

DOJ/NPREC Comparison (Lockup Facilities)

| Department of Justice | National Prison Rape Elimination Commission |
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| Prevention Planning | Prevention and Response Planning |
| <p>§ 115.111 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.</p> <p>(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.</p> <p>(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator, who may be full-time or part-time, to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its lockups.</p> | <p>PP-1: Zero tolerance of sexual abuse</p> <p>The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its lockups comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards.</p> |
| <p>§ 115.112 Contracting with other entities for the confinement of detainees.</p> <p>(a) A law enforcement agency that contracts for the confinement of its lockup detainees in lockups operated by private agencies or other entities, including other government agencies, shall include in any new contracts or contract renewals the entity’s obligation to adopt and comply with the PREA standards.</p> <p>(b) Any new contracts or contract renewals shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.</p> | <p>PP-2: Contracting with other entities for the confinement of detainees</p> <p>If law enforcement agencies contract for the confinement of their detainees, they do so only with private agencies or other entities, including other government agencies, committed to eliminating sexual abuse in their lockups, as evidenced by their adoption of and compliance with the PREA standards. Any new contracts or contract renewals include the entity’s obligation to adopt and comply with the PREA standards and specify that the law enforcement agency will monitor the entity’s compliance with these standards as part of its monitoring of the entity’s performance.</p> |
| <p>§ 115.113 Supervision and monitoring.</p> <p>(a) For each lockup, the agency shall determine the adequate levels of staffing, and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating such levels, agencies shall take into consideration the physical layout of each lockup, the composition of the detainee population, and any other relevant factors.</p> <p>(b) The lockup shall also establish a plan for how to conduct staffing and, where applicable, video monitoring, in circumstances where the levels established in paragraph (a) of this section are not attained.</p> <p>(c) Each year, the lockup shall assess, and determine whether adjustments are needed to:</p> <ol style="list-style-type: none"> (1) The staffing levels established pursuant to paragraph (a) of this section; (2) Prevailing staffing patterns; and (3) The agency’s deployment of video monitoring systems and other technologies. <p>(d) Any intake screening or assessment shall include consideration of a detainee’s</p> | <p>PP-3: Detainee supervision</p> <p>Law enforcement staff provides the detainee supervision necessary to protect detainees from sexual abuse. The upper management officials responsible for reviewing critical incidents must examine areas in the lockup where sexual abuse has occurred to assess whether physical barriers may have enabled the abuse, the adequacy of staffing levels in those areas during different shifts, and the need for monitoring technology to supplement law enforcement staff supervision (DC-1). When problems or needs are identified, the agency takes corrective action (DC-3).</p> <p>PP-4: Heightened protection for vulnerable detainees</p> <p>Any intake screening or assessment includes consideration of a detainee’s potential vulnerability to sexual abuse. When vulnerabilities are identified, law enforcement staff provides heightened protection to vulnerable detainees, which may require continuous direct sight and sound supervision or single-cell housing. Absent intake screenings or assessments, any time a law enforcement staff member observes any physical or behavioral characteristics of a detainee that suggest he or she may be vulnerable to</p> |

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| <p>potential vulnerability to sexual abuse.</p> <p>(e) If vulnerable detainees are identified, law enforcement staff shall provide such detainees with heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible.</p> <p>(f) If the lockup does not perform intake screenings or assessments, it shall have a policy and practice designed to provide heightened protection to a detainee to prevent sexual abuse whenever a law enforcement staff member observes any physical or behavioral characteristics of a detainee that suggest the detainee may be vulnerable to such abuse.</p> | <p>sexual abuse, the staff member provides sufficient protection to that detainee to prevent sexual abuse.</p> <p>PP-8: Assessment and use of monitoring technology The agency uses video monitoring systems and other cost-effective and appropriate technology to supplement its sexual abuse prevention, detection, and response efforts. The agency assesses, at least annually, the feasibility of and need for new or additional monitoring technology and develops a plan for securing such technology.</p> |
| <p>§ 115.114 Limits to cross-gender viewing and searches.</p> <p>(a) The lockup shall not conduct cross-gender strip searches or visual body cavity searches except in case of emergency or when performed by medical practitioners.</p> <p>(b) The lockup shall document all such cross-gender searches.</p> <p>(c) The lockup shall implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in the case of emergency, by accident, or when such viewing is incidental to routine cell checks.</p> <p>(d) The lockup shall not examine a transgender detainee to determine the detainee’s genital status unless the detainee’s genital status is unknown. Such examination shall be conducted in private by a medical practitioner.</p> <p>(e) The agency shall train law enforcement staff in how to conduct cross-gender patdown searches, and searches of transgender detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.</p> | <p>PP-5: Limits to cross-gender viewing and searches Except in the case of emergency, the agency prohibits cross-gender strip and visual body cavity searches. Except in the case of emergency or other extraordinary or unforeseen circumstances, the agency restricts law enforcement staff from viewing detainees of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. Any examination to determine the genital status of a detainee must be conducted in a private setting by a medical practitioner and only when the genital status is unknown to the agency.</p> |
| <p>§ 115.115 Accommodating detainees with special needs.</p> <p>(a) The agency shall ensure that detainees who are limited English proficient, deaf, or disabled are able to report sexual abuse and sexual harassment to staff directly, or through other established reporting mechanisms, such as abuse hotlines, without relying on detainee interpreters, absent exigent circumstances.</p> <p>(b) The agency shall make accommodations to convey verbally all written information about sexual abuse policies, including how to report sexual abuse and sexual harassment, to detainees who have limited reading skills or who are visually impaired.</p> | <p>PP-6: Accommodating detainees with special needs The agency ensures that detainees who are LEP, deaf, or disabled are able to report sexual abuse to staff directly, through interpretive technology, or through non-detainee interpreters. Accommodations are made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to detainees who have limited reading skills or who are visually impaired.</p> |
| <p>§ 115.116 Hiring and promotion decisions.</p> <p>(a) The agency shall not hire or promote anyone who has engaged in sexual abuse in an institutional setting; who has been convicted of engaging in sexual activity in the</p> | <p>PP-7: Hiring and promotion decisions The agency does not hire or promote anyone who has engaged in sexual abuse in an institutional setting or who has engaged in sexual activity in the community facilitated by</p> |

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| <p>community facilitated by force, the threat of force, or coercion; or who has been civilly or administratively adjudicated to have engaged in such activity.</p> <p>(b) Before hiring new employees, the agency shall:</p> <p>(1) Perform a criminal background check; and</p> <p>(2) Consistent with Federal, State, and local law, make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse.</p> <p>(c) The agency shall either conduct criminal background checks of current employees at least every five years or have in place a system for otherwise capturing such information for current employees.</p> <p>(d) The agency shall ask all applicants and employees directly about previous misconduct in written applications for hiring or promotions, in interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees.</p> <p>(e) Material omissions, or the provision of materially false information, shall be grounds for termination.</p> <p>(f) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.</p> | <p>force, the threat of force, or coercion. Consistent with Federal, State, and local law, the agency makes its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse; must run criminal background checks for all applicants and employees being considered for promotion; and must examine and carefully weigh any history of criminal activity at work or in the community, including convictions for domestic violence, stalking, and sex offenses. The agency also asks all applicants and employees directly about previous misconduct during interviews and reviews.</p> |
| <p>§ 115.117 Upgrades to facilities and technologies.</p> <p>(a) When designing or acquiring any new lockup and in planning any substantial expansion or modification of existing lockups, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency’s ability to protect detainees from sexual abuse.</p> <p>(b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency’s ability to protect detainees from sexual abuse.</p> | <p>.</p> |
| <p><i>Responsive Planning</i></p> | <p><i>Response Planning (RP)</i></p> |
| <p>§ 115.121 Evidence protocol and forensic medical exams.</p> <p>(a) To the extent the agency is responsible for investigating allegations of sexual abuse in its lockups, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.</p> <p>(b) The protocol shall be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2010. As part of the training required in §</p> | <p>RP-1: Evidence protocol and forensic medical exams</p> <p>When investigating allegations of sexual abuse in a lockup, the agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol must be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2004. As part of the agency’s evidence collection protocol, all victims of detainee-on-detainee sexually abusive penetration or staff-on-detainee sexually abusive penetration are provided with access</p> |

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| <p>115.131, employees and volunteers who may have contact with lockup detainees shall receive basic training regarding how to detect and respond to victims of sexual abuse.</p> <p>(c) The agency shall offer all victims of sexual abuse access to forensic medical exams performed by qualified medical practitioners, whether onsite or at an outside facility, without financial cost, where evidentiarily or medically appropriate.</p> <p>(d) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of these policies.</p> <p>(e) The requirements in paragraphs (a) through (d) of this section shall also apply to:</p> <p>(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in lockups; and</p> <p>(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in institutional settings.</p> | <p>and transportation to a community medical provider served by qualified forensic medical examiners. Forensic medical exams are provided free of charge to the victim. The agency makes available a victim advocate to accompany the victim through the forensic medical exam process.</p> |
| <p>§ 115.123 Policies to ensure investigation of allegations.</p> <p>(a) If another law enforcement agency is responsible for conducting investigations of allegations of sexual abuse or sexual harassment in its lockups, the agency shall have in place a policy to ensure that such allegations are investigated by an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, and shall publish such policy on its website, including a description of responsibilities of both the agency and the investigating entity.</p> <p>(b) Any State entity responsible for conducting criminal or administrative investigations of sexual abuse in lockups shall have in place a policy governing the conduct of such investigations.</p> <p>(c) Any Department of Justice component responsible for conducting criminal or administrative investigations of sexual abuse in lockups shall have in place a policy governing the conduct of such investigations.</p> | <p>RP-2: Agreements with outside law enforcement agencies</p> <p>If an agency has elected to permit another law enforcement agency to conduct criminal or administrative investigations of allegations of sexual abuse in its lockups, the agency maintains or attempts to enter into a written memorandum of understanding (MOU) or other agreement specific to investigations of sexual abuse in lockups with the outside law enforcement agency responsible for conducting investigations. If the agency confines detainees under the age of 18 or other detainees who fall under State and local vulnerable persons statutes, the agency maintains or attempts to enter into an MOU with the designated State or local services agency with the jurisdiction and authority to conduct investigations related to the sexual abuse of vulnerable persons within confinement facilities. When the agency already has an existing agreement or long-standing policy covering responsibilities for all criminal investigations, including sexual abuse investigations, it does not need to enter into a new agreement. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.</p> |
| | <p>RP-3: Agreements with the prosecuting authority</p> <p>The agency maintains or attempts to enter into a written MOU or other agreement with the authority responsible for prosecuting violations of criminal law. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.</p> |

| Training and Education | Training and Education (TR) |
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| <p>§ 115.131 Employee and volunteer training.</p> <p>(a) The agency shall train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, and to communicate effectively and professionally with all detainees.</p> <p>(b) All current employees and volunteers who may have contact with lockup detainees shall be trained within one year of the effective date of the PREA standards, and the agency shall provide annual refresher information to all such employees and volunteers to ensure that they know the agency’s current sexual abuse policies and procedures.</p> <p>(c) The agency shall document, via employee signature or electronic verification, that employees understand the training they have received.</p> | <p>TR-1: Employee and volunteer training</p> <p>The agency trains all lockup employees and any volunteers who have contact with detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant Federal, State, and local law. The agency trains all lockup employees and volunteers who have contact with detainees to communicate effectively and professionally with all detainees. Current lockup employees and volunteers are educated as soon as possible following the agency’s adoption of the PREA standards, and the agency provides periodic refresher information to all lockup employees and volunteers to ensure that they know the agency’s most current sexual abuse policies and procedures. The agency maintains written documentation showing lockup employee and volunteer signatures verifying that they understand the training they have received.</p> |
| <p>§ 115.132 Detainee, attorney, contractor, and inmate worker notification of the agency’s zero-tolerance policy.</p> <p>(a) During the intake process, employees shall notify all detainees of the agency’s zero-tolerance policy regarding sexual abuse.</p> <p>(b) The agency shall ensure that, upon entering the lockup, attorneys, contractors, and any inmates who work in the lockup are informed of the agency’s zero-tolerance policy regarding sexual abuse.</p> | <p>TR-2: Detainee, attorney, contractor, and inmate worker notification of the agency’s zero-tolerance policy</p> <p>Employees notify all detainees of the agency’s zero-tolerance policy regarding sexual abuse during intake. The agency ensures that attorneys, contractors, and inmate workers are informed of the agency’s zero-tolerance policy regarding sexual abuse upon entering the lockup.</p> |
| <p>§ 115.134 Specialized training: investigations.</p> <p>(a) In addition to the general training provided to all employees and volunteers pursuant to § 115.131, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.</p> <p>(b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of <i>Miranda</i> and <i>Garrity</i> warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.</p> <p>(c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.</p> <p>(d) Any State entity or Department of Justice component that investigates sexual abuse in lockups shall provide such training to their agents and investigators who conduct such investigations.</p> | <p>TR-3: Specialized training: Investigations</p> <p>In addition to the general training provided to all employees and volunteers (TR-1), the agency ensures that law enforcement staff who investigate sexual abuse in lockups have received comprehensive and up-to-date training in conducting such investigations in confinement settings. Specialized training must include techniques for interviewing sexual abuse victims, proper use of <i>Miranda</i>- and <i>Garrity</i>-type warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The agency maintains written documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.</p> |

| Reporting | Reporting (RE) |
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| <p>§ 115.151 Detainee reporting. (a) The agency shall provide multiple ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. (b) The agency shall also make its best efforts to provide at least one way for detainees to report abuse or harassment to an outside governmental entity that is not affiliated with the agency or that is operationally independent from agency leadership, such as an inspector general or ombudsperson. (c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports. (d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees.</p> | <p>RE-1: Detainee reporting The agency provides multiple ways for detainees to report easily, privately, and securely sexual abuse, retaliation by other detainees or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. Staff accepts reports made verbally, in writing, anonymously, and from third parties and immediately puts into writing any verbal reports.</p> |
| <p>§ 115.154 Third-party reporting. The agency shall establish a method to receive third-party reports of sexual abuse in its lockups. The agency shall distribute publicly information on how to report sexual abuse on behalf of a detainee.</p> | <p>RE-3: Third-party reporting The agency receives and investigates all third-party reports of sexual abuse (IN-1). At the conclusion of the investigation, the agency notifies in writing the third-party individual who reported the abuse and the detainee named in the third-party report of the outcome of the investigation. The agency publicly distributes or posts information on how to report sexual abuse on behalf of a detainee.</p> |
| | <p>RE-2: Exhaustion of administrative remedies Under agency policy, a detainee has exhausted his or her administrative remedies with regard to a claim of sexual abuse either (1) when the agency makes a final decision on the merits of the report of abuse (regardless of whether the report was made by the detainee, made by a third party, or forwarded from an outside official or office) or (2) when 90 days has passed since the report was made, whichever occurs sooner. A report of sexual abuse triggers the 90-day exhaustion period regardless of the length of time that has passed between the abuse and the report. A detainee seeking immediate protection from imminent sexual abuse will be deemed to have exhausted his or her administrative remedies 48 hours after notifying any agency staff member of his or her need for protection.</p> |
| <p>Official Response Following Detainee Report</p> | <p>Official Response Following an Detainee Report (OR)</p> |
| <p>§ 115.161 Staff and agency reporting duties. (a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in an agency lockup; retaliation against detainees or staff who</p> | <p>OR-1: Staff and facility head reporting duties All staff members are required to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an institutional setting; retaliation against detainees or staff who reported</p> |

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| <p>reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation.</p> <p>(b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment and investigation decisions.</p> <p>(c) If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.</p> <p>(d) The agency shall report all allegations of sexual abuse, including third-party and anonymous reports, to the agency’s designated investigators.</p> | <p>abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. Apart from reporting to designated supervisors or officials, staff must not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment and investigation decisions. If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency head must report the allegation to the designated State or local services agency under applicable mandatory reporting laws.</p> |
| <p>§ 115.162 Reporting to other confinement facilities.</p> <p>(a) Within 14 days of receiving an allegation that a detainee was sexually abused while confined at another facility or lockup, the head of the facility or lockup that received the allegation shall notify in writing the head of the facility or lockup or appropriate central office of the agency where the alleged abuse occurred.</p> <p>(b) The facility or lockup head or central office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.</p> | <p>OR-2: Reporting to other confinement facilities</p> <p>When the agency receives an allegation that a detainee was sexually abused while confined at another facility or lockup, the head of the agency where the report was made notifies in writing the head of the facility or lockup where the alleged abuse occurred. The head of the facility or lockup where the alleged abuse occurred ensures the allegation is investigated.</p> |
| <p>§ 115.163 Staff first responder duties.</p> <p>(a) Upon learning that a detainee was sexually abused within a time period that still allows for the collection of physical evidence, the first law enforcement staff member to respond to the report shall be required to:</p> <ol style="list-style-type: none"> (1) Separate the alleged victim and abuser; (2) Seal and preserve any crime scene; and (3) Request the victim not to take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. <p>(b) If the first staff responder is not a law enforcement staff member, he or she shall be required to request the victim not to take any actions that could destroy physical evidence and then notify law enforcement staff.</p> | <p>OR-3: Staff first responder duties</p> <p>Upon learning that a detainee was sexually abused within a time period that still allows for the collection of physical evidence, the first law enforcement staff member to respond to the report is required to (1) separate the alleged victim and abuser; (2) seal and preserve any crime scene(s); and (3) instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing his or her clothes, urinating, defecating, smoking, drinking, or eating. If the first staff responder is a non-law enforcement staff member, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and then notify law enforcement staff.</p> |
| <p>§ 115.164 Coordinated response.</p> <p>(a) The agency shall coordinate actions taken in response to a lockup incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and agency leadership.</p> <p>(b) If a victim is transferred from the lockup to a jail, prison, or medical facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim’s potential need for medical or social services, unless the victim requests otherwise.</p> | <p>OR-4: Coordinated response</p> <p>All actions taken in response to an incident of sexual abuse are coordinated among staff first responders, medical and mental health practitioners, investigators, and agency leadership. The agency’s coordinated response ensures that victims receive all necessary immediate and ongoing medical, mental health, and support services and that investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.</p> |

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| <p>§ 115.165 Agency protection against retaliation.</p> <p>(a) The agency shall protect all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff.</p> <p>(b) The agency shall employ multiple protection measures, including housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.</p> <p>(c) The agency shall monitor the conduct and treatment of detainees or staff who have reported sexual abuse or cooperated with investigations, and shall act promptly to remedy any such retaliation.</p> <p>(d) The agency shall not enter into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff abusers from contact with victims pending an investigation.</p> | <p>OR-5: Agency protection against retaliation</p> <p>The agency protects all detainees and staff who report sexual abuse or cooperate with sexual abuse investigations from retaliation by other detainees or staff. The agency employs multiple protection measures, including housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for staff members who fear retaliation for reporting sexual abuse or cooperating with investigations. The agency monitors the conduct and/or treatment of staff who have reported sexual abuse or cooperated with investigations. When retaliation is determined to be taking place, the agency takes immediate steps to protect the detainee or staff member.</p> |
| <p>Investigations</p> | <p>Investigations (IN)</p> |
| <p>§ 115.171 Criminal and administrative agency investigations.</p> <p>(a) When the agency conducts its own investigations into allegations of sexual abuse, it shall do so promptly, thoroughly, and objectively, using investigators who have received special training in sexual abuse investigations pursuant to § 115.134, and shall investigate all allegations of sexual abuse, including third-party and anonymous reports.</p> <p>(b) 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.</p> <p>(c) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.</p> <p>(d) The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as detainee or staff.</p> <p>(e) Administrative investigations:</p> <p>(1) Shall include an effort to determine whether staff actions or failures to act facilitated the abuse; and</p> <p>(2) Shall be documented in written reports that include a description of the</p> | <p>IN-1: Duty to investigate</p> <p>The agency investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the lockup.</p> <p>IN-2: Criminal and administrative agency investigations</p> <p>Agency investigations into allegations of sexual abuse are prompt, thorough, objective, and conducted by investigators who have received special training in sexual abuse investigations (TR-3). When outside agencies investigate sexual abuse, the agency has a duty to keep abreast of the investigation and cooperate with outside investigators (RP-2). Investigations include the following elements:</p> <ul style="list-style-type: none"> • Investigations are initiated and completed within the timeframes established by the highest- ranking agency official, and the highest-ranking official approves the final investigative report. • Investigators gather direct and circumstantial evidence, including physical and DNA evidence when available; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse or misconduct involving the suspected perpetrator. • When the quality of evidence appears to support criminal prosecution, prosecutors are contacted to determine whether compelled interviews may be an obstacle for subsequent |

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| <p>physical and testimonial evidence, the reasoning behind credibility assessments, and investigative findings.</p> <p>(f) 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.</p> <p>(g) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.</p> <p>(h) The agency shall retain such investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.</p> <p>(i) The departure of the alleged abuser or victim from the employment or control of the lockup or agency shall not provide a basis for terminating an investigation.</p> <p>(j) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.</p> <p>(k) When outside agencies investigate sexual abuse, the agency shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.</p> | <p>criminal prosecution.</p> <ul style="list-style-type: none"> Investigative findings are based on an analysis of the evidence gathered and a determination of its probative value. The credibility of a victim, suspect, or witness is assessed on an individual basis and is not determined by the person’s status as detainee or staff. Investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur. Administrative investigations are documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments. Criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits. Substantiated allegations of conduct that appears to be criminal are referred for prosecution. |
| <p>§ 115.172 Evidentiary standard for administrative investigations. The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.</p> | <p>IN-3: Evidence standard for administrative investigations Allegations of sexual abuse are substantiated if supported by a preponderance of the evidence.</p> |
| <p>Discipline</p> | |
| <p>§ 115.176 Disciplinary sanctions for staff.</p> <p>(a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.</p> <p>(b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual touching.</p> <p>(c) Sanctions shall be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.</p> <p>(d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.</p> | <p>DI-1: Disciplinary sanctions for staff</p> <p>Staff is subject to disciplinary sanctions up to and including termination when staff has violated agency sexual abuse policies. The presumptive disciplinary sanction for staff members who have engaged in sexually abusive contact or penetration is termination. This presumption does not limit agency discretion to impose termination for other sexual abuse policy violations. All terminations for violations of agency sexual abuse policies are to be reported to appropriate law enforcement agencies and any relevant licensing bodies.</p> |
| <p>§ 115.177 Referrals for prosecution for detainee-on-detainee sexual abuse.</p> <p>(a) When there is probable cause to believe that a detainee sexually abused another detainee in a lockup, the agency shall refer the matter to the appropriate prosecuting authority.</p> <p>(b) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of this policy.</p> | <p>DI-2: Referrals for prosecution for detainee-on-detainee sexual abuse</p> <p>When there is probable cause to believe that a detainee sexually abused another detainee, the agency refers the matter to the appropriate prosecuting authority.</p> |

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| <p>(c) Any State entity or Department of Justice component that is responsible for investigating allegations of sexual abuse in lockups shall be subject to this requirement.</p> | |
| <p>Medical Care</p> | <p>Medical and Mental Health Care (MM)</p> |
| <p>§ 115.182 Access to emergency medical services. (a) Detainee victims of sexual abuse in lockups shall receive timely, unimpeded access to emergency medical treatment. (b) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser.</p> | <p>MM-1: Access to emergency medical and mental health services Victims of sexual abuse have timely, unimpeded access to emergency medical services following an incident of sexual abuse, regardless of whether they name an abuser. Treatment services must be provided free of charge to the victim. The agency is responsible for ensuring their safe and timely transportation to community medical providers and for referring victims to appropriate community mental health services.</p> |
| <p>Data Collection and Review</p> | <p>Data Collection and Review (DC)</p> |
| <p>§ 115.186 Sexual abuse incident reviews. (a) The lockup shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. (b) The review team shall include upper management officials, with input from line supervisors and investigators. (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 or otherwise caused by the perpetrator or victim’s race, ethnicity, sexual orientation, gang affiliation, or other group dynamics at the lockup; (3) Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings and any recommendations for improvement and submit such report to the lockup head and agency PREA coordinator.</p> | <p>DC-1: Sexual abuse incident reviews The agency treats all instances of sexual abuse as critical incidents to be examined by a group of upper management officials, with input from line supervisors and investigators. The review team evaluates each incident of sexual abuse to identify any policy, training, or other issues related to the incident that indicate a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse. The review team also considers whether incidents were motivated by racial or other group dynamics at the lockup. When incidents are determined to be motivated by racial or other group dynamics, upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems. The sexual abuse incident review takes place at the conclusion of every sexual abuse investigation, unless the allegation was determined to be unfounded. The review team prepares a report of its findings and recommendations for improvement and submits it to the agency head.</p> |
| <p>§ 115.187 Data collection. (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at lockups under its direct control using a standardized instrument and set of definitions. (b) The agency shall aggregate the incident-based sexual abuse data at least annually. (c) The incident-based data collected shall include, at a minimum, the data necessary</p> | <p>DC-2: Data collection The agency collects accurate, uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence. Data are obtained from multiple sources, including reports, investigation files, and sexual abuse incident reviews. The agency also</p> |

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| <p>to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice’s Bureau of Justice Statistics, or any subsequent form developed by the Bureau of Justice Statistics and designated for lockups.</p> <p>(d) The agency shall collect data from multiple sources, including reports, investigation files, and sexual abuse incident reviews.</p> <p>(e) The agency also shall obtain incident-based and aggregated data from any private agency with which it contracts for the confinement of its detainees.</p> <p>(f) Upon request, the agency shall provide all such data from the previous year to the Department of Justice no later than June 30.</p> | <p>obtains incident-based and aggregated data from every agency with which it contracts for the confinement of its detainees.</p> |
| <p>§ 115.188 Data review for corrective action.</p> <p>(a) The agency shall review data collected and aggregated pursuant to section 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:</p> <ol style="list-style-type: none"> (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole. <p>(b) Such report shall include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual abuse.</p> <p>(c) The agency’s report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.</p> <p>(d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a lockup, but must indicate the nature of the material redacted.</p> | <p>DC-3: Data review for corrective action</p> <p>The agency reviews, analyzes, and uses all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. Using these data, the agency identifies problem areas, including any racial or other group dynamics underpinning patterns of sexual abuse, takes corrective action on an ongoing basis, and, at least annually, prepares a report of its findings and corrective actions for each lockup as well as the agency as a whole. The annual report also includes a comparison of the current year’s data and corrective actions with those from prior years and provides an assessment of the agency’s progress in addressing sexual abuse. The agency’s report is approved by the agency head, submitted to the appropriate legislative body, and made readily available to the public through its Web site or, if it does not have one, through other means. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of an agency, but it must indicate the nature of the material redacted.</p> |
| <p>§ 115.189 Data storage, publication, and destruction.</p> <p>(a) The agency shall ensure that data collected pursuant to § 115.187 are securely retained.</p> <p>(b) The agency shall make all aggregated sexual abuse data, from lockups under its direct control and any private agencies with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.</p> <p>(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.</p> <p>(d) The agency shall maintain sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.</p> | <p>DC-4: Data storage, publication, and destruction</p> <p>The agency ensures that the collected sexual abuse data are properly stored, securely retained, and protected. The agency makes all aggregated sexual abuse data, from lockups under its direct control and those entities with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers from the data. The agency maintains sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law allows for the disposal of official information in less than 10 years.</p> |

| Audits | Audits (AU) |
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| <p>§ 115.193 Audits of standards.</p> <p>(a) An audit shall be considered independent if it is conducted by:</p> <p>(1) A correctional monitoring body that is not part of the agency but that is part of, or authorized by, the relevant State or local government;</p> <p>(2) An auditing entity that is within the agency but separate from its normal chain of command, such as an inspector general or ombudsperson who reports directly to the agency head or to the agency’s governing board; or</p> <p>(3) Other outside individuals with relevant experience.</p> <p>(b) No audit may be conducted by an auditor who has received financial compensation from the agency being audited within the three years prior to the agency’s retention of the auditor.</p> <p>(c) The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency’s retention of the auditor, with the exception of contracting for subsequent audits.</p> <p>(d) All auditors shall be certified by the Department of Justice to conduct such audits, and shall be re-certified every three years.</p> <p>(e) The Department of Justice shall prescribe methods governing the conduct of such audits, including provisions for reasonable inspections of facilities, review of documents, and interviews of staff and detainees. The Department of Justice also shall prescribe the minimum qualifications for auditors.</p> <p>(f) The agency shall enable the auditor to enter and tour facilities, review documents, and interview staff and detainees to conduct a comprehensive audit.</p> <p>(g) The agency shall ensure that the auditor’s final report is published on the agency’s website if it has one or is otherwise made readily available to the public.</p> | <p>AU-1: Audits of standards</p> <p>The public agency ensures that all of its lockups, including contract facilities, are audited to measure compliance with the PREA standards. Audits must be conducted at least every three years by independent and qualified auditors. The public or contracted agency allows the auditor to enter and tour lockups, review documents, and interview staff and detainees, as deemed appropriate by the auditor, to conduct comprehensive audits. The public agency ensures that the report of the auditor’s findings and the public or contracted agency’s plan for corrective action (DC-3) are published on the appropriate agency’s Web site if it has one or are otherwise made readily available to the public.</p> |