



DEPARTMENT OF THE ARMY
U.S. ARMY CORRECTIONS COMMAND
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WASHINGTON, DC 20310-0150

SEP 11 2014

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MEMORANDUM FOR ARMY CORRECTIONS SYSTEM (ACS) FACILITIES

SUBJECT: Army Corrections Command (ACC) Policy Letter #35, Prison Rape Elimination Act (PREA)

1. REFERENCES.

- a. Prison Rape Elimination Act of 2003, Pub. L. 108-79, 117 STAT. 972.
- b. Prison Rape Elimination Act, Prison and Jail Standards, United States Department of Justice Final Rule, 28 C.F.R. Part 115.
- c. Presidential Memorandum, 17 May 12, subject: Implementing the Prison Rape Elimination Act.
- d. Army Regulation (AR) 190-47, The Army Corrections System, 15 Jun 06.
- e. Directive-type Memorandum (DTM) 13-002 (Department of Defense Implementation of the Prison Rape Elimination ACT (PREA)), 10 Feb 13, with Change 1 effective 19 Sep 13.

2. PURPOSE. To establish policy and procedural guidelines for ACS facilities in preventing, detecting and responding to all forms of sexual abuse and sexual harassment.

3. POLICY/PREVENTION PLANNING.

a. The United States Army and Army Corrections Command (ACC) have a zero tolerance policy for sexual abuse and sexual harassment, regardless of whether the offender or victim is a prisoner, staff, contractor or volunteer. ACC facility policies and Standard Operating Procedures (SOP) will reflect zero tolerance toward all forms of sexual abuse and sexual harassment; thorough investigating all allegations; screening of prisoners; mandatory standardized annual training; a proactive leadership role; trained first responders; and thorough screening of new hires and a review of data collection.

b. All Army Corrections System (ACS) facilities will have written SOPs mandating zero tolerance for sexual abuse and sexual harassment. The SOPs will outline the following:

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(1) How it will implement the zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment.

(2) Definitions of prohibited behaviors regarding sexual assault and sexual harassment, which do not exclude Article 120.

(3) Sanctions for those found to have participated in prohibited behaviors.

(4) Description of strategies and responses to reduce and prevent sexual abuse and sexual harassment of prisoners.

(5) Institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

c. ACC has designated a PREA Coordinator. This position will be assigned at ACC Headquarters with sufficient time and authority to develop, implement and oversee ACS facility efforts to comply with the PREA standards in all of its facilities. Each ACS facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facilities efforts to comply with the PREA standards. An organizational chart will indicate these positions.

d. Army Corrections Command will post on its website the POC information for its agency wide PREA Coordinator and facility PREA compliance managers. Each ACS facility will designate in writing, and send to ACC a copy of the appointment order for its designated PREA compliance manager. (§ 115.11)

e. ACC does not contract with private agencies or other entities for the confinement of prisoners. Installation Management Command (IMCOM) is responsible for any contracts. (§ 115.12)

f. Each ACS facility shall develop a posting requirement plan. The plan shall provide adequate levels of staffing and video monitoring to protect prisoners against sexual abuse. Any deviation from the staffing plan shall be documented. When developing a facility plan, the following will be considered:

(1) Generally accepted detention and correctional practices;

(2) Any judicial findings of inadequacy;

(3) Any findings of inadequacy from Federal investigative agencies;

(4) Any findings of inadequacy from internal or external oversight bodies;

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(5) All components of the facilities physical plant (blind spots or areas of staff or prisoner isolation);

(6) Composition of prisoner population;

(7) The number and placement of supervisory staff;

(8) Institution Programs occurring on a particular shift (e.g. education, recreation);

(9) Any applicable DoD Instructions, Army Regulations and standards;

(10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse;

(11) Any other relevant factors.

g. In circumstances where the facility posting requirement is not complied with, the facility shall document and justify all deviations from the plan.

h. Whenever necessary, but not less than annually, the PREA Coordinator in collaboration with each ACS facility PREA Compliance Manager shall assess, determine, and document whether adjustments are needed to:

(1) The posting requirements established pursuant to paragraph (3.f.) of this section;

(2) The facility's deployment of video monitoring systems and other monitoring technologies; and

(3) The resources the facility has available to commit to ensure adherence to the posting requirements.

i. Each ACS facility shall implement a SOP and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment, all unannounced rounds will be documented.

(1) Such policy and practice shall be implemented for night shifts as well as day shifts.

(2) Facilities shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility (§ 115.13).

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j. All Youthful prisoners will be designated to the Midwest Joint Regional Correctional Facility (MWJRCF). These prisoners will not be in sight, sound or have physical contact with any adult prisoner through a dayroom, shower, or sleeping quarters. When outside housing units the MWJRCF will provide direct staff supervision when youthful prisoners and adult prisoners have sight, sound or potential for physical contact.

k. The MWJRCF shall make its best effort to avoid placing youthful prisoners in isolation to comply with this provision. Absent exigent circumstances, the MWRJCF shall not deny youthful prisoners daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful prisoners shall also have access to other programs and work opportunities to the extent possible. (§ 115.14)

l. No staff in an ACS facility shall conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

m. Facilities shall not permit cross-gender frisk searches of female prisoners, absent exigent circumstances. Facilities shall not restrict female prisoners' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. Any cross gender frisk searches of females will be documented and tracked.

n. Facilities shall implement policies and procedures that enable prisoners to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a prisoner housing unit.

o. Facility Staff shall not search or physically examine a transgender or intersex prisoners for the sole purpose of determining the prisoner's genital status. If the prisoner's genital status is unknown, it may be determined during conversations with the prisoner, 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.

p. All ACS facilities will announce when an opposite sex enters the housing areas, this will be accomplished by:

(1) Announcing at the beginning of a shift when a member of the opposite sex is being assigned to that housing area for that specific shift.

(2) Every time a member of the opposite sex enters the housing area when a member of the opposite sex is not present in that housing area.

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q. ACS facilities shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex prisoners, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. ACS facilities shall use staff training slides found in "The Army Policing Portal/ACC Operations/Document Library"
<https://west.esps.disa.mil/army/sites/APP/SiteAssets/AppHome.aspx> (§ 115.15)

r. ACS facilities shall take appropriate steps to ensure that prisoners with disabilities (including, for example, prisoners who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

(1) Such steps shall include, when necessary to ensure effective communication with prisoners who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(2) In addition, facilities shall ensure that written materials are provided in formats or through methods that ensure effective communication with prisoners with disabilities, including prisoners who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

(3) Facilities are not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

s. ACC facilities do not house prisoners that are limited English proficient. ACS facilities only confine U.S. military personnel who had to be proficient in English to become a service member. (§ 115.16)

t. ACC and ACS facilities will determine soldiers/applicants unsuitable for employment and current employees unsuitable for promotion regarding anyone who may have contact with prisoners, and shall not enlist the services of any contractor who may have contact with prisoners, who:

(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

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(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (t.(2)) of this section.

u. ACC and ACS facilities will consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with prisoners.

v. Before hiring new employees who may have contact with prisoners, the ACC and ACS Facilities shall:

(1) Perform a criminal background records check; and

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

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

x. ACS facilities will perform a criminal background records check before enlisting the services of any contractor who may have contact with prisoners.

y. ACC and ACS facilities shall conduct criminal background records checks at least every five years of current employees and contractors who may have contact with prisoners. This will be accomplished upon the initial issue of a badge and every five years upon the reissue of a badge.

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

aa. Unless prohibited by law, all facilities/agencies shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. (§ 115.17)

bb. When designing or acquiring any new facility or planning any substantial expansion or modification of the existing facilities, ACC/ACS facilities shall consider the

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effect of the design, acquisition, expansion, or modification upon the facilities ability to protect prisoners from sexual abuse.

cc. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the facility shall consider how such technology may enhance its ability to protect prisoners from sexual abuse. (§ 115.18)

4. RESPONSE PLANNING.

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

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

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

d. ACS facilities shall make available to the victim a SHARP representative to provide victim advocate services

e. As requested by the victim, the victim advocate, SHARP victim advocate shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

f. To the extent that ACS facilities are not responsible for investigating allegations of sexual abuse, facilities shall request that the Criminal Investigation Division (CID) follow the requirements of paragraphs (4.a. through 4.e.) of this section. The requirements of paragraphs (4.a. through 4.e.) of this section shall also apply to:

(1) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

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(2) For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. (§ 115.21)

g. All ACS facilities will ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

h. ACC will have a Memorandum of Understanding (MOU) with CID to ensure that allegations of sexual abuse or sexual harassment are referred for investigation, unless the allegation does not involve potentially criminal behavior. ACC will publish such policy on its website.

i. ACS facilities shall track the number of allegations of sexual abuse/harassment that were received and resulted in administrative investigations or referred for criminal investigation. (§ 115.22)

5. TRAINING AND EDUCATION.

a. All ACS facilities shall train all Soldiers and civilian employees who may have contact with prisoners on:

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

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(10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

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

c. The facility shall provide each employee with refresher training every year to ensure that all employees know the facilities' current sexual abuse and sexual harassment policies and procedures.

(1) ACS facilities shall document, through employee signature or electronic verification that employees understand the training they have received.

(2) ACS facilities shall use staff training slides found in "The Army Policing Portal/ACC Operations/Document Library"
<https://west.esps.disa.mil/army/sites/APP/SiteAssets/AppHome.aspx> (§ 115.31)

d. Every ACS facility will ensure that all volunteers and contractors who have contact with prisoners have been trained on their responsibilities under the facilities' sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

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

(1) ACS facilities shall maintain documentation confirming that volunteers and contractors understand the training they have received.

(2) ACS facilities shall use volunteer and contractor training slides found in "The Army Policing Portal/ACC Operations/Document Library"
<https://west.esps.disa.mil/army/sites/APP/SiteAssets/AppHome.aspx> (§ 115.32)

f. ACS facilities shall provide training:

(1) During the intake process prisoners shall receive information explaining the facility's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

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(2) Within 30 days of intake, the facility shall provide comprehensive education to prisoners either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and information regarding the facility's policies and procedures for responding to such incidents.

g. Prisoners shall receive education upon transfer to a different facility to the extent that the policies and procedures of the prisoner's new facility differ from those of the previous facility.

h. The facility shall provide prisoner education in formats accessible to all prisoners, including those who are deaf, visually impaired, or otherwise disabled, as well as to prisoners who have limited reading skills.

i. The facility shall maintain documentation of prisoner participation in these education sessions.

j. In addition to providing such education, the facility shall ensure that key information is continuously and readily available or visible to prisoners through posters, prisoner handbooks, or other written formats. (§ 115.33)

k. In addition to the general training provided to all employees pursuant to § 115.31, facilities 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.

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

m. ACC and ACS facilities shall maintain documentation that CID and Military Police Investigators (MPI) investigators have completed the required specialized training in conducting sexual abuse investigations.

n. As stated in 28 C.F.R. Any Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations. (§115.34)

o. Each ACS facility shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

(1) How to detect and assess signs of sexual abuse and sexual harassment;

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(2) How to preserve physical evidence of sexual abuse;

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

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

p. If medical staff employed by the facility conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

q. Facilities shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the facility or elsewhere.

r. Medical and mental health care practitioners shall also receive the training mandated for employees under 28 C.F.R. § 115.31 or for contractors and volunteers under 28 C.F.R. § 115.32, depending upon the practitioner's status at the facility. (§ 115.35)

6. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS.

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

b. Intake screening shall ordinarily take place upon arrival at the facility.

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

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

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

(2) The age of the prisoner;

(3) The physical build of the prisoner;

(4) Whether the prisoner has previously been incarcerated;

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

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

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

(8) Whether the prisoner has previously experienced sexual victimization;

(9) The prisoner's own perception of vulnerability; and

(10) Whether the prisoner is detained solely for civil immigration purposes.

e. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing prisoners for risk of being sexually abusive. ACS facilities shall use the Screening Checklists (sexual abuser and sexual victimization) found in "The Army Policing Portal/ACC Operations/Document Library".
["https://west.esps.disa.mil/army/sites/APP/SiteAssets/AppHome.aspx"](https://west.esps.disa.mil/army/sites/APP/SiteAssets/AppHome.aspx)

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

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

h. Prisoners may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs 6. d.(1), (7), (8) or (9) of this section.

i. ACS facilities shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the prisoner's detriment by staff or other prisoners (§ 115.41)

j. Each ACS facility shall use information from the risk screening required by 28 C.F.R. § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those prisoners at high risk of being sexually victimized from those at high risk of being sexually abusive.

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k. The facility shall make individualized determinations about how to ensure the safety of each prisoner.

l. In deciding whether to assign a transgender or intersex prisoner to a male or female facility, a HQDA/(Navy HQ Corrections, as applicable) special classification committee will consider, on a case by case basis, whether placement would ensure a prisoner's health and safety, or present a management or security problem. ACS facilities in making other housing and programming assignments will consider on a case by case basis whether placement would ensure a prisoner's health and safety, or present a management or security problem, these considerations will be reviewed by the facilities classification review committee.

m. Placement and programming assignments for each transgender or intersex prisoner shall be reassessed at least twice each year to review any threats to safety experienced by the prisoner.

n. A transgender or intersex prisoner's own views with respect to his or her own safety shall be given serious consideration.

o. Transgender and intersex prisoner shall be given the opportunity to shower separately from other prisoners.

p. ACS facilities shall not place lesbian, gay, bisexual, transgender, or intersex prisoners in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such prisoners. (§ 115.42)

q. Prisoners at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the prisoner in involuntary segregated housing for less than 24 hours while completing the assessment.

r. Prisoners placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:

- (1) The opportunities that have been limited;
- (2) The duration of the limitation; and

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(3) The reasons for such limitations.

s. ACS facilities shall assign such prisoners to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

t. If an involuntary segregated housing assignment is made pursuant to paragraph (q) of this section, the facility shall clearly document:

(1) The basis for the facility's concern for the prisoner's safety; and

(2) The reason why no alternative means of separation can be arranged.

(3) Every 30 days, the facility shall afford each such prisoner a review to determine whether there is a continuing need for separation from the general population. (§ 115.43)

7. REPORTING.

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

b. Facilities shall also provide at least one way for prisoners to report abuse or harassment to a public or private entity or office that is not part of the facility, and that is able to receive and immediately forward prisoner reports of sexual abuse and sexual harassment to facility officials, allowing the prisoner to remain anonymous upon request.

c. Facilities will develop a policy mandating that staff will accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

d. Facilities will develop a policy and procedure for staff to privately report sexual abuse and sexual harassment of prisoners. (§ 115.51)

e. ACS facilities do not allow grievances procedures addressing sexual abuse. Prisoners will use the multiple reporting methods available to them for addressing any sexual abuse and sexual harassment as discussed in (§ 115.51).
(§ 115.52)

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f. The facility shall provide prisoners with access to outside victim advocates for emotional support services related to sexual abuse by posting the SAFE Helpline number adjacent to the prisoners' phones. The facility shall enable reasonable communication between prisoners and these organizations and agencies, in as confidential a manner as possible.

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

h. ACS facilities shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide prisoners with confidential emotional support services related to sexual abuse. ACC shall enter into a memorandum of understanding or agreement with the 1-800 Safe help line in order to provide prisoners a confidential emotional support service and reporting service. ACC shall maintain copies of agreements or documentation showing attempts to enter into such agreements. (§ 115.53)

i. Third party reporting of sexual abuse and sexual harassment on behalf of a prisoner shall be through SHARP (SAFE help line), Army Review Board Agency (ARBA) or ACC. How to report to these agencies will be posted on the website. (§ 115.54)

8. RESPONSE FOLLOWING AN INMATE REPORT.

a. The Facility shall require all staff to report immediately and according to the facility's policy (IAW Para7.a.-d.) any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of ACC; also report any retaliation against prisoners or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

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

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

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d. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators. (§ 115.61)

e. When a facility learns that a prisoner is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the prisoner.

f. All ACS facilities shall collect data concerning the length of time that passes before taking action:

(1) After learning a prisoner is subject to substantial risk of imminent sexual abuse, be able to determine the average number of hours before taking action.

(2) Indicate the longest amount of time before taking action. (§ 115.62)

g. Upon receiving an allegation that a prisoner was sexually abused while confined at another facility, the Facility Commander of the facility that received the allegation shall notify the Facility Commander of the facility where the alleged abuse occurred.

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

(2) The gaining facility shall document that it has provided such notification.

(3) The Facility Commander or ACC employee that receives such notification shall ensure that the allegation is investigated in accordance with these standards. (§ 115.63)

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

(1) Separate the alleged victim and abuser;

(2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

(3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

(4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could

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destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

i. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. (§ 115.64)

j. Each ACS facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators (CID/MPI), and facility leadership. (§ 115.65)

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

l. Nothing in this standard shall restrict the entering into or renewal of agreements that govern:

(1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of 28 C.F.R. § 115.72 and § 115.76; or

(2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated. (§ 115.66)

m. ACS facilities shall establish a policy to protect all prisoners and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other prisoners or staff, and shall designate which staff members or departments are charged with monitoring retaliation.

n. ACS facilities shall employ multiple protection measures, such as housing changes or transfers for prisoner victims or abusers, removal of alleged staff or prisoner abusers from contact with victims, and emotional support services for prisoners or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

o. For at least 90 days following a report of sexual abuse, the facility shall monitor the conduct and treatment of prisoners or staff who reported the sexual abuse and of prisoners who were reported to have suffered sexual abuse to see if there are changes

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that may suggest possible retaliation by prisoners or staff, and shall act promptly to remedy any such retaliation. Items the facility should monitor include any prisoner disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff.

p. In the case of prisoners, such monitoring shall be a proactive team approach which includes documented periodic status checks. ACS facilities will designate either Medical/Investigations/operations section appoint one individual as a "lead" to oversee/coordinate/collect information gathered in order to determine if any retaliation has occurred or if the initial 90 day monitoring may be terminated or extended.

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

r. A facility's obligation to monitor shall terminate if the facility determines that the allegation is unfounded. (§ 115.67)

s. Any use of segregated housing to protect a prisoner who is alleged to have suffered sexual abuse shall be subject to the requirements of 28 C.F.R. § 115.43. (§ 115.68)

9. INVESTIGATIONS.

a. CID will be notified whenever there is an allegation of sexual abuse. If CID determines it will not investigate and the facility conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

b. Where sexual abuse is alleged, each ACS facilities will use investigators who have received special training in sexual abuse investigations pursuant to 28 C.F.R. § 115.34.

c. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; investigators shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

d. When the quality of evidence appears to support criminal prosecution, the facility shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

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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 prisoner or staff. ACS facilities shall not require a prisoner 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.

f. Administrative investigations:

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

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

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

h. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution, or referred to the Commander for appropriate disposition.

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

j. 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. Any Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

l. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. (§ 115.71)

m. The investigating agency (CID/MPI) shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. (§ 115.72)

n. Following an investigation into a prisoner's allegation that he or she suffered sexual abuse in a facility, the facility shall inform the prisoner as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

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o. If the facility did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the prisoner.

p. Following a prisoner's allegation that a staff member has committed sexual abuse against the prisoner, the facility shall subsequently inform the prisoner (unless an investigation has determined that the allegation is unfounded) whenever:

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

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

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

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

q. Following a prisoner's allegation that he or she has been sexually abused by another prisoner, the facility shall subsequently inform the alleged victim whenever:

(1) The facility learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) The facility learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

r. All such notifications or attempted notifications shall be documented.

s. ACS facilities' obligation to report under this standard shall terminate if the prisoner is released from the custody of ACC. (§ 115.73)

10. DISCIPLINE.

a. Staff shall be subject to disciplinary sanctions up to and including termination for violating ACC/ACS facilities sexual abuse or sexual harassment policies.

b. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. However, in making these determinations, Army personnel will refer to AR 690-700, chapter 700, chapter 751 and its Table 1-1, for offenses warranting punitive discipline.

c. Disciplinary sanctions for violations of ACC/ACS facility policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be

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commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

d. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. (§ 115.76)

e. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with prisoners and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

f. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with prisoners, in the case of any other violation of the facilities' sexual abuse or sexual harassment policies by a contractor or volunteer. (§ 115.77)

g. Prisoners shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the prisoner engaged in prisoner-on-prisoner sexual abuse or following a criminal finding of guilt for prisoner-on-prisoner sexual abuse.

h. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the prisoner's disciplinary history, and the sanctions imposed for comparable offenses by other prisoners with similar histories.

i. The disciplinary process shall consider whether a prisoner's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

j. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending prisoner to participate in such interventions as a condition of access to programming or other benefits.

k. ACS facilities may discipline a prisoner for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

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

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m. ACS facilities policy prohibits all sexual activity between prisoners and may discipline prisoners for such activity. ACS facilities may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced. (§ 115.78)

11. MEDICAL AND MENTAL CARE.

a. If the screening pursuant to paragraph 6 (§ 115.41) indicates that a prisoner has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the prisoner is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

b. If the screening pursuant to paragraph 6 (§ 115.41) indicates that a prisoner has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the prisoner is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

c. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

d. Medical and mental health practitioners shall obtain informed consent from prisoners before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the prisoner is under the age of 18. (§ 115.81)

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

f. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to paragraph 8 (§ 115.62) and shall immediately notify the appropriate medical and mental health practitioners.

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

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h. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. (§ 115.82)

i. ACS facilities shall offer medical and mental health evaluation and, as appropriate, treatment to all prisoners who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

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

k. ACS facilities shall provide such victims with medical and mental health services consistent with the community level of care.

l. Prisoner victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

m. If pregnancy results from the conduct described in paragraph 11.i. of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

n. Prisoner victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

o. 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.

p. All ACS facilities shall attempt to conduct a mental health evaluation of all known prisoner-on-prisoner abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. (§ 115.83)

12. DATA COLLECTION AND REVIEW.

a. All ACS facilities will 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. Reviews shall ordinarily occur within 30 days of the conclusion of the investigation.

c. The review team shall include upper-level facility staff, with input from correctional supervisors, investigators, and medical or mental health practitioners.

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d. The review team shall:

(1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

(2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(4) Assess the adequacy of staffing levels in that area during different shifts.

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

(6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (12.d.(1)-(5)) of this section, and any recommendations for improvement and submit such report to the facility Commander and PREA compliance manager and PREA coordinator.

e. The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so. (§ 115.86)

f. ACC will collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

g. ACC shall compile the incident-based sexual abuse data at least annually.

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

i. ACC will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

j. Upon request, ACC will provide all such data from the previous calendar year to the Department of Justice no later than June 30. (§ 115.87)

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k. ACC will review data collected and compiled pursuant to paragraph 12 f-i (§ 115.87) in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

(1) Identifying problem areas;

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

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

l. 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 ACC's progress in addressing sexual abuse.

m. ACC's report shall be approved by the ACC Commander and made readily available to the public through its website

n. ACC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. (§ 115.88)

o. ACC will ensure that data collected pursuant to paragraph 12.j. (§ 115.87) is retained IAW with the Privacy Act.

p. ACC will make all compiled sexual abuse data, from facilities under its direct control readily available to the public at least annually through its website.

q. Before making the compiled sexual abuse data publicly available, ACC will remove all personal identifiers.

r. ACC will maintain sexual abuse data collected pursuant to paragraph 12.j. (§ 115.87) for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise. (§ 115.89)

13. AUDITS, AUDITING AND CORRECTIVE ACTION.

a. During the three-year period starting on August 20, 2013, and during each three-year period thereafter, ACC will ensure that each facility is audited at least once.

b. During each one-year period starting on August 20, 2013, ACC shall ensure that at least one-third of its facilities are audited.

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c. ACC/ACS facilities shall bear the burden of demonstrating compliance with the standards.

d. The auditor may review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations.

e. The auditor may review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.

f. The auditor may have access to, and shall observe, all areas of the audited facilities.

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

h. The auditor may interview a representative sample of prisoners, detainees, staff, supervisors, and administrators.

i. The auditor shall be permitted to conduct private interviews with prisoners (post and pre-trial).

j. Prisoners shall be permitted to send confidential information or correspondence to the auditor until the final report is received by the agency, in the same manner as if they were communicating with legal counsel. (§ 115.401)

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

l. The auditor, ACC and the facility shall jointly develop a corrective action plan to achieve compliance.

m. After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.

n. If the facility does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance. (§ 115.404)

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14. Point of contact for this policy is Mr. Larry Kester, PREA Coordinator, (703) 428-7713, DSN 328-7713.



DAVID E. QUANTOCK
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Commanding

Encl
Definitions

DISTRIBUTION:

REGIONAL DIRECTOR, Army Corrections Command - Europe
REGIONAL DIRECTOR, Army Corrections Command - Korea
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COMMANDER, Northwestern Joint Regional Correctional Facility-JBLM
COMMANDER, U.S. Army Regional Correctional Facility-Germany
COMMANDER, U.S. Army Regional Correctional Facility-Korea

CF:

U.S. Army Review Boards Agency

Definitions

Agency: Refers to Army Corrections Command Headquarters.

Agency head: Refers to Provost Marshal General.

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

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

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

Employee: means a person who works directly for ACC or any ACS facility.

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

Facility head: *Commandant or Commander.*

Frisk Search: (same meaning as PREA Definition "Pat-down" search) means a running of the hands over the clothed body of a prisoner, detainee, or resident by an employee to determine whether the individual possesses contraband. Female's frisk search may include use of a hand held wand on a male prisoner to detect contraband

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

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

Inmate: See Prisoner

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

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

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

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

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

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

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

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

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

Pat Down Search: See Frisk search.

Posting Requirements: means the number of security staff that will be posted at designated locations during any specific shift.

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

Prisoner: means any person incarcerated or detained in a prison or jail.

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

Staff: means employees.

Staffing Plan: See posting requirements.

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

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

Substantiated allegation: means an allegation that was investigated and determined to have occurred. This has the same meaning as the CID term "Founded allegation".

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

Unsubstantiated allegation: means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. This has the same meaning as the CID term "Insufficient Evidence".

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

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

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

Definitions related to sexual abuse.

For purposes of this part, the term—

Sexual abuse includes— As stated in the PREA standards 28 C.F.R.

- a. Sexual abuse of a prisoner or detainee by another prisoner or detainee; and
- b. Sexual abuse of a prisoner or detainee by a staff member, contractor, or volunteer.

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

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

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

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- b. Contact between the mouth and the penis, vulva, or anus;
- c. 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;
- d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
- g. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a prisoner, detainee, or resident, and
- h. Voyeurism by a staff member, contractor, or volunteer.

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

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 prisoner or detainee directed toward another; and
- b. Repeated verbal comments or gestures of a sexual nature to a prisoner or detainee by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.