program supervision and monitoring to ensure the facility is safe and secure. The facility shall make its best effort to comply on a regular basis with the staffing plan. The location of video monitoring systems will be considered when determining adequate levels of staffing. In calculating staffing levels and determining the need for video monitoring, the following factors shall be taken into consideration:
 - 1. The physical layout of each building.
 - 2. The composition of the resident population.
 - 3. The prevalence of substantiated and unsubstantiated incident of sexual abuse.
 - 4. Any other relevant factors.
- b) The Supervisor of Floor Operations is responsible for reviewing the staffing plan in conjunction with the daily Residential Monitor schedule. If a staffing pattern falls below the staffing plan due to absence, the shift supervisor shall notify the Supervisor of Floor Operations of the deviation. The Supervisor of Floor Operations shall:
 - 1. Immediately work to remedy the staff plan deviation.
 - 2. Immediately notify the Facility Director.
 - 3. Document and describe the deviation along with a thorough justification for the deviation
 - 4. Notify the PREA Coordinator of the deviation within seven calendar days and include the description of any corrective actions that were taken to resolve the deviation.
- c) Whenever necessary, but no less frequently than once each year, the PREA team shall assess, determine, and document, using the Staffing Plan Annual Review Form, whether adjustments are needed to the staffing plan:
 - 1. Prevailing staffing patterns
 - 2. The facility's deployment of video monitoring and other monitoring technologies
 - 3. The resources the facility has available to commit to ensure adequate staffing levels

SUPERVISION AND MONITORING

- a) Staff shall conduct unannounced facility rounds to identify and deter sexual abuse and sexual harassment. This practice shall be implemented for all shifts and all areas where residents are permitted. Staff shall be alert to signs of potential situations in which sexual abuse or sexual harassment might occur. Staff shall:
 - Utilize video monitoring of residents;
 - Perform unannounced rounds of the facility at different times throughout the day and night with the intent of identifying and deterring sexual abuse and harassment;
 - Watch for signs staff/resident being overly friendly, offering of money, gifts, favors, etc.
 - Watch for signs of residents grooming other residents or staff.

CROSS GENDER VIEWING & SEARCHES – 115.215

RESIDENT SEARCHES AND OBSERVATIONS

- a) The facility shall not conduct cross-gender strip searches except in exigent circumstances or when performed by medical practitioners. All instances will be documented by completing the Cross Gender Viewing & Searches.

- b) Residents may shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine living quarter checks.
- c) Employees of the opposite gender must announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothes.
- d) Searches or physical examination of a transgender or intersex resident for the sole purpose of determining the resident's genital status is prohibited. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- e) Facility staff shall be trained on how to conduct cross-gender pat-down searches and searches of transgender and intersex residents, in a manner that is professional, respectful and the least intrusive possible while being consistent with security needs by completing the following training videos from the PREA Resource Center:
 - a. Communicating Effectively and Professionally with LGBTI Offenders
 - b. Cross Gender Pat searches

RESIDENTS WITH DISABILITIES/LIMITED ENGLISH PROFICIENT 115.216

- a) In the event a resident has difficulty understanding provided information or procedures outlined in this policy, employees must ensure that such information is effectively communicated to such residents on an individual basis.
- b) Program Coordinator will assign residents to Counselors based on the needs of the resident including those with limited English skills, reading or writing abilities. Documents and PREA video are available in Spanish and in large font and PREA documents are verbally reviewed with all residents.
- c) Auxiliary aids that are reasonable, effective, and appropriate to the needs of the resident shall be provided when simple written or oral communication is not effective.
- d) Residents will not be relied upon to provide interpretation services, act as readers, or provide other types of communication assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-responder duties, or the investigation of the resident's allegations. Such cases will be documented in the daily log and any additional reports.
- e) When an interpreter is needed, staff will access Language Line Solutions by calling 1-888-808-9008 and entering the PIN #24162496.

HIRING AND PROMOTION – 115.217

Any incident of sexual harassment shall be considered in determining whether to hire or promote any individual or to enlist the services of any contractor, who may have contact with residents.

- a) To the extent permitted by law, this facility shall not hire or promote and may terminate employment based on material omission regarding such misconduct of anyone and may not enlist the services of any contractor/volunteer who may have:
 - 1. Engaged in sexual abuse in a prison, jail, lock up, community confinement facility, juvenile facility, or another institution.
 - 2. Been convicted of engaging or attempting to engage in any type of sexual misconduct 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.
 - 3. Been civilly or administratively adjudicated to have engaged in any type of sexual misconduct.
- b) Before hiring new employees or enlisting the service of any contractor that may have contact with residents, the facility shall:
 - 1. Perform a criminal background records check;

2. Ask all applicants the questions included in the Applicant PREA Questions form.
3. Make *best efforts* to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse in consistent with federal, state, and local laws.
4. For potential employees, the information shall be documented on the Employer Reference Form that is completed during the initial interview process and kept in the personnel file.
5. Perform a criminal background records check before enlisting the services of any unescorted contractor who may have contact with the residents.
6. Perform a criminal background check on current employees or contractor who has contact with the residents annually.
7. Ask all applicants and employees about previous sexual misconduct in written applications or interviews for hiring or promotions and impose upon employees a continuing affirmative duty to disclose any such misconduct by completing the Employee Annual PREA Questionnaire at their annual evaluation date.
8. Consider material omissions or the provision of materially false information regarding sexual misconduct grounds for termination.
9. Provide information on substantiated allegations of sexual misconduct involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work, unless prohibited by law.

UPGRADES TO FACILITIES AND TECHNOLOGIES 115.218

The facility shall consider the effect of the design, acquisition, expansion, or modification upon the facility's ability to protect residents from sexual abuse when designing or acquiring a new facility or installing or upgrading video monitoring systems.

Responsive Planning

EVIDENCE PROTOCOL AND FORENSIC MEDICAL EXAMINATIONS 115.221

The investigating entity shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. If the facility is not responsible for investigating such allegations, the facility shall request that the responsible outside agency or entity (i.e., state or local law enforcement, contracting agency, etc.) comply with these requirements.

- a) The protocol shall be, as appropriate, adapted from the most recent National Protocol for Sexual Assault Medical Forensic Examinations (www.ncjrs.gov/pdffiles1/ovw/206554.pdf).
- b) The investigating entity and/or facility shall offer all victims of sexual abuse access to forensic medical examinations, whether onsite or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by a SAFE or SANE where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The investigating entity shall document its efforts to provide SAFEs or SANEs.
- c) The investigating entity and/or facility shall attempt to make available to the victim a victim advocate from a rape crisis center. The investigating entity and/or facility may utilize a rape crisis center that is part of a government unit as long as the center is not part of the criminal justice system (such a law enforcement agency) and offers a comparable level of confidentiality as a non-governmental entity that provides similar victim services.
- d) As requested by the victim, either the victim advocate, a qualified investigating entity staff member, or qualified community-based organization staff member shall accompany and support

the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals.

- e) A qualified agency staff member or qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

POLICIES TO ENSURE REFERRALS OF ALLEGATIONS FOR INVESTIGATIONS 115.222

- a) The Facility Director shall ensure that an administrative investigation and a referral to the Taylor County Sheriff's Office for a criminal investigation, where appropriate, are completed for all allegations of sexual abuse and sexual harassment. All referrals are documented and the CSCD Director is kept informed by the Facility Director.
- b) This policy, along with a list of responsibilities of the Taylor County Sheriff's Office and the facility, will be published on the CSCD website with all other PREA information.

Training and Education

EMPLOYEE TRAINING 115.231

The Taylor County SATF has zero tolerance relating to any sexual misconduct between staff, volunteers, or contractors, and residents and their family members. Moreover, all forms of forced or coercive sexual misconduct occurring among residents will be fully investigated, sanctioned (if authority to do so exists), and referred for prosecution if the prohibited conduct violates state criminal laws.

- a) All staff members will be trained on the following tailored to male residents:
 - 1. The zero-tolerance policy on sexual misconduct and sexual harassment.
 - 2. How to fulfill their responsibilities of prevention, detection, reporting, and response to sexual misconduct.
 - 3. Residents' rights to be free from sexual misconduct.
 - 4. The right of residents and employees to be free from retaliation for reporting sexual misconduct.
 - 5. The dynamics of sexual misconduct in confinement.
 - 6. The common reactions of sexual misconduct victims.
 - 7. How to detect and respond to signs of threatened and actual sexual misconduct.
 - 8. How to avoid inappropriate relationships with residents.
 - 9. How to communicate effectively and professionally with residents, including LGBTI and gender non-conforming residents.
 - 10. How to comply with relative laws related to mandatory reporting of sexual misconduct.
- b) All current staff members will receive PREA training within one year of hire and refresher training annually thereafter to ensure all employees understand the agency's current sexual misconduct policies and procedures.
- c) Employees transferring to a facility that houses a population whose gender is different from their previously assigned facility shall receive additional training specific to the population of the newly assigned facility.
- d) Employees shall be required to confirm, by signing the PREA Acknowledgment Form, their understanding of the received training. Signed documentation will be maintained in the employee's training file.

VOLUNTEER AND CONTRACTOR TRAINING 115.232

- a) Prior to having contact with the residents or beginning their assigned task, volunteers will be notified of the facility's zero-tolerance policy of sexual abuse as well as their responsibility under the facility's misconduct, and harassment prevention, detection, and reporting and response policies and procedures.

- b) The level and type of training provided to volunteers shall be based on the services provided and the level of contact they have with residents.
 - Volunteers with direct contact with residents will be vetted through a screening process which includes:
 - (a) Performing a criminal background records check.
 - (b) Completion of the Volunteer PREA Questionnaire.
 - Once approved the volunteer will:
 - (a) View the PREA: What You Need to Know education video.
 - (b) Receive the PREA Brochure and a copy of the SATF PREA policy.
 - (c) Sign the Volunteer PREA Acknowledgement form
 - Non-employees who are in the building without direct contact with residents will:
 - (a) Receive the PREA Brochure
 - (b) Sign the PREA Acknowledgment
- c) Documentation acknowledging understanding of the training they received will be maintained by the facility.

RESIDENT TRAINING 115.233

- a) During the intake process, all residents, including those transferred from another facility, shall receive information in a manner that is understandable regardless of individual limitations explaining:
 - 1. The agency's zero-tolerance policy regarding sexual abuse and sexual harassment
 - 2. How to report incidents or suspicions of sexual abuse or sexual harassment.
 - 3. Their right to be free from sexual abuse and sexual harassment.
 - 4. Their right to be free from retaliation for reporting such incidents.
 - 5. Agency policies and procedures for responding to such incidents.
 - 6. Consequences of false allegations.
- b) Residents will:
 - 1. View the PREA: What You Need to Know education video
 - 2. Be provided the Taylor County SATF PREA Brochure
 - 3. Receive the Resident Rulebook that includes the PREA Policy
 - 4. Complete the Resident PREA Acknowledgement Form which will be maintained in the resident's CSS file.
- c) In addition to providing such education, the facility shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

SPECIALIZED TRAINING: INVESTIGATIONS 115.234

- a) In addition to the general training provided to all employees, the PREA Coordinator shall ensure that, to the extent the facility itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. The facility shall maintain documentation confirming that investigators have completed the required specialized training.
- b) Specialized training shall include techniques for interviewing sexual abuse victim, 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.

SPECIALIZED TRAINING: MEDICAL AND MENTAL HEALTH CARE 115.235

All full and part-time Qualified Medical and Mental Health Professionals, who work regularly in the facility, shall receive specialized medical training as outlined below:

1. How to detect and assess signs of sexual abuse and sexual harassment.
2. How to preserve physical evidence of sexual abuse.
3. How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
4. How and to whom to report allegations of sexual abuse and sexual harassment.

The facility shall maintain documentation confirming that investigators have completed the required specialized training.

Screening For Risk Of Sexual Victimization And Abusiveness

SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS 115.241

- a) During the Intake process within the first 72 hours, unless operational needs warrant longer, and upon transfer to another facility, residents shall be screened by assigned staff for their risk of being sexually abused by other residents or sexually abusive towards other residents. Prior criminal history will be considered as well.
- b) Screenings will be completed and documented by the resident's counselor using the Sexual Victimization and Abusive Screening Form, which will be considered in room assignments and monitoring residents. The Program Coordinator is responsible for room assignments. He/she will ensure that the information gained in the screening form is taken into consideration before making final assignments.
- c) Residents who assess to be at risk for being a victim will receive the PREA Risk Classification of Extra Care – EC and the Program Coordinator will enter this classification into Resident Track.
- d) Residents assesses to be at risk for being an aggressor will receive the PREA Risk Classification of Needs Monitoring – NM and the Program Coordinator will enter this classification into Resident Track.
- e) All residents classified as EC or NM will be monitored by counselors and all staff for any evidence of a resident victimizing or being victimized which will be immediately reported to any supervisor and/or SATF Director.
- f) The Intake screening shall consider, at minimum, the following:
 1. Whether the resident has a mental, physical, or developmental disability.
 2. The age of the resident.
 3. The physical build of the resident.
 4. Whether the resident has previously been incarcerated.
 5. Whether the resident's criminal history is exclusively non-violent.
 6. Whether the resident has prior convictions or sex offense against an adult or child.
 7. Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
 8. Whether the resident had previously experienced sexual victimization.
 9. The resident's own perception of vulnerability.
 10. Prior sexual acts of abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse as known to the facility.
- g) Counselors will confer with the Program Coordinator and make all appropriate referrals using the Sexual Victimization Counseling Referral Form, Sexual Victimization Medical – Counseling Referral Form, and/or Sexual Victimization Mental Health – Counseling Referral Form, based on information gathered by the Sexual Victimization and Abusive Screening Form. The referral/referrals will be scanned into CSS and a copy given to the PREA Coordinator who review, distribute, and follow up to ensure that the referral needs are being met.

- h) Upon completion of the Sexual Victimization and Abusive Screening Forms, counselors will scan a copy into CSS with all other Intake paperwork and will notify the Program Coordinator who will share all pertinent information with the PREA Coordinator and SATF Director.
- i) The completed Sexual Victimization and Abusive Screening Forms will be reviewed and discussed at the after Meeting following the Intake, which includes the Supervisor/PREA Coordinator, Supervisor of Floor Operations, Program Coordinator, RSOs, and Counselors.
- j) Within 30 days of the resident's arrival, the resident will be reassessed by his assigned counselor using the Sexual Victimization and Abusive Screening Form. The reassessment will include any additional relevant information received by the facility since the initial intake screening. The reassessment will be reviewed by the Treatment Team during the weekly treatment team meeting to insure all additional relevant information is discussed and included.
- k) A resident will be reassessed when warranted, due to a referral, request, incident of sexual abuse, or receipt of additional information that may impact the resident's risk of victimization or abusiveness.
- l) Residents may not be disciplined for refusing to answer, or for not disclosing complete information, in response to questions asked pursuant to the following:
 - 1. Whether the resident has a mental, physical, or developmental disability.
 - 2. Whether the resident is, or is perceived to be, LGBTI or Gender Non-Conforming.
 - 3. Whether the resident has previously experienced sexual victimization.
 - 4. The resident's own perception of vulnerability.
- m) The treatment team will not share any information gathered during the initial screening process or screening review process with anyone outside of the treatment team members, other than the Facility Director. If/when the information is discussed between the treatment team members, it will be done in a private setting.

USE OF SCREENING INFORMATION 115.242

- a) The facility shall use the information from the Sexual Victimization and Abusive Screening Form to make housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at risk of being sexually abusive. [115.262]
- b) Should any risk factors be identified, the resident's Counselor will consult with Program Coordinator/Facility Investigator to determine a housing assignment that ensures the safety of all Residents. [115.262]
- c) The Treatment Team, during their weekly meeting, discusses all residents, paying close attention to those classified as EC or NM, which is documented in their case files.
- d) Counselors will monitor any Resident whose Sexual Victimization and Abusive Screening Form showing any signs of risk to be victimized or being an aggressor. Any evidence that this is occurring shall be immediately reported to the Program Coordinator/Facility Investigator, Facility Supervisor/PREA Coordinator, Supervisor of Floor Operations or Facility Director.
- e) While doing headcounts, floor staff utilize the PREA Risk Classification which will appear next to classified resident's names, to watch for signs of victimization or aggression. Any evidence that this is occurring shall be immediately reported to a supervisor, Program Coordinator/Facility Investigator, Facility Supervisor/PREA Coordinator, Supervisor of Floor Operations or Facility Director. [115.261]
- f) In deciding whether to assign a transgender or intersex resident to a facility, for male or female residents, and in making other housing and programming assignments, the facility shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems. [115.262]

- g) A transgender or intersex resident's own view with respect to his or her own safety shall be given serious considerations. [115.262]
- h) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- i) The facility shall not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a con decree, legal settlement, or legal judgment for the purpose of protecting such residents.

RESIDENT REPORTING 115.251

Residents who are victims of or have knowledge of sexual misconduct shall be encouraged to immediately report the incident. Residents are not required to submit a written report or go through formal steps to report allegations of sexual abuse or sexual harassment.

Reports can be made:

- 1. Verbally
- 2. In writing
- 3. Anonymously
- 4. From third parties

Residents may report sexual misconduct, retaliation by residents or staff for reporting sexual misconduct, and staff neglect or violations of responsibilities that may have contributed to such incidents any of the following ways:

- 1. Contact the Facility Director, Debbie Rowland, in person or by phone at 325-691-7407.
- 2. Report to ANY staff member or volunteer.
- 3. Submit a grievance, emergency grievance, or staff relate to the locked staff relate box.
- 4. Contact PREA Coordinator, Jennifer Cauthen, in person or by phone at 325-691-7407.
- 5. Tell a family member, friend, legal counsel, or anyone else outside the facility who can report on their behalf by calling 325-691-7407 or the Regional Victim Crisis Center at 325-677-7895.
- 6. Contact the Regional Victim Crisis Center, anonymously or named, by using the resident phones at no cost to them. The resident enters his phone ID number, chooses 1 for collect, then dials 325-677-7895.
- 7. Submit a letter, named or anonymously, to the Taylor County Sheriff's Office, 450 Pecan Street, Abilene, Texas 79602.

Employees may privately report sexual abuse and sexual harassment of residents by forwarding a letter, sealed and marked "confidential", to the facility Director. Employees can also make an anonymous report to the Regional Victim Crisis Center at 325-677-7895.

EXHAUSTION OF ADMINISTRATIVE REMEDIES 115.252

Sexual Abuse Grievance Process

- a) There is no time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.
- b) No formal grievance process is required nor is the resident required to attempt to resolve the incident with staff regarding an allegation of sexual misconduct.
- c) Nothing in this policy shall restrict the facility's ability to defend against a lawsuit filed by a resident on the grounds that the application statute of limitations has expired.
- d) The facility shall ensure:
 - 1. A resident who alleges sexual misconduct may submit a grievance without submitting it to a staff member who is the subject of the complaint.
 - 2. Such grievance is not referred to a staff member who is the subject of the complaint.
 - 3. The facility shall issue a final decision on the merits of any portion of a grievance alleging sexual misconduct within 90 days of the initial filing of the grievance.

4. Computation of the 90-day time period shall not include time consumed by the residents in preparing any appeal.
5. The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The facility shall notify the resident in writing of any such extension and provide a date by which a decision will be made.
6. At any level of the grievance process, including any properly noticed extension, the resident may consider the absence of a response to be a denial at any level.
7. Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for a grievance relating to allegations of sexual misconduct, and shall also be permitted to file such requests on behalf of residents.
8. If a third-party file such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the grievance process.
9. If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.
- e) Residents may be disciplined for filing a grievance related to alleged sexual abuse if the facility determines that the resident filed the grievance in bad faith.

Emergency Grievance Process

- a) The emergency grievance process for a resident who is alleging he is subject to imminent sexual abuse is the same as the Sexual Abuse Grievance Process *except the facility shall*:
 1. Review the grievance or any portion of a grievance citing the substantial risk of imminent sexual abuse at a level at which immediate corrective action may be taken
 2. Provide an initial response within 48 hours
 3. Issue a final decision within 5 calendar days
 4. The initial report and final decision shall document the facility's determination whether the resident was at substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
- b) Residents may be disciplined for filing a grievance related to alleged sexual abuse only if the facility determines that the resident filed the grievance in bad faith.

RESIDENT ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES 115.253

- a) The facility shall allow residents access to contact the Regional Victim Crisis Center through their 24-hour hot line at 325-677-7895 or through the mail at Regional Victim Crisis Center, PO Box 122, Abilene, Texas 79604.
- b) In unforeseen circumstances where Regional Victim Crisis Center services are not available, the facility shall allow residents access to contact the Betty Hardwick Center through their 24-hour hotline at 800-758-3344 or walk-in assistance Monday – Friday 8:00am – 3:30pm.
- c) All communication between the resident and the Regional Victim Crisis Center and/or Betty Hardwick will be done in as confidential manner as possible.
- d) Prior to giving them access, the facility shall inform the resident of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws and have them sign the RVCC Support Services Referral Form or the Betty Hardwick Support Services Referral Form.

THIRD PARTY REPORTING 115.254

Third party reporting is accepted and may be done by:

- a) Contacting the Facility Director, Debbie Rowland, in person or by phone at 325-691-7407.

- b) Contacting PREA Coordinator, Jennifer Cauthen, in person or by phone at 325-691-7407.
- c) Contact the Regional Victim Crisis Center, anonymously or named, by phone at 325-677-7895.
- d) Submitting a written report that may sealed and marked "confidential" if so desired
 - 1. In person to the Facility Director
 - 2. Mailed to 1133 S. 27th Abilene, Texas 79602 ATTN: Facility Director
 - 3. Mailed to RVCC, PO Box 122, Abilene, Texas 79604 ATTN: Taylor County SATF
Facility Director
 - 4. Mailed to Taylor County Sheriff's Office, 450 Pecan, Abilene, Texas 79602

Official response following a resident report

STAFF AND AGENCIES DUTIES 115.261

- a) Regardless of its source, staff members shall immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment by notifying the PREA Coordinator, Jennifer Cauthen, and a supervisor. The PREA Coordinator or supervisor shall immediately forward all reports to the Facility Director.
 - 1. Staff will be required to submit, to the Facility Director, a detailed summary statement of all reports as soon as possible but not later than the end of the following business day.
- b) Regardless of its source, staff members shall immediately report any knowledge of retaliation against a resident or staff who reported such an incident by notifying the PREA Coordinator Jennifer Cauthen, and a supervisor. The PREA Coordinator or supervisor shall immediately report all reports to the Facility Director.
 - 1. Staff will be required to submit, to the Facility Director, a detailed summary statement of all reports as soon as possible but not later than the end of the following business day.
- c) Staff members shall immediately report any employee's neglect or violation of responsibilities that may have contributed to an incident or retaliation by notifying the PREA Coordinator, Jennifer Cauthen, and a supervisor.
- d) Apart from reporting to the PREA Coordinator, a supervisor, and/or Facility Director, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation, and other security and management decisions.
- e) Employees shall not share information related to PREA incidents with uninvolved parties. Employees shall not seek or use information related to PREA incidents beyond that needed to perform professional responsibilities.
- f) Unless otherwise precluded by federal, state, or local law, medical and mental health professionals shall be required to report sexual abuse or sexual harassment as stated for all staff in (A), (B), and (C) of this section and shall inform residents of her/his duty to report, and the limitations of confidentiality, at the initiation of services.
- g) If the alleged victim is under the age of 18, the facility shall report the allegation to Child Protective Services @ 325-691-8100.
- h) The facility shall report all allegations of sexual abuse and sexual harassment, including third party and anonymous reports, to the Taylor County Sheriff's Department CID @ 325-674-1334.
- i) The facility Director shall inform the CSCD Director of all reports.

AGENCY PROTECTION DUTIES 115.262

When it is learned that a resident is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the resident.

- 1. Staff will notify the Facility Director/PREA Coordinator and/or supervisor and immediately move the alleged perpetrator to the TV room where he will remain until his removal.
- 2. If the removal cannot happen until the following day, the alleged perpetrator's mattress will be moved into the TV room as well, where he will sleep.

3. He will have his meals in the TV room and will use Room 11 for the restroom.
4. He will be allowed to shower in a room specified by staff who will remain in the room and keep other residents out while he uses the restroom to shower.
5. He will have his own med and mail call specified by staff.
6. His movements in and out of the TV room will be monitored by staff and noted in the daily log.
7. Staff will check on him every 15 minutes which will be noted in the daily log.

REPORTING TO OTHER CONFINEMENT FACILITIES 115.263

- a) When receiving an allegation that a resident was sexually abused while confined at another facility, the Facility Director shall notify the appropriate official of the agency where the alleged abuse occurred.
- b) Such notification shall be done as soon as possible, but no later than 72 hours after receiving the allegation.
- c) If the facility where the alleged abuse occurred is aware of and has investigated the allegation, the Taylor County SATF Director shall document the allegation, name and title of the person contacted, noting that the allegation has already been addressed. Under this circumstance, nothing further need occur.
- d) If the allegation was not reported or investigated, a copy of the statement from the alleged victim resident shall be forwarded to the appropriate official at the location where the incident was reported to have occurred. The Taylor County SATF Director shall document the allegation, any details learned from contact with the facility where the alleged abuse occurred, and their response to the allegation.
- e) The SATF Director shall ensure that such notifications are investigated in accordance with PREA policy standards if/when such a notification is received.

STAFF FIRST RESPONDER DUTIES 115.264

- a) Upon learning of an allegation of sexual abuse, the staff member who is the first to respond shall ensure the following:
 1. The alleged victim is separated and kept safe from the alleged abuser.
 2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
 3. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any action that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, eating or drinking.
 4. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser not take any action that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, eating or drinking.
 5. If necessary, call for an ambulance to transport the victim to Hendrick Medical Center, 1900 Pine Street.
 6. Keep all required information concerning the allegation confidential by discussing the information with only those employees who have a direct need to know.
 7. Complete PREA First Responder Duties Checklist
- b) The first responder will immediately notify the PREA coordinator who will ask some preliminary questions including but not limited to the following:
 1. What type of alleged sexual misconduct occurred?
 2. Who was involved in the misconduct?
 3. When did the misconduct occur?
 4. Where did the misconduct occur?

c) The PREA coordinator will then:

1. Notify the Facility Director who immediately notifies the investigating authority and then notifies the CSCD Director.
2. Ensure the investigation is initiated and documented then act as an ongoing liaison between the facility and the investigating authority.
3. If the allegation involves an employee, ensure steps are taken to place this person in a role that does not involve contact with residents.
4. Ensure that medical and mental health referrals are completed (when appropriate).
5. Ensure appropriate incident reports are completed in accordance with facility PREA policy and procedure.
6. Review, secure, and preserve any video recordings of the alleged crime scene from the time period implicated by the allegation.

COORDINATED RESPONSES 115.265

RESPONSE PROCESS

The PREA Coordinated Response Checklist will be used as a quick reference guideline to ensure that all of the parties involved meet all of the standards when responding to a sexual abuse incident. The checklist will be completed and maintained with the incident packet and will also be used by the PREA Team when conducting sexual abuse incident reviews 115.286 and data review for corrective action 115.288.

A preliminary review of the incident and the facility's response shall be conducted forty-eight (48) to seventy-two (72) hours following a reportable PREA incident. The review will be convened by the PREA Coordinator and Facility Director. At a minimum, the review shall include:

1. Discussion of the incident, and whether the incident response meets applicable standards.
2. Appropriate categorization of the incident report.
3. Completion of required notifications.
4. A request for law enforcement involvement (if appropriate).
5. Whether employee actions or failures to act contributed to the sexual abuse.

INCIDENT CLASSIFICATION

- a) Following completion of the investigation, the allegation will be classified as follows:
 1. Substantiated – An incident shall be classified as substantiated if the results of the Investigation determine that the allegation did occur.
 2. Unsubstantiated – An incident shall be classified as unsubstantiated if the results of the investigation determine that the evidence was insufficient to make a final determination of whether or not the allegation occurred.
 3. Unfounded – An incident shall be classified as unfounded if the results of the investigation determine the allegation did not occur.
- b) The PREA Team shall determine the appropriate classification of the incident and ensure that the PREA Incident Classification Form is completed and maintained with the incident packet.

PRESERVATION OF ABILITY TO PROTECT RESIDENTS FROM CONTACT WITH ABUSERS 115.266

- a) Neither the facility nor any other governmental entity responsible for collective bargaining on the facility's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the facility's ability to remove alleged staff sexual abusers from contact with residents

pending the outcome of an investigation or of a determination of whether and to what extent the discipline is warranted.

- b) Nothing in the standard shall restrict the entering into or renewal of agreements that govern:
 - 1. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of 115.272 and 115.276.
 - 2. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

FACILITY PROTECTION AGAINST RETALIATION 115.267

- a) Retaliation against residents, employees, or other parties for reporting sexual misconduct will not be tolerated. Those who are found to retaliate shall face disciplinary action up to and including unsuccessful discharge for residents and termination for employees. Protective measures by the facility include but are not limited to the following:
 - 1. Periodic status checks for residents
 - 2. Room changes or transfer for resident victims or abusers
 - 3. Removal of alleged staff or alleged resident abusers from contact with the alleged victim
 - 4. Provision of emotional support services for residents or staff who fear retaliation for reporting sexual abuse or for cooperating with investigations
- b) For at least 90 days following the report of sexual abuse, the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse is monitored to see if there are changes that may suggest possible retaliation by residents or staff and if retaliation is confirmed, the facility shall promptly act to remedy the retaliation. The protective measures should include but not be limited to:
 - 1. Resident disciplinary reports
 - 2. Room changes
 - 3. Program changes
 - 4. Negative performance reviews of staff
 - 5. Reassignment of staff
- c) If any individual who reports sexual misconduct who expresses a report of or fear of retaliation, the facility shall monitor using the PREA Retaliation Monitoring Report form to monitor and protect that individual against retaliation.
- d) If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall monitor using the PREA Retaliation Monitoring Report form to protect that individual against retaliation.
- e) The PREA Coordinator and/or Facility Director will assign the resident's counselor or Program Coordinator who will monitor the resident/residents against retaliation. Assigned staff will:
 - 1. Complete the report with the resident and report findings once every 30 days to the PREA Coordinator and/or the Facility Director.
 - 2. PREA Coordinator and/or the Facility Director will review the findings.
 - 3. The PREA Coordinator and/or the Facility Director will take active or preventive measures deemed necessary to address any retaliatory issues or potential retaliatory issues.
 - 4. Continue monitoring beyond 90 days if the initial monitoring indicates a continued need.
- A) The PREA Retaliation Monitoring Report form will be used for this process.
- F) The obligation to monitor shall terminate if the allegation is determined to be unfounded.

Investigations

CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS 115.271

CRIMINAL

- a) All investigations into allegations will be done so promptly, thoroughly, and objectively regardless of the reporting party.

- b) The Taylor County Sheriff's Office CID will conduct investigations of all incidents of sexual abuse and sexual harassment whose staff is trained in sexual abuse investigations.
- c) Their investigators shall:
 - 1. Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data.
 - 2. Interview alleged victims, suspected perpetrators, and witnesses.
 - 3. Review all prior complaints and reports of sexual abuse involving the suspected perpetrator.
- d) When the quality of evidence appears to support criminal prosecution, the facility/investigating agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- e) The credibility of an alleged victim, suspect, or witness, shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff.
- f) The facility/investigating agency shall not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- g) The investigation shall be documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence. Where feasible documentary evidence should be attached.
- h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
- i) The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation.
- k) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.
- l) Whenever feasible, the facility shall enter into a written Memorandum of Understanding (MOU) with the outside agency investigating agency or entity outlining the roles and responsibilities of both the facility and the investigating entity in performing sexual abuse investigations.

ADMINISTRATIVE

- a) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
- b) Shall be documented in written reports that include the description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- c) These reports, in both criminal and administrative investigations, the facility shall retain all written reports for as long as the alleged abuser is a resident or employee of the facility, plus five years.

EVIDENTIARY STANDARD FOR ADMINISTRATIVE INVESTIGATIONS 115.272

In any sexual abuse or sexual harassment investigation in which the facility is the primary investigating entity, the facility shall utilize a preponderance of the evidence standard for determining whether sexual abuse or sexual harassment has taken place.

REPORTING TO RESIDENTS 115.273

- a) Following an investigation into a resident's allegation of sexual abuse suffered in a facility, the facility shall be informing the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- b) If the facility did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.

- c) Following a resident's allegation that a staff member has committed sexual misconduct against the resident, the facility shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:
 - 1. The staff member is no longer posted within the resident's area;
 - 2. The staff member is no longer employed at the facility; and/or
 - 3. The facility learns that the staff member has been indicted or convicted of a charge related to sexual misconduct within the facility.
- d) Following a resident's allegation that he or she has been involved in an incident of sexual abuse by another resident, the facility shall subsequently inform the alleged victim whenever it learns:
 - 1. That the alleged abuser, if a resident, has been indicted or convicted on a charge related to sexual abuse within the facility.
 - 2. That the alleged abuser, if a staff member, is no longer employed by the facility and if he/she has been indicted or convicted on a charge related to the sexual abuse within the facility.
- E) All such notifications will be made using the Resident Allegation Status Notification Form.
- f) All such notifications or attempted notifications shall be documented. The resident shall sign the forms, verifying that such notification has been received. The signed forms shall be kept in the resident's file in CSS.
- g) The facility obligation to report under this standard shall terminate if the resident is released from their care and custody.

Discipline

DISCIPLINARY SANCTIONS FOR STAFF 115.276

- a) Employees shall be subject to disciplinary sanctions up to and including termination for violating facility sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for employees who have engaged in sexual abuse.
- b) Disciplinary sanctions for violations of facility sexual abuse or sexual harassment policies (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 employees with similar histories.
- c) All terminations for violations of the facility sexual abuse or sexual harassment policies, or resignations by employees who would have been terminated if not for their resignation, shall be reported to law enforcement agencies and to any relevant licensing bodies, unless the activity was clearly not criminal.

CORRECTIVE ACTION PLAN FOR CONTRACTORS OR VOLUNTEERS 115.277

- a) Any civilian or contractor who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies and to any relevant licensing body, unless the activity was clearly not criminal.
- b) Any other violation of the facility sexual abuse or sexual harassment policies by a civilian or contractor will result in further prohibitions up to and including termination.

DISCIPLINARY SANCTIONS FOR RESIDENTS 115.278

- a) All residents found guilty of sexual abuse shall be institutionally disciplined in accordance with the facility disciplinary procedures. Residents may also be institutionally disciplined even though law enforcement officials decline to prosecute.
- b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.

- c) The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed.
- d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the alleged perpetrator to participate in such interventions as a condition of access to programming or other benefits.
- e) A resident may be disciplined for sexual conduct with an employee only upon finding that the employee did not consent to such contact.
- F) 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, therefore, the reporting party should not be disciplined.
- g) Sexual activity of any kind between residents is prohibited and they will be discipline for such activity. However, if it is determined that the activity was not coerced, the activity will not be considered sexual abuse.
- h) Once the investigation is complete, the victim/alleged victim and the perpetrator/alleged perpetrator are kept separate while housed at the facility or until any recommended transfer or removal is completed.
- i) Residents who deliberately allege false claims of sexual abuse and/or sexual harassment can be disciplined.

Medical and Mental Care

ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES 115.282

- a) Resident victims of sexual abuse shall receive timely, unimpeded, and ongoing access to emergency medical treatment at Hendrick Medical Center and crisis intervention services as recommended by medical and mental health practitioners according to their professional judgment. Such referrals will be documented.
- b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff shall take preliminary steps to protect the victim pursuant to 115.262 and shall immediately notify the PREA Coordinator and Facility Director who will make appropriate referrals and document them.
- c) Resident victims of sexual abuse shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care, where medically appropriate.
- d) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS 115.283

- a) The evaluation and treatment of sexual abuse victims shall include, as appropriate, follow-up services, treatment plans, and whenever necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- b) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- c) Resident victims of sexual abuse while at the facility shall be offered tests for sexually transmitted infections as medically appropriate.
- d) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out the incident.

- e) Upon learning a resident has a history of resident-on-resident abuse, the counselor will refer the resident to the Program Coordinator who will refer them to Betty Hardwick Center for a mental health evaluation who will also offer treatment when deemed appropriate. This will be done within 60 days of learning of such abuse history.

Data Collection and Review

SEXUAL ABUSE INCIDENT REVIEWS 115.286

- a) The facility PREA Team shall conduct a sexual abuse incident review within 30 days of the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined unfounded.
- b) The PREA review team consists of the PREA Coordinator, Supervisor of Operations, and Program Coordinator, with input from line supervisors, investigators, and medical and mental health practitioners.
- c) The review team shall:
 - 1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
 - 2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; LGBTI and/or Gender Non-Conforming identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
 - 3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
 - 4. Assess the adequacy of staffing levels in that area during different shifts.
 - 5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
 - 6. Prepares a report of its findings using the PREA Incident Review Form and any recommendations for improvement to Facility Director.
 - 7. The facility shall implement the PREA review team's recommendations for improvement or shall document reasons for not doing so.

DATA COLLECTION 115.287

- a) The facility shall collect and compile accurate, uniform data for every allegation of sexual abuse using the most recent version of the Survey of Sexual Violence by the Department of Justice. This data should be compiled annually.
- b) The facility shall maintain, review, and collect data as needed from all available incident-based documentation including reports, investigation files, and sexual abuse incident reviews.
- c) Upon request, the facility shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

DATA REVIEW FOR CORRECTIVE ACTION 115.288

- a) The PREA Team shall review data collected pursuant to 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training including:
 - 1. Identifying problem areas.
 - 2. Taking corrective action on an ongoing basis.
 - 3. Preparing an annual report of its findings and corrective actions.

- b) The facility's 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's progress in addressing sexual abuse.
- c) The facility's report shall be approved by the CSCD Director and made readily available to the public through its website.
- d) The facility and/or CSCD may redact specific material from the reports when the reports publication would present a clear and specific threat to safety and security of a facility, but must indicate the nature of the material redacted.

DATA STORAGE, PUBLICATION, AND DESTRUCTION 115.289

- a) The facility shall ensure that data collected pursuant to 115.287 is securely maintained.
 - All documentation from each individual investigation will be maintained in the Facility Director's office in the file cabinet marked PREA. Outside of business hours, the office will remain locked but the file cabinet will remain unlocked allowing the CSCD Director and/or PREA Team access.
- b) The facility shall make all aggregated sexual abuse data readily available to the public at least annually through its website. But before making the data public, the facility shall remove all personal identifiers.
- c) The PREA Coordinator shall maintain sexual abuse collected data for at least 10 years from the date of the initial collection unless Federal, State, or local law requires otherwise.

Audits

AUDITS OF STANDARDS 115.293

Information will be made available to TDCJ-CJAD as requested for audit purposes. (115.401-405)

Auditing and Corrective Action

FREQUENCY AND SCOPE OF AUDITS 115.401

- A) During each three-year period from the date of the first audit, the CSCD shall ensure that the facility audited at least once.
- b) The facility shall demonstrate compliance with the audit instrument provided by the Department of Justice.
- c) The facility shall provide the auditor access to observe all areas of the facility.
- d) The facility shall provide the auditor with requested copies of any relevant documents.
- e) The facility shall provide the auditor with access to interview residents, staff, supervisors, and administration as requested.
- f) The facility shall allow residents to send confidential information or correspondence to the auditor.

AUDITOR QUALIFICATIONS 115.402

- a) An audit shall be conducted by:
 1. A member of a correctional monitoring body that is not a part of, or under the authority of, the facility/CSCD (but may be part of, or authorized by, the relevant State or local government).
 2. A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the facility/CSCD.
 3. Other outside individuals with relevant experience.
- b) All auditors shall be certified by the Department of Justice.

- c) No audit may be conducted by an auditor who has received financial compensation from the facility/CSCD being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the facility/CSCD's retention of the auditor.
- d) The facility shall employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the facility's/CSCD's retention of the auditor, with the exception of contracting for subsequent PREA audits.

AUDIT CONTENTS AND FINDINGS 115.403

The facility shall ensure that the auditor's final report is published on the agency's website.

AUDIT CORRECTIVE ACTION PLAN 115.404

- B) A finding of "Does Not Meet Standard" with one or more standards will trigger a 180 – day corrective action period.
- b) The auditor and the facility shall jointly develop a corrective action plan to achieve compliance.
- c) After the 180 – day corrective action period, if the auditor finds that the facility has not achieved compliance with the deficient standards, the facility may, at its discretion and cost, request a subsequent audit once it believes it has achieved compliance.

AUDIT APPEALS 115.405

- a) The facility may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
- b) If the Department determines that the facility has stated good cause for a re-evaluation, the facility may commission a re-audit by an auditor mutually agreed upon by the Department and the facility. The facility shall bear the costs of this re-audit.
- c) The findings of the re-audit shall be considered final.