

**STANDARDS** FOR THE PREVENTION,  
DETECTION, RESPONSE, AND  
MONITORING OF SEXUAL ABUSE IN  
**LOCKUPS**

NATIONAL  
**PRISON  
RAPE**  
ELIMINATION  
COMMISSION

**STANDARDS** FOR THE PREVENTION,  
DETECTION, RESPONSE, AND  
MONITORING OF SEXUAL ABUSE IN  
**LOCKUPS**

**NATIONAL  
PRISON  
RAPE  
ELIMINATION  
COMMISSION**



## PREFACE

Ours has been a daunting task, albeit a deeply motivating and compelling one—to provide the President, members of Congress, the Attorney General, and the Secretary of Health and Human Services with national standards by which to detect, prevent, reduce, and punish prison rape.

As we submit these standards to the Attorney General for review and approval, I and my colleagues on the Commission believe that they are as urgently needed now as they were in 2003 when Congress mandated this groundbreaking project as part of the Prison Rape Elimination Act. Sexual abuse of incarcerated individuals remains a persistent problem, with life-altering consequences for victims, for the integrity of correctional institutions, and for fundamental principles of justice. We discuss the problem in great detail in our report; this standards document and its companion volumes are our blueprint for lasting nationwide change.

The standards development process benefited from, and indeed could not have happened without, the contributions of dozens of private and governmental organizations and more than 400 individuals—corrections professionals, academics, researchers, practitioners, and survivors of sexual abuse in confinement—who provided testimony at hearings, advice at expert committee and stakeholder meetings, and input during an extensive public comment period. In finalizing these standards and incorporating their expertise, our discussions have been long and lively and our debates rigorous. We are particularly grateful for the insights and lessons learned from early reformers—corrections professionals who have been working to prevent sexual abuse in their facilities since long before the passage of the Prison Rape Elimination Act and who continue to do so.

Each set of standards has been customized to ensure validity for particular conditions of confinement. The members of the National Prison Rape Elimination Commission are confident that the implementation of these national standards can have a substantial and salutary effect on the safety of prisons, jails, lockups, immigration detention centers, juvenile detention facilities, and community correctional facilities.

We are proud to entrust the enactment and implementation of these standards to the many capable policymakers and professionals who will now take up the torch. It has been an honor for us to play a part in the elimination of sexual abuse in confinement. A just and civil society should strive for nothing less.



The Honorable Reggie B. Walton, Chair



# TABLE OF CONTENTS

INTRODUCTION.....	1
GLOSSARY .....	3
<b>I. PREVENTION AND RESPONSE PLANNING .....</b>	<b>9</b>
PREVENTION PLANNING (PP) .....	9
PP-1: Zero tolerance of sexual abuse .....	9
PP-2: Contracting with other entities for the confinement of detainees.....	10
PP-3: Detainee supervision.....	10
PP-4: Heightened protection for vulnerable detainees.....	11
PP-5: Limits to cross-gender viewing and searches.....	12
PP-6: Accommodating detainees with special needs .....	14
PP-7: Hiring and promotion decisions .....	14
PP-8: Assessment and use of monitoring technology .....	16
RESPONSE PLANNING (RP).....	16
RP-1: Evidence protocol and forensic medical exams .....	16
RP-2: Agreements with outside law enforcement agencies .....	18
RP-3: Agreements with the prosecuting authority.....	19
<b>II. PREVENTION .....</b>	<b>21</b>
TRAINING AND EDUCATION (TR) .....	21
TR-1: Employee and volunteer training .....	21
TR-2: Detainee, attorney, contractor, and inmate worker notification of the agency’s zero-tolerance policy.....	22
TR-3: Specialized training: investigations.....	23
<b>III. DETECTION AND RESPONSE .....</b>	<b>25</b>
REPORTING (RE) .....	25
RE-1: Detainee reporting .....	25
RE-2: Exhaustion of administrative remedies.....	25
RE-3: Third-party reporting.....	27
OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT (OR).....	28
OR-1: Staff and agency head reporting duties.....	28
OR-2: Reporting to other confinement facilities.....	29
OR-3: Staff first responder duties.....	29
OR-4: Coordinated response .....	30
OR-5: Agency protection against retaliation .....	31

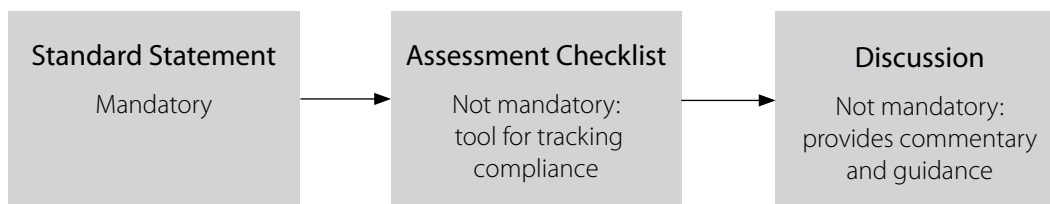
INVESTIGATIONS (IN) .....	32
IN-1: Duty to investigate.....	32
IN-2: Criminal and administrative agency investigations.....	33
IN-3: Evidence standard for administrative investigations.....	36
DISCIPLINE (DI) .....	36
DI-1: Disciplinary sanctions for staff.....	36
DI-2: Referrals for prosecution for detainee-on-detainee sexual abuse .....	37
MEDICAL AND MENTAL HEALTH CARE (MM) .....	38
MM-1: Access to emergency medical and mental health services .....	38
<b>IV. MONITORING .....</b>	<b>39</b>
DATA COLLECTION AND REVIEW (DC) .....	39
DC-1: Sexual abuse incident reviews .....	39
DC-2: Data collection .....	40
DC-3: Data review for corrective action.....	41
DC-4: Data storage, publication, and destruction .....	42
AUDITS (AU) .....	43
AU-1: Audits of standards.....	43
<b>APPENDIX A: TRAINING TOPICS AND PROCEDURES.....</b>	<b>45</b>
<b>APPENDIX B: INCIDENT-BASED DATA COLLECTION.....</b>	<b>49</b>
<b>APPENDIX C: NPREC STANDARDS DEVELOPMENT EXPERT COMMITTEE MEMBERS ....</b>	<b>51</b>
<b>APPENDIX D: STANDARDS IMPLEMENTATION NEEDS ASSESSMENT .....</b>	<b>57</b>

# INTRODUCTION

Sexual abuse of people in confinement violates their basic human rights, impedes the likelihood of their successful reentry into the community, and violates the Government’s obligation to provide safe and humane conditions of confinement. No period of detention, regardless of the charge or offense, should ever include rape. A core priority of any confinement facility must be safety, which means protecting the safety of all—the public, the staff, and the detainee population. In recognition of this, Congress formed the National Prison Rape Elimination Commission (NPREC or Commission) to develop national standards that will help eliminate prison rape and other forms of sexual abuse in confinement.

The Prison Rape Elimination Act (PREA) of 2003 requires agencies to comply with the national standards proposed by the Commission and approved and promulgated by the Attorney General to eliminate sexual abuse in confinement. Fundamental to an agency’s success will be its commitment to zero tolerance of sexual abuse—a recognition that sexual abuse in confinement facilities is unacceptable under any circumstances and as dangerous a threat to institutional security as an escape or homicide. Agencies must demonstrate zero tolerance not merely by words and written policy, but through their actions, including what they do to prevent sexual abuse and their response when it occurs.

The standards developed by NPREC are organized as follows:



Each standard statement contains mandatory requirements. Under each standard statement is an assessment checklist. The assessment checklists are designed as a tool for agencies and lockups to self-assess and track their progress toward meeting the standards. They are also meant to be a starting point for the external audit of an agency’s compliance with the standards. The agency head, lockup head, PREA coordinator, or a designee must complete the assessment checklists for every standard. Although answering “yes” to each checklist item is not mandatory, meeting the requirements in the standard is mandatory. Therefore, when completing a given checklist, if an official answers “no” to a checklist question but believes the agency is meeting the requirements of the standard using a different process or procedure, he or she should explain how the alternative process or procedure meets the standard. The PREA coordinator or other official should attach documentation of compliance with the standard to the checklist unless compliance is self-evident.

After each assessment checklist is a discussion of the standard. Discussion sections provide explanation for the rationale of the standard and, in some cases, offer guidance for achieving compliance with it. Although the discussion sections sometimes offer further clarification on the meaning of terms or phrases used in the standard, the glossary should be used as the



primary source for the meaning of terms or phrases. The discussion sections do not contain any additional mandatory requirements. When mandatory requirements are mentioned in a discussion section, they have been drawn directly from the standard statement.

In crafting these standards for lockups, the Commission drew heavily from the standards it developed for adult prison and jails but modified those standards, when necessary, to account for the differences between longer-term confinement settings and short-term lockups. The Commission recognizes that people spend a significantly shorter time in lockups than in prisons or jails and has, therefore, tailored these standards to be narrower in scope in such areas as training and medical and mental health care. Additionally, in developing the lockup standards, the Commission acknowledges that many law enforcement agencies already have a number of systems, policies, and protocols in place that are designed to and do prevent abuse in lockups. Agencies should be able to comply with the PREA standards by (1) modifying their existing systems, policies, and protocols to apply to sexual abuse in lockups specifically and (2) reviewing and strengthening those systems, policies, and protocols when necessary to ensure that the agency is doing everything in its power to prevent and respond to sexual abuse in lockups.

These standards are the product of lengthy study, consultation, and reflection. The Commission held eight public hearings, during which more than 100 witnesses testified, including corrections leaders, survivors of sexual abuse in confinement, researchers, investigators, prosecutors, and advocates for victims and the incarcerated. In addition, the Commission convened expert committees comprised of similarly diverse stakeholders with broad correctional expertise to help inform the content of the standards during the drafting process. Site visits to a cross-section of confinement facilities enabled the Commission to receive feedback on the draft standards from a variety of corrections officials. NPREC also conducted a thorough review of the literature and commissioned its own research to address some of the unanswered questions about the causes and consequences of sexual abuse in confinement. Finally, during its 60-day public comment period, the Commission received and considered comments on the standards, many extensive in nature, from more than 225 individuals or entities representing a wide range of perspectives.

The Commission believes that full adoption of these standards by all of the Nation's lockups is necessary to achieve the elimination of sexual abuse in confinement facilities as Congress intended in passing PREA.

# GLOSSARY

The following terms are used throughout the standards, and agencies should note and understand the definitions of these terms as provided below to ensure proper compliance with the standards. The Commission wishes to draw special attention to the fact that the definitions of sexually abusive conduct that appear here differ from the definitions used by the Bureau of Justice Statistics (BJS). The Commission recognizes that the BJS definitions have been used by agencies for data collection purposes but has formulated somewhat different definitions to capture the full range of conduct the standards seek to address. Additionally, the Commission has deliberately excluded definitions for detainee-on-detainee indecent exposure and voyeurism. Legal definitions for indecent exposure and voyeurism rely on the concept of a sphere of privacy, and although detainees have a legally cognizable privacy interest, that interest is extremely limited by security interests. Because the extent of detainees' privacy rights necessarily varies according to legitimate security needs, so too would the circumstances in which it would be appropriate to penalize detainees for indecent exposure and voyeurism, complicating the task of setting forth a clear policy and consistent practice of enforcement. The reality is that detainees could be in states of undress around other detainees and staff, raising the possibility that detainees might be penalized for conduct that is part of the ordinary course of life in confinement.

**Agency:** The unit of a governing or corporate authority with direct responsibility for the operation of any lockup that confines detainees, including the implementation of policy as set by the governing or corporate authority.

**Agency head:** The chief authority of a Federal, State, or local correctional or law enforcement system.

**Allegation:** An oral, written, or electronic statement that sexual abuse has occurred or might occur that is provided to a staff member or outside agency.

**Audit:** A thorough investigatory review of information, including written records and interviews with staff and detainees, to determine whether and the extent to which an agency's and/or lockup's policies, practices, and protocols comply with the PREA standards.

**Auditor:** An individual or entity that the jurisdiction employs or retains by contract to perform audits. An auditor may also be authorized by law, regulation, or the judiciary to perform audits; however, an auditor cannot be an agency employee. An auditor is able and prequalified by the U.S. Department of Justice to perform audits competently and without bias. Prequalification does not require prior employment with any particular agency.

**Contractor:** A person who provides services other than direct services to detainees on a recurring basis according to a contractual agreement with the agency (e.g., maintenance contractors).

**Credibility assessment:** An investigator's process of conducting interviews and weighing evidence to determine the truthfulness of victim, witness, and suspect statements.

**Critical incident:** An occurrence or event, natural or human-caused, which requires an immediate response to protect life, agency safety, or property.

**Cultural competence:** The ability to work and communicate effectively with people of diverse racial, ethnic, religious, and social groups based on an awareness and understanding of differences in thoughts, communications, actions, customs, beliefs, and values.

**Detainee:** Any person housed in a lockup.

**Employee:** A person who works directly for the agency or lockup or a person who provides direct services to detainees in a facility on a recurring basis according to a contractual agreement with the agency (e.g., contracted food service providers).

**Facility:** A place, institution, building (or part thereof), set of buildings, or area (whether or not enclosing a building or set of buildings) that is used for the confinement of individuals. A facility may be owned by a public or private agency.

**Gender identity:** A person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.

**Gender nonconforming:** A person whose gender identity and/or expression do not conform to gender stereotypes generally associated with his or her birth sex.

**Intersex:** A condition usually present at birth that involves reproductive, genetic, or sexual anatomy that does not seem to fit the typical definitions of female or male.

**Jurisdiction:** A legal entity of government with geographic boundaries, such as the United States, a State, a county, or a municipal entity.

**Law enforcement staff:** Employees responsible for the supervision and control of detainees in lockups.

**Lockup:** A temporary holding facility of a Federal, State, or local law enforcement agency. Lockups include locked rooms, holding cells, cell blocks, or other secure enclosures under the control of a law enforcement, court, or custodial officer. Lockups are primarily used for the temporary confinement of individuals who have recently been arrested or are being transferred to or from a court, local jail, State prison, or other agency.

**Medical practitioner:** 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:** 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.

**Need to know:** A criterion for limiting access of certain sensitive information to individuals who require the information to make decisions or take action with regard to a detainee’s safety or treatment or to the investigative process.

**Pat-down search:** A superficial running of the hands over the body of a detainee by an employee to determine whether the detainee possesses contraband.

**PREA coordinator:** A senior-level position that reports directly to the agency head. The PREA coordinator’s responsibilities include developing, implementing, and overseeing the agency’s plan to comply with the PREA standards. He or she is also responsible for ensuring the completion of the assessment checklists in this body of standards. The PREA coordinator may be a full- or part-time position.

**Preponderance of the evidence standard:** The standard of proof used in most civil cases that requires the party bearing the burden of proof to present evidence that is more credible and convincing than the evidence presented by the other party. This standard is satisfied if the evidence shows that it is more probable than not that an event occurred. Preponderance of the evidence is a lesser standard of proof than “beyond a reasonable doubt,” which is required to convict in a criminal trial.

**Protocol:** Written instructions that guide the implementation of policies.

**Report:** Any allegation of sexual abuse. See definition of *allegation*.

**Sexual abuse:** Encompasses (1) detainee-on-detainee sexual abuse, (2) detainee-on-detainee sexual harassment, (3) staff-on-detainee sexual abuse, and (4) staff-on-detainee sexual harassment.

**(1) Detainee-on-detainee sexual abuse:** Encompasses all incidents of detainee-on-detainee sexually abusive contact and detainee-on-detainee sexually abusive penetration.

**Detainee-on-detainee sexually abusive contact:** Non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks without penetration by a detainee of another detainee without the latter’s consent, or of a detainee who is coerced into sexual contact by threats of violence, or of a detainee who is unable to consent or refuse.

**Detainee-on-detainee sexually abusive penetration:** Penetration by a detainee of another detainee without the latter’s consent, or of a detainee who is coerced into sexually abusive penetration by threats or violence, or of a detainee who is unable to consent or refuse. The sexual acts included are:

- Contact between the penis and the vagina or the anus;
- Contact between the mouth and the penis, vagina, or anus; or
- Penetration of the anal or genital opening of another person by a hand, finger, or other object.

(2) **Detainee-on-detainee sexual harassment:** Repeated and unwelcome sexual advances, requests for sexual favors, verbal comments, or gestures or actions of a derogatory or offensive sexual nature by one detainee directed toward another.

(3) **Staff-on-detainee sexual abuse:** Encompasses all occurrences of staff-on-detainee sexually abusive contact, staff-on-detainee sexually abusive penetration, staff-on-detainee indecent exposure, and staff-on-detainee voyeurism. Staff solicitations of detainees to engage in sexual contact or penetration constitute attempted staff-on-detainee sexual abuse.

**Staff-on-detainee sexually abusive contact:** Non-penetrative touching (either directly or through the clothing) of the genitalia, anus, groin, breast, inner thigh, or buttocks by a staff member of a detainee with or without the latter's consent that is unrelated to official duties.

**Staff-on-detainee sexually abusive penetration:** Penetration by a staff member of a detainee with or without the latter's consent. The sexual acts included are:

- Contact between the penis and the vagina or the anus;
- Contact between the mouth and the penis, vagina, or anus; or
- Penetration of the anal or genital opening of another person by a hand, finger, or other object.

**Staff-on-detainee indecent exposure:** The display by a staff member of his or her uncovered genitalia, buttocks, or breast in the presence of a detainee.

**Staff-on-detainee voyeurism:** An invasion of an detainee's privacy by staff for reasons unrelated to official duties or when otherwise not necessary for safety and security reasons, such as peering at an detainee who is using a toilet in his or her cell; requiring detainee to expose his or her buttocks, genitals or breasts; or taking images of all or part of a detainee's naked body or of detainee performing bodily functions and distributing or publishing them.

(4) **Staff-on-detainee sexual harassment:** Repeated verbal comments or gestures of a sexual nature to a detainee by a staff member. Such statements include demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**Staff:** Employees and volunteers.

**Strip search:** A search that requires a person to remove or arrange some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.

**Substantiated allegation:** An allegation that was investigated and the investigation determined that the alleged event occurred.

**Transgender:** A term describing persons whose gender identity and/or expression do not conform to the gender roles assigned to them at birth.

**Unfounded allegation:** An allegation that was investigated and the investigation determined that the alleged event did not occur.

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

**Victim advocate:** An individual, who may or may not be affiliated with the agency, who provides victims with a range of services during the forensic exam and investigatory process. These services may include emotional support, crisis intervention, information and referrals, and advocacy to ensure that victims' interests are represented, their wishes respected, and their rights upheld.

**Video monitoring system:** An integrated security system consisting of installed cameras monitored by employees, which augments and/or enhances the ability of employees to provide the sight and sound supervision necessary to prevent, detect, contain, and respond to incidents of sexual abuse.

**Visual body cavity search:** A visual inspection of a body cavity, defined as a rectal cavity or vagina, for the purpose of discovering whether contraband is concealed in it.

**Volunteer:** An individual who donates his or her time and effort on a recurring basis to enhance the activities and programs of the agency.



# I. PREVENTION AND RESPONSE PLANNING

## Prevention Planning (PP)

### PP-1 Zero tolerance of sexual abuse

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.

Assessment Checklist	YES	NO
(a) Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse?		
(b) Does the agency ensure that all of its lockups comply with the PREA standards?		
(c) Does the agency employ or designate a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards?		

#### Discussion

Eliminating sexual abuse in confinement requires first and foremost a commitment to safety as a core mandate of confinement operations. Agency and lockup heads will be responsible not only for ensuring that staff and detainees are informed of the agency's zero-tolerance policy toward sexual abuse but for setting a tone that signals true commitment to an institutional culture of safety and security for all detainees and staff. The agency head will also be responsible for employing or designating a PREA coordinator to manage and oversee the agency's efforts to comply with the PREA standards. The PREA coordinator's job should include: (1) developing written policies that follow correctional best practices and meet the intent of the PREA standards; (2) developing and implementing a training plan that fulfills the PREA training standards; (3) monitoring investigations according to the PREA standards; (4) supervising the agency's data collection efforts; and (5) providing appropriate access and materials to auditors. By definition, the PREA coordinator will be a senior-level position reporting directly to the agency head. In that capacity, the PREA coordinator should provide routine updates to the agency head, including at executive-level meetings, on his or her areas of responsibility, progress reports on standards implementation and compliance, and notice of any problems or challenges that need to be addressed.

To ensure successful compliance with the PREA standards, the PREA coordinator may need to develop strategies to address the culture of the agency or lockups to determine the levels of staff and detainee resistance or openness to PREA standards implementation. Examples of strategies may include conducting or coordinating assessments by surveying staff members and detainees to understand their attitudes, beliefs, and values that support or conflict with a "reporting" culture that creates safety and security. Based on the results of the assessment, the PREA coordinator and lockup head(s) should work with key staff on all levels to design strategies that create a cultural "readiness" for change (e.g., development of new policies, staff briefings, video briefings from leadership for staff, and strategic planning meetings), training programs, and other systems to change the culture to one in which staff and detainees embrace the goals and values of PREA and institutional safety.



## PP-2 Contracting with other entities for the confinement of detainees

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.

Assessment Checklist	YES	NO
(a) Does the agency contract for the confinement of detainees only with private companies and other entities, including other government agencies, that agree to adopt and comply with the PREA standards?		
(b) Do all new contracts and contract renewals include an obligation to adopt and comply with the PREA standards?		
(c) Do all new contracts and contract renewals specify that the law enforcement agency will monitor the entity's compliance with the PREA standards as part of its monitoring of the entity's performance?		

### Discussion

The goal of this standard is to ensure that all detainees, regardless of whether they are housed in public or private holding facilities, are protected from sexual abuse. Law enforcement agencies that contract with private agencies or other entities, including other government agencies, to confine their detainees are responsible for ensuring such protection of all detainees by contracting only with those companies or other entities that adopt and comply with PREA standards.

## PP-3 Detainee supervision

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).

Assessment Checklist	YES	NO
(a) Does law enforcement staff provide the supervision of detainees necessary to protect them from sexual abuse?		
(b) Do the upper management officials responsible for reviewing critical incidents examine areas in the lockup where sexual abuse has occurred to assess the following?		
• Physical barriers that may have enabled the abuse		
• Adequacy of staffing levels in those areas during different shifts		
• Monitoring technology needs		
(c) When problems or needs are identified, does the agency take corrective action? (Attach description of corrective actions taken.)		

## Discussion

Adequate law enforcement staff supervision of detainees is an essential component of any agency's sexual abuse prevention strategy. It enables law enforcement staff to identify aggressive or coercive detainee behavior before it escalates to sexual abuse, to identify signs of inappropriate staff relationships developing with detainees before they become abuse, to respond immediately to prevent or end incidents of abuse by detainees or staff, and, when an incident does occur, to rapidly take the steps necessary for an effective response. For many lockups, adequate law enforcement staff supervision is achieved by using a direct supervision model to manage the detainee population. Direct supervision, widely extolled as a best practice in corrections, is a method of detainee management whereby officers are in continuous direct contact with detainees, enabling them to interact with and observe detainees at all or most times. When feasible, given the security level of the detainee population and any constraints stemming from the physical design of the lockup, the Commission recommends that lockups strive to meet this standard by employing a direct supervision model.

Additionally, to ensure that any deficiencies in detainee supervision are promptly identified and corrected, the standard requires the upper management officials responsible for reviewing critical incidents to examine known areas where sexual abuse has occurred to assess and take corrective action regarding any physical barriers that may have enabled the abuse, any problems with staffing levels in those areas at different times of the day, and any needs for monitoring technology to supplement law enforcement staff supervision. In examining known areas where sexual abuse has occurred, for example, they may find blind spots or inadequate staffing patterns on particular shifts, which require new or different staff deployment schemes and/or the addition or adjustment of cameras. More sophisticated video security monitoring systems and/or radio frequency identification systems may also be useful tools for monitoring staff and detainee movement and location. The group of upper management officials may also discover that, to remedy the risk posed by physical barriers, other creative adaptations to lockup design may be required. They ought to examine each area carefully and take corrective action to ensure that detainees in all areas of the lockup are safe from sexual abuse. Moreover, when patterns of abuse have been identified in reviews (DC-1, DC-3), either at a given time of day, in a particular area, or involving certain types of detainees, agency leadership should take action to ensure increased supervision during those times, in those areas, or for those groups of detainees.

## PP-4 Heightened protection for vulnerable detainees

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 sexual abuse, the staff member provides sufficient protection to that detainee to prevent sexual abuse.

Assessment Checklist	YES	NO
(a) Do intake screenings or assessments include consideration of a detainee's potential vulnerability to sexual abuse?		
(b) When vulnerabilities are identified, either through screenings, assessments, or staff observations, does law enforcement staff take additional steps to ensure that vulnerable detainees are safe from sexual abuse, including but not limited to either housing them in single cells or providing them with continuous sight and sound supervision?		

### Discussion

The purpose of this standard is to highlight the need to provide heightened protection for detainees who may be particularly vulnerable to sexual abuse. When feasible, detainees who may be particularly vulnerable to detainee sexual abuse in lockups should be housed in single cells.

At any time that vulnerable detainees are identified, the agency is responsible for providing heightened protection to ensure that those detainees are safe. To accomplish this successfully, law enforcement staff should be able to identify traditionally vulnerable populations, such as juveniles; young detainees; women; gay, lesbian, bisexual, and transgender detainees; detainees with mental or physical disabilities; limited English proficient (LEP) detainees; detainees who are physically weak or recovering from physical injuries; detainees who may be intoxicated; and detainees accused of certain crimes. LEP detainees or detainees of different races or ethnic backgrounds may be particularly vulnerable in lockups in which they are a distinct minority. Additionally, the agency should attempt to identify rival gang members and ensure they are not housed together in lockups. Law enforcement staff must be alert at all times to potential vulnerability and respond appropriately.

## 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.

Assessment Checklist	YES	NO
(a) Except in the case of emergency, does the agency prohibit cross-gender searches of the following types?		
• Strip		
• Visual body cavity		
(b) Except in the case of emergency or other extraordinary or unforeseen circumstances, does the agency restrict cross-gender viewing by law enforcement staff of detainees who are nude or performing bodily functions?		
(c) Except in the case of emergency or other extraordinary or unforeseen circumstances, does the agency restrict cross-gender pat-down searches?		
(d) Is any examination to determine the genital status of a detainee conducted in a private setting by a medical practitioner and only when the genital status is unknown to the agency?		

### Discussion

The goal of this standard is to protect the privacy and dignity of detainees and to reduce opportunities for staff-on-detainee sexual abuse by prohibiting cross-gender strip and visual body cavity searches, setting limits on cross-gender viewing of detainees by law enforcement staff, and restricting cross-gender pat-down searches.

This standard imposes a strong prohibition on cross-gender strip and visual body cavity searches, except in the case of emergency. Performance of these more intrusive strip searches and body cavity searches should be undertaken only by specially trained, designated staff members of the same gender and conducted in conformance with hygienic procedures and professional practices. Agencies without adequate law enforcement staff of the same gender as the detainee population may want to consider training non-law enforcement staff to conduct these searches.

This standard does not place a prohibition on cross-gender pat-down searches and viewing of detainees, but requires these actions to be strictly limited in practice and only in the case of emergency or other extraordinary or unforeseen circumstances. The Commission recognizes that many State and local laws already restrict cross-gender viewing of detainees and encourages agencies to consult and follow their relevant State and local laws. The Commission likewise acknowledges that cross-gender supervision, in general, can prove beneficial in certain confinement settings and in no way intends for this standard to limit employment (or post assignment) opportunities for men or women.

Agencies are encouraged to use a number of tools to aid compliance with this standard, including the use of privacy panels for shower and toilet areas and making verbal announcements when a staff member of the opposite gender is in an area. Also, in addition to prohibiting cross-gender strip and visual body cavity searches, each agency is encouraged to have a strong, legally based policy regarding all searches (including same-gender searches) that gives proper regard to the detainee's rights to privacy and dignity.

In some lockups, employees conduct strip or body cavity searches of transgender individuals ostensibly to determine their genital status. All too frequently, such examinations are not necessary because the individual's genital status is already known. To protect the privacy and dignity of transgender individuals, this standard prohibits examinations to determine genital status when that status has already been ascertained. Additionally, this standard requires that examinations to determine genital status be conducted in private and by medical practitioners.

## 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.

Assessment Checklist	YES	NO
(a) Are all LEP, deaf, and disabled detainees able to report sexual abuse to staff directly, through interpretive technology, or through non-detainee interpreters?		
(b) Are accommodations made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to detainees with limited reading skills or who are visually impaired?		

### Discussion

The ability of all detainees to communicate effectively and directly with staff, without having to rely on detainee interpreters, is crucial for ensuring that they are able to report sexual abuse as discreetly as possible. It is never desirable or sufficient for detainees to serve as interpreters or translators for other detainees to report abuse because it compromises confidentiality and places some detainees in a position of undue influence over others. It is likewise critical that all detainees be informed of the agency's policies, including how to report, in a way and format that they understand. If the language and communication needs of the detainee population are unknown, the agency head or PREA coordinator may need to conduct an assessment of those needs and develop policies and protocols to address them. Having strong policies and protocols will help staff ensure the safety of LEP, deaf, and disabled detainees as well as those detainees who have limited reading skills or who are visually impaired.

## 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 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.

Assessment Checklist	YES	NO
(a) Consistent with Federal, State, and local law, does the agency make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse?		
(b) Does the agency disqualify applicants or employees being considered for promotion upon learning of the following?		
• Any history of substantiated allegations of sexual abuse in an institutional setting		
• That they have engaged in sexual activity in the community facilitated by force, the threat of force, or coercion		
(c) Does the agency run criminal background checks for all applicants and employees being considered for promotion?		
(d) Does the agency carefully consider any history of criminal activity at work or in the community, including the following?		
• Any convictions for domestic violence		
• Any convictions for stalking		
• Any convictions for sex offenses committed in the community		
(e) Does the agency ask all applicants and employees directly about previous misconduct during interviews and reviews?		

### Discussion

An agency will not be able to meet its zero-tolerance goal if it employs or promotes anyone who has engaged in sexual abuse in an institutional setting or who has engaged in sexual activity facilitated by force, the threat of force, or coercion. Coercion includes but is not limited to using a position of authority or power to compel someone to engage in sexual activity. Changing institutional culture and eliminating sexual abuse can be difficult enough without adding the unnecessary additional risk of hiring or retaining individuals whose conduct has demonstrated a lack of personal commitment to PREA's goals. In addition to making its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse, the agency should have a consistent, proactive policy on asking applicants and employees directly about previous misconduct during interviews or reviews. In jurisdictions in which prospective employers are limited in their inquiry of previous employment or criminal background, the agency should consider having job applicants sign waivers, if not prohibited by law, stating that they waive their legal rights to claim libel, defamation, or slander regarding any information given during reference checks about their disciplinary history involving sexual abuse.

Although many agencies already run routine criminal background checks for applicants, the standard requires agencies to run criminal background checks, where allowable by law, both for all applicants and for employees being considered for promotion to ensure that agencies are always up to date on any criminal activity perpetrated by applicants or employees since gaining employment. The standard does not prescribe how to evaluate criminal histories because the Commission recognizes that the agency will have to consider each criminal history on a case-by-case basis and within a larger context of the person's background, life experiences, and work history. When considering previous criminal activity, the agency will have to weigh a number of factors, including the nature and number of offenses and how much time has passed since any convictions, to determine whether to hire or promote an individual.

## 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.

Assessment Checklist	YES	NO
(a) Does the agency use video monitoring systems and other cost-effective and appropriate technology to supplement its sexual abuse prevention, detection, and response efforts?		
(b) At least annually, does the agency assess the feasibility of and need for new or additional monitoring technology and develop a plan for securing such technology?		

### Discussion

Video monitoring systems and other technology are invaluable tools for eliminating sexual abuse. Video monitoring systems, when properly designed, managed, maintained, updated, and fully integrated into the agency's various other security systems, can serve as highly objective mechanisms for preventing, detecting, and responding to sexual abuse. The Commission recognizes, however, that some agencies may not have the resources immediately available to acquire and implement new technology solutions or improve existing ones and so requires those agencies to conduct an annual assessment of technology needs and to develop a plan to secure new or additional monitoring technology if needed. For all agencies, technology should be adapted to the population as well as to the age and design of each particular facility.

## Response Planning (RP)

### RP-1 Evidence protocol and forensic medical exams

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 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.

Assessment Checklist	YES	NO
(a) Has the agency developed a written protocol adapted from or otherwise based on the U.S. Department of Justice's "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," any subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2004?		
(b) Does the agency provide victims of detainee-on-detainee sexually abusive penetration or staff-on-detainee sexually abusive penetration with access and transportation to a community medical provider served by qualified forensic medical examiners?		
(c) Are forensic medical exams provided free of charge to the victim?		
(d) Does the agency make available a victim advocate to accompany the victim through the forensic medical exam process?		

### Discussion

At the time of publication of this body of standards, 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" is considered the "gold standard" of sexual assault evidence protocols by both the law enforcement and the forensic medical examiner communities. The protocol can be found electronically at the following Web address: <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>. Many law enforcement agencies already use a version of this protocol to address sexual abuse in the community context and may need to do very little to apply their current practices to sexual abuse in a lockup setting. For those agencies that do not already use a version of the national protocol, the agency heads should review it or a subsequent updated edition and incorporate it into their current protocol or use it to develop a new protocol that fits the agency's needs, resources, and policies. The agency head may find it particularly helpful to consult Appendix A of the national protocol, which provides guidance on how jurisdictions can customize the national protocol to meet specific local needs, challenges, policies, and statutes.

The agency head should stress to all medical and mental health practitioners who treat detainee victims of sexual abuse the importance of conducting prompt examinations to identify medical and mental health needs and minimize the loss of evidence. It is critical that victims' acute medical and mental health needs be evaluated and addressed before evidence is collected on-site or before they are transported off-site for evidence collection. Key elements of proper evidence collection, discussed at length in the national protocol, include: (1) instructing victims not to wash, brush their teeth, change their clothes, urinate, defecate, smoke, drink, or eat until they have been initially evaluated by a forensic medical examiner (OR-3) and (2) educating individuals involved in the handling, documentation, transfer, and storage of evidence about how to preserve evidence and maintain the chain of custody.

Additionally, the forensic medical exam is an important element of both evidence collection and treatment for recent sexual abuse victims. The agency should ensure that it has access to a health care provider that is equipped to treat sexual abuse victims and conduct forensic medical exams. The agency should have a clear protocol for offering forensic medical exams to detainee victims and transporting them off-site if they consent to the exam.



## RP-2 Agreements with outside law enforcement agencies

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.

Assessment Checklist	YES	NO
(a) If the agency has elected to permit another law enforcement agency to conduct criminal or administrative investigations of allegations of sexual abuse in its lockups, has the agency established or attempted to establish a written MOU or other agreement specific to investigations of sexual abuse with the law enforcement agency responsible for conducting investigations?		
(b) If the agency confines detainees under the age of 18 or other detainees who fall under State and local vulnerable persons statutes, has the agency established or attempted to establish 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?		
(c) Does the agency maintain a copy of the agreement or documentation showing attempts to enter into an agreement?		

### Discussion

Formal agreements between law enforcement agencies outlining how they will work together while investigating an incident of sexual abuse in a lockup are important for ensuring that investigations into allegations of sexual abuse are timely and effective. Although the Commission recognizes that some agencies may not be able to persuade outside law enforcement agencies to enter into agreements, it nonetheless requires agencies to try to enter into agreements. For agencies that successfully enter into agreements, the Commission recommends that agreements contain the following elements: (1) the criteria, protocol, and timetables for referring an allegation of sexual abuse to the outside law enforcement agency for investigation; (2) the respective roles and responsibilities for conducting sexual abuse investigations; (3) the respective roles and responsibilities of the agencies for collecting evidence; (4) detailed information on how criminal and administrative investigations will be coordinated between the agencies; (5) description of what information will and will not be shared between agencies; (6) the protocol for reporting progress on investigations to lockup officials; (7) the location of where closed case files will be maintained; (8) the protocol for informing the victim of the progress and outcome of the investigation(s); and (9) a schedule of regular meetings between the agency and outside law enforcement supervisors to review the efficacy of the agreement and to recommend or make any changes, as necessary.

If the agency confines any detainees under the age of 18 or detainees who fall under State or local vulnerable persons statutes, an outside services agency will likely have the authority

and jurisdiction to conduct separate investigations into allegations of sexual abuse committed against such vulnerable persons in confinement. If this is the case, the agency should enter or attempt to enter into an MOU with the State or local services agency, as they would with any law enforcement agency with the authority to conduct investigations, and follow the same recommendations listed above.

### RP-3 Agreements with the prosecuting authority

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.

Assessment Checklist	YES	NO
(a) Has the agency established or attempted to establish a written MOU or other agreement with the authority responsible for prosecuting violations of criminal law?		
(b) Does the agency maintain a copy of the agreement or documentation showing attempts to enter into an agreement?		

#### Discussion

Greater collaboration and communication between law enforcement agencies and prosecutors can dramatically affect the success of sexual abuse prosecutions, improving accountability and preventing the recurrence of incidents of sexual abuse. The Commission urges the agency head to maintain regular, ongoing discussions with prosecutors about issues related to any allegations of criminal conduct in the agency.

Although the Commission recognizes that law enforcement agencies may not be able to persuade prosecuting authorities to enter into agreements, it nonetheless requires agencies to try to enter into agreements. For law enforcement agencies that successfully enter into agreements with prosecutors, the Commission recommends that agreements contain the following elements: (1) the purpose of the agreement (e.g., to ensure effective prosecution of sexual abuse in lockups); (2) identification of the liaison position within each agency/office; (3) a schedule for joint training of investigators and prosecutors; (4) objective criteria for prosecution referral; (5) a description of the necessary evidence and relevant paperwork prosecutors will need from the agency to prosecute a case of sexual abuse; (6) timeframes for submission of criminal cases to prosecutors; (7) a requirement that prosecutors report back to law enforcement agencies after each case is reviewed; (8) the respective roles and responsibilities of the law enforcement agency and the prosecuting authority if the prosecutor decides to prosecute; and (9) a schedule of regular meetings between the agency and prosecution supervisors to review the efficacy of the agreement and to recommend or make any changes, as necessary.



## II. PREVENTION

### Training and Education (TR)

#### TR-1 Employee and volunteer training

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.

Assessment Checklist	YES	NO
(a) Do lockup employees and volunteers who have contact with detainees receive the training necessary to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law?		
(b) Does the agency train all lockup employees and volunteers who have contact with detainees to communicate effectively and professionally with all detainees?		
(c) Does the agency provide periodic refresher training to ensure that all lockup employees and volunteers are educated on the agency's most current sexual abuse policies and procedures?		
(d) Following training, does the agency require lockup employees and volunteers to sign documentation stating that they understand the training they have received and maintain documentation of these signatures?		

#### Discussion

To fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law, lockup employees and any volunteers who have contact with detainees will need the knowledge and skills to prevent sexual abuse from occurring, to identify signs that sexual abuse may be occurring, and to take the appropriate actions when they learn of recent or historical incidents of sexual abuse. Additionally, it is important that all lockup employees and volunteers who have contact with detainees are trained to communicate effectively and professionally with all detainees, including those of different races, ethnicities, cultural or religious backgrounds, ages, genders, and sexual orientations as well as detainees with differing cognitive abilities. Good communication encourages greater trust between employees and detainees as well as volunteers and detainees, which may remove one of the obstacles to detainee reporting of sexual abuse.

Employee training can take place in multiple venues, including roll calls, on-the-job training, new employee orientations, and pre-service or in-service academies. It is recommended that an agency's sexual abuse training programs be accompanied by clear sexual abuse prevention policies developed with an eye toward overcoming any anticipated employee

resistance to or concerns about such policies. When putting together a training plan for employees, agency administrators and/or PREA coordinators may find it helpful to consult the many resources and training materials already available, including those developed by other local, State, and Federal correctional agencies; the National Institute of Corrections (NIC); and the Bureau of Justice Assistance (BJA). A full list of suggested employee training topics and procedures is provided in Appendix A. Although Appendix A is not an exhaustive or exclusive list, agencies may wish to use these items as a starting point for developing their own employee training curriculum and programs.

Because volunteers may have frequent contact with detainees, it is important that any volunteers for the agency receive basic training on the PREA standards, the agency’s zero-tolerance policy, and their responsibilities for reporting sexual abuse to law enforcement staff. The agency may choose to provide more detailed training for all or some subset of volunteers in their facilities, including many of the same topics suggested for employee training in Appendix A.

Volunteers may be trained off-site by their volunteer organization as long as the organization’s training program meets the minimum requirements outlined in this standard. In these instances, the agency must verify that the off-site training meets the requirements of this standard and maintain documentation that volunteers have received and understand this training, as mandated by the standard. If the agency trains volunteers, agency administrators and/or PREA coordinators may find it helpful to consult the same resources listed above for employee training when developing its volunteer training plan.

## TR-2 Detainee, attorney, contractor, and inmate worker notification of the agency’s zero-tolerance policy

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.

Assessment Checklist	YES	NO
(a) Do employees notify all detainees of the agency’s zero-tolerance policy regarding sexual abuse during intake?	<input type="checkbox"/>	<input type="checkbox"/>
(b) Does the agency ensure that attorneys, contractors, and inmate workers are informed of the agency’s zero-tolerance policy regarding sexual abuse upon entering the lockup?	<input type="checkbox"/>	<input type="checkbox"/>

### Discussion

Although the time an individual remains in a lockup varies widely, it is critical that every individual be notified of the agency’s zero-tolerance policy regarding sexual abuse as soon as possible upon entering the lockup. This notification should also include a description of prohibited detainee and staff behaviors and instruction on how to report an incident. Additionally, as required by this standard, in jurisdictions in which inmates are assigned to work in lockups, the agency must ensure that those workers receive the same information as the detainee population. The existing inmate workforce should be notified as soon as possible following the implementation of the PREA standards, and future workers should be notified prior to contact with the detainee population. Finally, because attorneys have frequent

contact with detainees and because contractors could come into contact with detainees, they should also be aware of the agency’s zero-tolerance policy. Attorneys should also know how to report any abuse disclosed to them.

The Commission encourages agencies to provide in-person verbal notification of this information to detainees, attorneys, contractors, and inmate workers. However, if this presents an undue burden for the agency, the agency may use passive learning tools, such as posters, flyers, videos, or brochures, to convey the information.

### TR-3 Specialized training: Investigations

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 *Miranda*- and *Garrity*-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.

Assessment Checklist	YES	NO
(a) Does the agency ensure that law enforcement staff who investigate sexual abuse in lockups have received training in conducting such investigations in confinement settings?		
(b) Does specialized training for sexual abuse investigators include the following?		
• 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		
• Criteria and evidence required to substantiate a case for administrative action or prosecution referral		
(c) Does the agency verify that investigators have completed specialized training in conducting sexual abuse investigations and maintain written verification?		

#### Discussion

Substantiating and resolving incidents of sexual abuse in confinement settings requires highly competent investigations. Sexual abuse investigations in confinement settings are complicated, and an agency will not be successful in addressing abuse if it does not ensure that investigators are sufficiently trained.

Because the trauma of sexual abuse can be especially devastating to victims in custody who may already feel powerless and isolated, special care should be given to the quality and training of the investigator to ensure that victims and witnesses are treated in a manner that facilitates victims’ recovery and cooperation. It is critically important for sexual abuse investigators to be trained in how to interview sexual abuse victims and witnesses, who may be reluctant to speak to investigators or generally uncooperative. Such training may include strategies for communicating effectively and professionally with all types of detainees, but may also include simple ideas like making sure that victims and witnesses are interviewed in locations where they feel

comfortable talking about the incident. Additionally, all investigators should know how and when to administer *Miranda*- and/or *Garrity*-type warnings to subjects of investigations.

Collecting evidence in a confinement setting requires that investigators understand where to look for evidence in these settings, including DNA evidence, and how security staff will secure and preserve crime scenes. Sexual abuse investigators should also know how and when to photograph injuries. In addition to knowing how to collect evidence in a confinement setting, investigators also need to know how to evaluate that evidence according to the different standards of proof required to substantiate a case for administrative action or prosecution referral. It may also be helpful for investigators to have an understanding of how cases are evaluated for prosecutorial merit.

When developing training curricula for investigators, the agency may find it helpful to consult training materials developed by other Federal, State, and local correctional agencies; NIC; and BJA. In the event investigators have previously received the comprehensive training described above, the agency does not need to re-train the investigators. In such instances, the agency will need to verify the investigators' preexisting knowledge and understanding of the requirements listed in this standard and their responsibilities under agency policy; the PREA standards; and Federal, State, or local law.

## III. DETECTION AND RESPONSE

### Reporting (RE)

#### 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.

Assessment Checklist	YES	NO
(a) Does the agency provide 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? (Please attach documentation explaining the specific reporting mechanisms the agency has in place.)		
(b) Does staff accept reports made verbally, in writing, anonymously, and by third parties?		
(c) Does staff immediately put into writing any verbal reports?		

#### Discussion

The agency should make reporting sexual abuse as easy, private, and secure as possible. The agency should accept reports of sexual abuse in person, via telephone, via email, or through other written correspondence. The more the agency demonstrates through policy, practice, and staff behaviors its commitment to protecting sexual abuse victims and punishing abusers, the more victims will feel safe coming forward.

The agency should take seriously all reports of sexual abuse, regardless of the form or format in which they were conveyed. Although the agency may choose to provide different mechanisms for reporting, staff should be prepared to accept and respond to all types of reports and manners of reporting. For example, a detainee who scrawls a note and passes it to an officer should be treated the same way as a detainee who files a formal complaint.

#### 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.



Assessment Checklist	YES	NO
(a) Does agency policy reflect that a detainee has exhausted administrative remedies with regard to a claim of sexual abuse under the following circumstances?		
<ul style="list-style-type: none"> <li>• 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</li> </ul>		
<ul style="list-style-type: none"> <li>• When 90 days has passed since the report was made, whichever occurs sooner</li> </ul>		
(b) Does agency policy reflect that a detainee seeking immediate protection from imminent sexual abuse has exhausted administrative remedies 48 hours after notifying any agency staff member of his or her need for protection?		

### Discussion

Currently, under the Federal Prison Litigation Reform Act (PLRA), agencies are able to raise a detainee’s “failure to exhaust administrative remedies” as an affirmative defense against a detainee’s legal claims brought in Federal court. The purpose of this requirement in the PLRA is to ensure that agencies have an opportunity to respond to a detainee’s complaint before that detainee files a lawsuit. Many people held in lockups are not considered “prisoners” under PLRA; in such cases, PLRA does not apply to any lawsuits they file, and this standard is not necessary to protect them. Likewise, it would be unusual for a lockup to have a grievance procedure similar to those developed by correctional agencies, and therefore it is unlikely that detainees who file a suit based on abuse in a lockup will see those suits dismissed for failure to “exhaust administrative remedies.” However, some detainees in lockups qualify as “prisoners” under PLRA, and in the event that abuse takes place at a lockup, it is equally important that those prisoners are not barred from court as a result of unreasonable administrative policies.

Agencies are free to determine the procedures by which a detainee “exhausts administrative remedies” by policy. In practice, many correctional agencies have adopted policies that require a detainee to file a grievance within a relatively short timeframe after the incident of abuse and then to make multiple appeals of the agency’s response within specific timeframes in order to satisfactorily exhaust the agency’s administrative remedies. Policies that require detainees to navigate a complicated grievance procedure within a short time after the abuse can result in the dismissal of meritorious legal claims by victims of sexual abuse. Although the statute of limitations to file a lawsuit may be one year or two depending on the type of claim and the jurisdiction, detainees who fail to file a grievance within one or two weeks after being abused may be permanently barred from court for failing to “exhaust administrative remedies.”

Victims of sexual abuse are particularly vulnerable to having their claims dismissed for this reason because the trauma of sexual abuse and fear of retaliation often prevent them from reporting the incident shortly after it occurs. Furthermore, since grievance procedures are generally not designed as the sole or primary method for reporting incidents of sexual abuse by detainees to staff, victims who do immediately report abuse to authorities may not realize they need to file a grievance as well to satisfy agency exhaustion requirements. For example, a victim might call the agency’s sexual abuse reporting hotline immediately but fail to file a grievance within the short timeframe allowed and later be barred from bringing a valid legal claim because of that failure.

This standard recognizes agencies’ legitimate interest in having a reasonable opportunity to respond to notice of abuse before being required to defend themselves in court. It also

recognizes that PREA's goals are not furthered if detainees are deemed to have forfeited their ability to seek judicial redress for abuse because they have not reported the abuse within a set timeframe after it occurs. The standard requires agencies to adopt policies by which a detainee is deemed to have exhausted his or her administrative remedies no later than 90 days after a report of sexual abuse is made and regardless of the time that has elapsed between the abuse and the report. Any report of sexual abuse should trigger a response by the agency, including an investigation into the merits of the allegation (IN-1, IN-2), the provision of appropriate medical and mental health treatment (MM-2, MM-3), and efforts to protect the alleged victim and other detainees from retaliation and future abuse (OR-5). It is possible that the agency will not have completed its investigation into the report within 90 days, but that is ample time within which the agency can take appropriate steps to protect the detainee and to demonstrate its efforts to find the truth for the purposes of defending against a lawsuit.

Finally, the standard recognizes that there may be urgent, emergency situations when a detainee seeks an immediate injunction from the court to provide protection from imminent harm. In such cases, the standard requires an exception to the 90-day waiting period. Because it is incumbent on the agency to provide protection immediately to a detainee who reports a risk of imminent harm, the agency shall deem the detainee's administrative remedies exhausted 48 hours after such a report is made to any agency employee. A court can determine whether the detainee's request merits an injunction, but the detainee seeking the court's protection should not be required to wait more than 48 hours since the nature of such a request is urgent. If the agency has in fact responded properly to the report or if the report was of such a nature that it did not warrant action on the part of the agency, a court can make that determination at the time the injunction is sought.

### RP-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.

Assessment Checklist	YES	NO
(a) Does the agency receive and investigate all third-party reports of sexual abuse?		
(b) At the conclusion of the investigation, does the agency notify 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?		
(c) Does the agency publicly distribute or post information on how to report sexual abuse on behalf of a detainee?		

#### Discussion

Information about how to report sexual abuse on behalf of a detainee should be available in multiple languages and in a convenient, easily accessible format. Information may be made available by phone, on a Web site, as part of any preliminary information provided verbally to visitors, in brochures, in flyers, or on posters in visiting areas. Regardless of how the agency chooses to distribute the information, the information itself should convey: (1) the contact information for the law enforcement official, department, or unit responsible

for receiving and responding to third-party allegations; (2) instructions for what information to include when reporting sexual abuse; (3) notice that the allegation will be discussed with the victim named in the report; (4) a statement explaining the allegation will be disclosed only to those who need to know to ensure victim safety and to investigate the allegation; and (5) notice that the agency will inform the individual who reported the abuse of the outcome of the investigation. The agency should periodically review and update, if necessary, the information distributed regarding third-party reporting.

## Official Response Following a Detainee Report (OR)

### OR-1 Staff and agency 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 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.

Assessment Checklist	YES	NO
(a) Has the agency notified staff members that they 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, including any knowledge of retaliation against detainees or staff who reported abuse and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation?		
(b) Has the agency notified staff members that they are required to limit information related to any incident of sexual abuse to those who need to know, as specified in agency policy, to make treatment and investigation decisions?		
(c) If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency head report the allegation to the designated State or local services agency under applicable mandatory reporting laws?		

### Discussion

Attaining compliance with this standard will require that agency leadership effectively convey to staff that they are mandatory reporters with no discretion to decide whether to report sexual abuse allegations or any other knowledge or suspicion of sexual abuse or harassment. They should make it clear through policy and practice that the agency tolerates neither a staff code of silence nor the mishandling or inappropriate sharing of information (i.e., spreading rumors or conveying information to individuals who have no need to know), and staff should be trained on the difference between spreading rumors and proper reporting. Additionally, it is critical that all staff members understand exactly what, when, how, and to whom they are required to report, including whether their responsibilities differ based on the type of offense or the persons involved. The agency head should know exactly how and

to whom he or she is required to report if the incident involves a victim under the age of 18 or a victim considered a vulnerable adult under a State or local vulnerable persons statute (e.g., statutes that address the mentally ill, mentally or physically disabled, or the elderly).

## OR-2 Reporting to other confinement facilities

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.

Assessment Checklist	YES	NO
(a) When the agency receives an allegation that a detainee was sexually abused while confined at another facility, does the head of the agency where the report was made notify in writing the head of the facility where the alleged abuse occurred?		
(b) If the head of the lockup receives notice that a former detainee has alleged sexual abuse while confined at his or her lockup, does he or she ensure that the allegation is investigated?		

### Discussion

Detainees who have been sexually abused while confined at a lockup, jail, or prison may feel safer reporting the abuse once they are no longer housed at the facility where the abuse occurred. For example, a detainee who was sexually abused at a jail may wait until he or she is transferred to a prison to report. Similarly, someone abused while confined in a State prison may choose to report once he or she is in the custody of a community corrections agency. The head of the agency or lockup where the report is made needs to be prepared to notify the appropriate authorities immediately. By the same token, as required by the standard, the head of the facility or lockup where the alleged abuse occurred must ensure that the allegation is investigated. This effort to communicate and share information across agencies and facilities should improve safety and security for all detainees and staff.

## OR-3 Staff first responder duties

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.

Assessment Checklist	YES	NO
(a) Has the agency notified law enforcement staff that upon learning of an incident of sexual abuse that occurred within a time period that still allows for the collection of physical evidence, they are required to separate victims from abusers; seal and preserve any crime scene(s); and instruct victims not to wash, brush their teeth, change their clothes, urinate, defecate, smoke, drink, or eat?		
(b) Has the agency notified non-law enforcement staff members that upon learning of an incident of sexual abuse, they are required to instruct victims not to wash, brush their teeth, change their clothes, urinate, defecate, smoke, drink, or eat and then notify law enforcement staff?		

### Discussion

In addition to reporting the abuse according to agency policy, the first law enforcement staff member who learns of a detainee being sexually abused is responsible for ensuring that the victim is safe and any physical evidence is preserved until an investigator arrives. At the time of publication of this body of standards, the commonly accepted time limit for collecting physical evidence is 96 hours. To carry out their duties effectively, law enforcement staff members will need to be able to counsel victims who may be in distress while maintaining security and control over the crime scene(s). In the event that a non-law enforcement staff member is the first staff responder, he or she needs to be prepared to instruct victims not to take any actions that could destroy physical evidence and then immediately notify law enforcement staff.

## OR-4 Coordinated response

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.

Assessment Checklist	YES	NO
(a) Are all actions taken in response to an incident of sexual abuse coordinated among staff first responders, medical and mental health practitioners, investigators, and agency leadership?		
(b) Does the agency's coordinated response ensure that victims receive all necessary immediate and ongoing medical, mental health, and support services?		
(c) Does the agency's coordinated response ensure that investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable?		

### Discussion

In the community, coordinated sexual assault response teams (SARTs) are recognized as a best practice for responding to incidents of rape and other sexual abuse because they enable key responders from the medical, advocacy, and law enforcement fields to coordinate their actions and share information, helping the victim receive the best care and providing the investigator with the best chance to find the perpetrator. SARTs are generally composed of representatives from the medical and mental health fields, victim advocacy groups (usually from local or regional rape crisis centers), and law enforcement agencies. Although

some law enforcement agencies already use some version of a SART, the Commission recognizes that not all agencies are equipped to organize a specialized team. The Commission urges those agencies to work toward developing such a team by working with community or regional law enforcement agencies, outside medical and mental health providers, and sexual abuse advocacy groups to establish a coordinated plan to address victims' needs and improve sexual abuse investigation outcomes. At the time of publication of these standards, the Commission recommends agencies consult 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" for guidance and ideas on developing an approach to a coordinated response to sexual abuse.

Regardless of whether the agency uses a designated response team, the standard requires that all actions taken in response to an incident of sexual abuse be coordinated among staff first responders, medical and mental health practitioners, investigators, and agency leadership. To ensure the best treatment for victims and the greatest likelihood of holding perpetrators accountable, a number of actions should be coordinated, including: (1) assessing the victim's acute medical needs to determine if he or she needs to be stabilized and/or treated for injuries, conditions, or potential risks; (2) informing the victim of his or her rights under relevant Federal and/or State crime victims' rights laws; (3) giving the victim the option of undergoing a forensic medical exam for the purpose of collecting and documenting physical evidence of abuse; (4) having a victim advocate available to the detainee victim during the forensic medical exam; (5) interviewing victims and witnesses; (6) collecting evidence; and (7) providing for any special needs a victim might have.

## OR-5 Agency protection against retaliation

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.

Assessment Checklist	YES	NO
(a) Does the agency employ the following measures to protect detainees and staff from retaliation for reporting sexual abuse?		
• Housing changes or transfers for detainee victims or abusers		
• Removal of alleged staff or detainee abusers from contact with victims		
• Employee assistance services or other resources for staff who may need psychological or emotional support		
(b) Does the agency monitor the conduct and/or treatment of staff who have reported sexual abuse or cooperated with investigations?		
(c) When retaliation has been confirmed, does the agency immediately take steps to protect the detainee or staff member?		

### Discussion

Fear of retaliation, such as being targeted for future arrest or prosecution, placed in harsh or hostile conditions, being attacked by other detainees, or, in the case of staff reporting, being penalized or ostracized by superiors or coworkers, prevents many detainees and staff from reporting sexual abuse and impedes the ability of the agency to protect the safety and security of its lockups. Retaliation can take many forms. Detainees may be charged instead of released or targeted for future arrest. A staff member who reports may find that he or she is being snubbed or isolated by other staff. The agency should use every means possible, from information conveyed in training sessions to strict reporting policies to strong disciplinary sanctions for retaliation, to discourage retaliation in any form.

The agency should be alert to the possibility of retaliation from the outset and should initiate and maintain protective measures for as long as it deems necessary. The agency's protective measures can be adjusted throughout the investigation as necessary, but this does not obviate the agency's obligation to take immediate and continuing steps to guard against retaliation.

## Investigations (IN)

### IN-1 Duty to investigate

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.

Assessment Checklist	YES	NO
(a) Does the agency investigate all allegations of sexual abuse from all sources, including third-party and anonymous reports?		
(b) Does the agency notify victims and other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions?		
(c) Are all investigations carried through to completion, regardless of whether the alleged abuser or victim remains at the lockup?		

### Discussion

One of the challenges agencies face when investigating allegations of sexual abuse is detainee and staff reluctance to report the abuse, whether as victims or as witnesses. This reluctance to report leads to delayed reporting, changed stories, noncooperation, and difficulties obtaining physical evidence. By investigating all allegations of sexual abuse and carrying those investigations through to completion, agencies send a strong message that sexual abuse is taken seriously and will not be tolerated, thereby encouraging all detainees to report.

Carrying investigations through to completion means making sure that an investigation continues even if an alleged staff perpetrator transfers, resigns, or retires or if an alleged detainee perpetrator or victim is transferred or released from custody during an investigation. Consistent application of these practices helps assure the reporting party and others

who may be considering reporting sexual abuse or cooperating with the investigation that reports and cooperation will not be fruitless. This assurance is critical given the risks often inherent to reporting sexual abuse and cooperating in an investigation of sexual abuse, both for staff and detainees. Continuing investigations after the alleged perpetrator has left the lockup helps ensure that an abuser does not escape accountability and will not remain undetected in another lockup or in another jurisdiction and thus can be critical to preventing further abuse. This should be an important risk management consideration for any agency.

This standard requires that victims and complainants be notified of the final investigative outcome (e.g., unfounded/unsubstantiated/substantiated) and any disciplinary or criminal sanctions imposed pursuant to a substantiated allegation of sexual abuse. When the investigative outcome is modified pursuant to review, appeal, or arbitration after notification has taken place, the victim/complainant should be notified of the modified outcome.

The “source” of an allegation of sexual abuse that triggers the duty to investigate may come in the form of evidence obtained during the investigation of a violent incident, or even death, within the lockup that does not appear to have any connection to sexual abuse. Agencies should be attuned to the fact that sexual abuse may be the motivating factor behind seemingly unrelated assaults, suicides, and homicides within their lockups. Forensic autopsies should be employed whenever possible to determine whether sexual abuse occurred prior to the act of violence or suicide being investigated.

## IN-2 Criminal and administrative agency investigations

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:

- 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 criminal prosecution.
- 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.

Assessment Checklist	YES	NO
(a) Are investigations of allegations of sexual abuse conducted only by investigators who have received special training in sexual abuse investigations (TR-3)?		
(b) When outside agencies investigate sexual abuse, does the agency keep abreast of the investigation and cooperate with outside investigators (RP-2)?		
(c) Are investigations of allegations of sexual abuse initiated and completed within prompt timeframes established by the agency?		
(d) Do investigations include a review of all direct and circumstantial evidence, including physical and DNA evidence when available; interviews of alleged victims, suspected perpetrators, and witnesses; and prior complaints and reports of sexual abuse or misconduct involving the suspected perpetrator?		
(e) Does the agency contact prosecutors when the quality of evidence appears to support criminal prosecution to determine whether compelled interviews may be an obstacle for subsequent criminal prosecution?		
(f) Are investigative findings based on the analysis of the evidence gathered and a determination of its probative value?		
(g) Do investigators assess the credibility of a victim, suspect, or witness on an individualized basis, rather than using the person's status as detainee or staff to assess credibility?		
(h) Do investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur?		
(i) Are administrative investigations documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments?		
(j) Are criminal investigations documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits?		
(k) Are substantiated allegations of conduct that appear to be criminal referred for prosecution?		

## Discussion

This standard addresses both criminal and administrative investigations. There are significant differences in how each type of investigation is conducted, and it is critically important to keep criminal and administrative investigations separate. However, certain elements are important to both types of investigation, and the standard addresses these elements.

The standard requires that effective investigations be initiated and completed promptly so that physical evidence is available and usable before memories have faded. Prompt investigations also give credence to an agency's zero-tolerance commitment to end sexual abuse. Prompt investigations improve agency safety and morale by ensuring that wrongly accused subjects are exonerated as quickly as possible and that abusers are detected and removed and/or disciplined as quickly as possible. Agencies should ensure that established timelines provide sufficient time for investigators to complete the investigation and for the review process to be completed. However, investigations and their reviews should be completed within the constraints imposed by statutes of limitation or terms and conditions of collective bargaining agreements so as to ensure that the agency has the ability to impose discipline when allegations are substantiated.

This standard also reflects the importance of investigations being conducted by investigators with the skills, objectivity, and sensitivity to resolve allegations credibly and with well-documented evidence. As the standard reflects, investigators must always be trained in conducting sexual abuse investigations (TR-3).

In cases of alleged staff-on-detainee sexual abuse or harassment, the agency will need to make extra efforts to ensure that those investigations are objective and thorough and should consider using outside investigators whenever possible to ensure the appearance as well as the reality of impartiality.

Because sexual abuse often has no witnesses and does not leave visible injury, investigators must be assiduous in searching out other kinds of direct and circumstantial evidence. To be successful, this requirement, like the other requirements of this standard, will need to be bolstered by investigator training and strong agency policies.

The type of direct and circumstantial evidence that can be gathered and analyzed will vary depending on the nature of the allegation. When forced intercourse or similar abuse is alleged, for example, properly conducted forensic exams may yield DNA evidence. When staff-detainee relationships are alleged, investigators should search for potentially corroborating evidence, such as telephone records, gifts, letters, and similar items. All investigations should include a review of prior complaints of sexual abuse as well as disciplinary findings in those cases—including from other facilities or jurisdictions, wherever possible—as such information may suggest repeated patterns of behavior that bear on the credibility of the suspected abuser. When the subject of the investigation is an employee, the agency should maintain investigative records for the duration of his or her employment with the agency, unless otherwise directed by State law.

Credibility assessments play an important role in the investigation of sexual abuse, as in any other investigation, and particularly so when there is no physical evidence. Properly trained investigators and agency officials must assess the truthfulness of alleged victims, suspected abusers, and witnesses (if there are any) based on a careful consideration of individual factors pertinent to each person (e.g., his or her possible motivations, opportunity, prior history of truthfulness, consistency of statements, etc.). Assumptions about truthfulness should not be based simply on the fact that a person is a detainee or member of the staff. The Commission especially cautions against automatically believing staff and disbelieving detainees when their statements contradict each other.

As this standard reflects, an important aspect of investigations of sexual abuse allegations is determining whether any staff negligence or collusion may have played a role in facilitating or causing the sexual abuse. This inquiry is critical to preventing future sexual abuse and is an important risk management tool for agencies.

As do several other standards, this standard recognizes the importance of coordinating with prosecuting authorities in cases involving sexual abuse allegations. This standard does not advocate delaying the initiation of the administration investigation until the decision of whether to prosecute has been made. However, to avoid compromising criminal investigations, investigators must contact prosecuting authorities before taking any compelled statements of subjects in potentially criminal cases. Agencies also must refer criminal cases for prosecution whenever the evidence indicates that the abuse appears to be criminal.

## IN-3 Evidence standard for administrative investigations

Allegations of sexual abuse are substantiated if supported by a preponderance of the evidence.

Assessment Checklist	YES	NO
(a) Are allegations of sexual abuse substantiated if supported by a preponderance of the evidence?		

### Discussion

The goal of this standard is to ensure that the agency uses a standard of proof that is fair to all parties and appropriate for administrative action. This standard of proof applies to administrative hearings and requires investigators to use the preponderance of the evidence standard that is commonly used in administrative investigations as well as in civil suits involving sexual abuse. The preponderance of the evidence standard requires that an allegation be substantiated when the evidence shows that it is more likely than not that the alleged abuse occurred. Administrative cases do not require that allegations be proven beyond a reasonable doubt.

Some facilities may establish lower thresholds for substantiating allegations of sexual abuse. This standard does not require that such facilities raise the threshold to the preponderance of evidence standard.

When available evidence is insufficient to substantiate an allegation, it may also be insufficient to prove that the alleged abuse did not occur. Such allegations may be determined to be unsubstantiated but cannot properly be categorized as unfounded. When there are numerous unfounded allegations in an agency or lockup, administrators may want to review the quality of the investigations and closely scrutinize policies and protocols because numerous unfounded incidents may indicate problems with the way investigations are being conducted or reveal unknown incidents that actually did occur.

## Discipline (DI)

### DI-1 Disciplinary sanctions for staff

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.

Assessment Checklist	YES	NO
(a) When staff has violated agency sexual abuse policies, has the staff member received sanctions up to and including termination?		
(b) Do the disciplinary sanctions imposed indicate that the presumptive disciplinary sanction for staff who has engaged in sexually abusive contact or penetration is termination?		
(c) Does the agency report to appropriate law enforcement agencies and any relevant licensing bodies all individuals terminated by the agency for violating agency sexual abuse policies?		

## Discussion

Imposing significant disciplinary sanctions for sexual abuse is a critical component of communicating an agency’s zero-tolerance of sexual abuse and developing a culture of safety and accountability. The goal of this standard is to ensure fair and consistent accountability for staff members who have violated agency sexual abuse policies and procedures, regardless of whether they are found guilty in criminal proceedings. Violations that require disciplinary sanctions pursuant to this standard include engaging in actual or attempted abuse or harassment, failing to report an incident of sexual abuse, failing to limit information received about an allegation to those who need to know, failing to cooperate with a sexual abuse investigation, engaging in retaliation against detainees or staff who report abuse, and failing to follow any other agency policy regarding sexual abuse in which staff was trained.

Disciplinary hearings for adjudicating allegations of attempted or actual staff-on-detainee sexual abuse or sexual harassment should be fair, and sanctions should be proportional to the nature and circumstances of the accused staff member’s conduct, his or her disciplinary history, and the sanctions meted out for comparable offenses by other staff with similar histories. Sanctions may entail training and counseling. The sanctions should be sufficiently serious in all cases to communicate to all staff and detainees the agency’s refusal to tolerate sexual abuse or any conduct that impedes its efforts to eliminate it.

This standard requires that termination be the “presumptive” but not the mandatory sanction for certain types of sexual abuse in recognition of the fact that disciplinary sanctions must be determined on a case-by-case basis. Establishing termination as a presumption places a heavy burden on the staff person found to have committed the abuse to demonstrate why termination is not the appropriate sanction. This presumption also requires that termination should be the rule for the referenced types of sexual abuse, with exceptions made only in extraordinary circumstances. As the standard reflects, although termination is not the presumption for all types of sexual abuse, it may be the appropriate sanction for instances of sexual abuse less severe than sexually abusive contact or penetration.

This standard is not meant to increase the employment rights of staff who are at-will employees.

## DI-2 Referrals for prosecution for detainee-on-detainee sexual abuse

When there is probable cause to believe that a detainee sexually abused another detainee, the agency refers the matter to the appropriate prosecuting authority.

Assessment Checklist	YES	NO
(a) When there is probable cause to believe that a detainee sexually abused another detainee, does the agency refer the matter to the appropriate prosecuting authority?		

## Discussion

Holding detainees accountable for sexually abusing other detainees is essential to deter abuse and to demonstrate to detainees and staff that the agency takes seriously its zero-tolerance policy. At the same time, the Commission strongly urges agencies to refrain from subjecting detainees to prosecution solely because they participated in apparently consensual sex or romantic relationships with staff. Subjecting such detainees to prosecution will discourage them from reporting abuse. On the other hand, the Commission recognizes

that detainees may engage in relationships with staff to obtain contraband or break other facility rules without being punished. The Commission believes detainees should be held responsible for such other rules violations, but not for the sexual relationship that allowed for such violations.

## Medical and Mental Health Care (MM)

### 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.

Assessment Checklist	YES	NO
(a) Does the agency ensure that victims of sexual abuse have timely, unimpeded access to quality medical services following an incident of sexual abuse, regardless of whether they name an abuser?		
(b) Are treatment services provided free of charge to the victim?		
(c) Does the agency ensure that all victims of sexual abuse have safe and timely transportation to community medical providers?		
(d) Does the agency refer victims to appropriate community mental health services?		

#### Discussion

Given the short period of time that most detainees will spend in a lockup, the responsibilities of the law enforcement agency following an incident of sexual abuse will likely be limited to ensuring that victims receive emergency medical treatment and intervention, including forensic medical exams when appropriate (RP-1). However, the law enforcement agency should be prepared to refer victims to community mental health services and explain how to access those services. Referrals to community mental health services may range from giving victims the phone numbers for rape crisis centers or hotlines to helping them make an appointment with a community service agency that provides services to crime victims. For victims who will be released into the custody of a jail, the law enforcement agency should take steps to ensure that information related to the detainee’s victimization travels with him or her so that the receiving facility can make informed decisions about that person’s care and treatment.

## IV. MONITORING

### Data Collection and Review (DC)

#### 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.

Assessment Checklist	YES	NO
(a) Does a group of upper management officials, with input from line supervisors and investigators, review the details of each incident of sexual abuse following every sexual abuse investigation, unless the allegation was determined to be unfounded?		
(b) Does the team use the review of 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?		
(c) Does the review group consider whether incidents were motivated by racial or other group dynamics at the lockup?		
(d) When incidents are determined to be motivated by racial or other group dynamics, do upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems?		
(e) Does the review team prepare a report of its findings and recommendations for improvement and submit it to the agency head?		

#### Discussion

Sexual abuse incident reviews provide the agency with the opportunity to identify policies or practices that may have contributed to or failed to prevent sexual abuse as well as any deficiencies in the agency's response. By examining the agency's prevention planning and response efforts following the occurrence of sexual abuse, the agency can prevent future incidents by making the necessary changes to policies or practices that endangered staff and detainees in the past.

Comprehensive sexual abuse incident reviews should include the following: (1) an analysis of any security failures that may have contributed to the incident; (2) an examination of the timeliness and quality of the response; (3) the various interventions provided to the victim and/or perpetrator, including medical and mental health care; and (4) the quality of the administrative and/or criminal investigation. Additionally, the review group should determine whether victim(s) or witness(es) faced any obstacles to prompt and safe reporting of the incident. Having identified underlying problems, the agency can then make the necessary changes to policies or practices that endanger staff and detainees.

## 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 obtains incident-based and aggregated data from every agency with which it contracts for the confinement of its detainees.

Assessment Checklist	YES	NO
(a) Does the agency collect uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions?		
(b) Does the agency aggregate the incident-based sexual abuse data at least annually?		
(c) Does the agency collect the incident-based data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence?		
(d) Does the agency obtain data from multiple sources, including reports, investigation files, and sexual abuse incident reviews?		
(e) Does the agency also obtain incident-based and aggregated data from every agency with which it contracts for the confinement of its detainees?		

### Discussion

The agency is required to collect incident-based data on all incidents of sexual abuse to examine the specific circumstances of each incident and track any possible patterns.

The BJS Survey on Sexual Violence asks agencies to answer questions using their aggregated data and their incident-based data collection policies. The data collection items listed in Appendix B include all the data that must be collected and aggregated to be able to answer the BJS survey questions. The most recent version of the BJS survey can be accessed electronically from the BJS Web site at <http://www.ojp.usdoj.gov/bjs/abstract/dcprea03.htm>. Appendix B also identifies additional information that the agency might want to consider incorporating into its incident-based sexual abuse data collection instrument. Such elements may be of assistance to the agency as it reviews, revises, and develops sexual abuse prevention and response policies and procedures. The agency may also decide to collect data not enumerated in Appendix B. Some incident-specific information may not be available during the initial data collection process but may become available over time. As more incident-specific information becomes known and available, it should be added to the other data collected for that incident.

Aggregating collected incident-based data on an annual basis will provide the agency with data descriptive of trends and patterns among reported incidents of sexual abuse that took place within the agency and its individual facilities during the previous year.

### DC-3 Data review for corrective action

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.

Assessment Checklist	YES	NO
(a) Does the agency review, analyze, and use all sexual abuse data, including incident-based and aggregated data, to assess the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training?		
(b) Does the agency use the data to assess problem areas, including any racial or other group dynamics underpinning patterns of sexual abuse?		
(c) Does the agency take corrective action on an ongoing basis, based on the problem areas indicated by the analysis of the data?		
(d) Does the agency prepare a report at least annually of its findings and corrective actions for each lockup as well as the agency as a whole?		
(e) Does the annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?		
(f) Is the agency's report approved by the agency head and submitted to the appropriate legislative body?		
(g) Is the agency's report made readily available to the public through its Web site or, if it does not have one, through other means?		

#### Discussion

This standard is meant to require incorporation and use of detainee sexual abuse data into an agency's existing data collection systems. The process of reviewing and analyzing incident-based and aggregated data allows agencies to detect patterns and trends that should be addressed as they review and revise their sexual abuse policies, practices, and training. For instance, sorting or filtering data by the victim's gender, race, custody level, and type of incident may allow the agency to identify specific causation of these events. This analysis may also reveal troubling racial dynamics underpinning certain patterns or trends of sexual abuse. Equipped with that knowledge, agencies and agency heads can work together to begin changing those dynamics by reviewing and modifying existing policies and practices for keeping detainees safe. Using the conclusions and results from the data analysis to take this kind of corrective action will make all lockups safer.

Comparing the current year's aggregated data to previous years' data will also yield valuable information about progress, including validation of implemented preventive measures. For example, the agency may observe a decrease in the number of allegations in an area where



additional security measures were implemented and monitoring was enhanced. The agency must include incident-based and aggregated data from all facilities with which it contracts for the confinement of its detainees in its review and analysis as part of its overall efforts to monitor the safety of detainees in contracted facilities (PP-2).

This standard also requires that the agency’s annual report on its data analysis and corrective actions be made readily available to the public. If the agency has a Web site, the report should be published on it. Otherwise, the agency should make other arrangements, for example, providing paper copies upon request, to ensure that members of the public can easily and promptly obtain the report. Members of the public should not have to identify themselves or provide a reason for wanting to see the report as a precondition to obtaining it.

## DC-4 Data storage, publication, and destruction

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.

Assessment Checklist	YES	NO
(a) Does the agency ensure that the collected sexual abuse data are properly stored, retained, protected, and destroyed?		
(b) Does the agency make 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?		
(c) Are all personal identifiers removed from the aggregate data before it is made publicly available?		
(d) Does the agency maintain 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?		

### Discussion

The agency’s data collection efforts will be useful to track trends and contribute to a national understanding of sexual abuse in confinement settings only if the agency stores the data in a manner that protects data integrity and retains the data for an adequate length of time. The requirement that data be securely retained and protected is meant to ensure the privacy of individuals involved in sexual abuse incidents and the integrity of the data. It is important that collected data be maintained in a way that protects the confidentiality of victims and alleged perpetrators. Thus, once data are aggregated, all unique identifiers pertaining to victims and alleged perpetrators should be removed.

The public has a legitimate interest in the data collected by agencies that serve the public. The data agencies are required to collect and publish under these standards will enable the public to understand the nature and level of safety in lockups. Agency sexual abuse data may also inform research and efforts to improve safety. Aggregated data with personal identifiers

removed should thus be readily available to the public. Publishing the data on the agency’s Web site, if it has one, is the easiest way for the public to obtain them. Absent a Web site, an agency may choose other feasible means to make the data public, such as providing paper copies to members of the public who request them. Members of the public should not have to identify themselves or provide a reason for seeking the data as a precondition to obtaining copies.

With regard to incident-based data, the Commission recommends agencies balance privacy interests against the legitimate public interest in safe correctional institutions by establishing a non-burdensome process to allow researchers, academics, journalists, and others access to such data.

## Audits (AU)

### AU-1 Audits of standards

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.

Assessment Checklist	YES	NO
(a) Are comprehensive audits conducted at least every three years?		
(b) Are auditors independent and qualified?		
(c) Are independent auditors able to do the following, as deemed appropriate by the auditor?		
• Enter and tour lockups		
• Review documents		
• Interview staff and detainees		
(d) Are audit reports and corrective plans published on the appropriate agency’s Web site if it has one or otherwise made readily available to the public?		

#### Discussion

Publicly available audits allow agencies, legislative bodies, and the public to learn whether lockups are complying with the PREA standards. Audits can also be a resource for the Attorney General in determining whether States are meeting their statutory responsibilities. Public audits help focus an agency’s efforts and can serve as the basis upon which an agency can formulate a plan to correct any identified deficiencies. These corrective action plans should be made public as well so that the public is fully informed as to whether the agency is taking appropriate steps to prevent sexual abuse. If the agency has a Web site, the audit should be published on it; otherwise, the agency may choose other feasible means to ensure the public has ready and easy access to the audit, such as providing paper copies to

members of the public who request them. Members of the public should not have to identify themselves or specify a reason for seeking the audit as a precondition to obtaining it.

The transparency achieved by public audits and corrective action plans can enhance community confidence in the steps agencies are taking to prevent sexual abuse in confinement facilities and can help generate public support for providing an agency with the resources it needs to prevent abuse more effectively. Publicly available audits and corrective action plans also help ensure that oversight bodies, including legislative bodies and community advocates, have the data necessary to decide whether and how to take action to improve sexual abuse prevention efforts.

For audits to serve these purposes effectively, they must be based on reliable and comprehensive information and be conducted by individuals or teams with the skills and objectivity necessary to take the following actions: (1) identify and gather the data that must be analyzed; (2) employ proper professional judgment when analyzing the data; and (3) work effectively with jurisdictions in planning audits. The requirements of this standard are designed to ensure that the audit process meets minimum audit standards while providing appropriate flexibility to the subject facility or agency regarding the identity of the auditor. Under this standard, an audit must be conducted by an individual or group of individuals who are independent of the agency, with no current direct reporting relationship to the head of the law enforcement agency being audited.

# APPENDIX A:

## TRAINING TOPICS AND PROCEDURES

The National Institute of Corrections (NIC) has developed a number of Prison Rape Elimination Act (PREA) training resources. The Commission directs all agency and agency heads to NIC's Web site (<http://www.nicic.org>) to learn more about existing resources and opportunities for training. However an agency decides to deliver training, the Commission strongly recommends that the following topics be included for employee training. Some may also be appropriate for volunteer training.

Following the list of topics, the Commission has made some procedural recommendations for ensuring that agency and agency heads deliver the most effective sexual abuse and PREA training to employees and volunteers.

### I. Recommended training topics

#### A. General education and awareness topics

1. An overview of PREA.
2. A description of the inalienable right of all detainees to be free from sexual abuse.
3. The role of law enforcement officials to protect and enforce the human right to be free from sexual abuse.
4. Definitions and examples of prohibited and/or illegal behaviors and language that are considered sexual abuse.
5. Examples of conduct, circumstances, and "red flags" that may be precursors to sexual abuse or which suggest sexual abuse is occurring.
6. The agency's anti-retaliation policy.
7. Common reactions by victims of sexual abuse.
8. The agency's liability for sexual abuse of persons in custody (criminal, civil, and administrative).
9. The agency's policy regarding detainees who knowingly make false allegations of staff-on-detainee sexual abuse or staff-on-detainee sexual harassment.
10. Professional boundary setting, including issues related to personal associations with detainees, consent, and imbalances of power.
11. Strategies for promoting effective prevention and intervention of staff-on-detainee sexual abuse and staff-on-detainee sexual harassment.
12. Strategies for removing a victim or witness of sexual abuse from any public or semipublic area without arousing the suspicion of other detainees or staff members.
13. Strategies for protecting the safety of vulnerable populations, including but not limited to lesbian, gay, bisexual, and gender-nonconforming detainees (including transgender and intersex); deaf, speech impaired, or visually impaired detainees; developmentally disabled detainees; detainees with limited English proficiency; mentally ill detainees; detainees with past histories of sexual abuse; detainees with personality disorders; and young detainees.

## B. Sexual abuse reporting duties

1. Staff members' duty to report sexual abuse and their liability if they fail to report.
2. The process staff members should use to report sexual abuse.
3. The process that detainees should use to report sexual abuse.
4. Agency head duty to report to a designated State or local services agency any allegations involving a victim under the age of 18 under mandatory child abuse reporting laws.

## C. Medical and mental health care

1. Rules governing forensic medical exams.
2. Protocol for transporting victims to community medical providers for emergency medical care and forensic medical exams, if appropriate.

## D. Investigations and discipline

1. The investigative process for allegations of sexual abuse, including the importance of preserving evidence.
2. The legal sanctions for detainees who engage in detainee-on-detainee sexual abuse.
3. The legal and disciplinary sanctions for staff who engage in actual or attempted staff-on-detainee sexual abuse or staff-on-detainee sexual harassment.
4. Victims' rights based on relevant State or Federal law.
5. The rights of a staff member who is the subject of an investigation based on relevant Federal or State law or, if applicable, under collective bargaining agreements.

## II. Recommended procedures for delivering training

### A. General guidance

1. Train new staff members before they have contact with detainees.
2. Prohibit staff members from working with detainees until they can demonstrate knowledge of the agency's sexual abuse policies and procedures.
3. Ensure that employees, volunteers, detainees, attorneys, contractors, and inmate workers have access to copies of the agency's sexual abuse policies.
4. Use multiple mechanisms for presenting the information, including lectures, dialogues, role-play/scenario-based training, and other interactive techniques.
5. Ensure training materials are up to date by reviewing them at least annually and making revisions, if necessary, to address changes in laws, policies, or protocols.
6. Provide refresher training to staff following any changes to law or policy.
7. Provide annual continuing education on sexual abuse that includes a review of the agency's sexual abuse data from the previous year.

## B. Testing and evaluation

1. Test staff members following training.
2. Ask staff to provide feedback on training, including suggestions for improving training tools and materials.
3. Evaluate staff members who conduct training at least annually to ensure that they are qualified and able to provide training effectively.



## APPENDIX B: INCIDENT-BASED DATA COLLECTION

Standard DC-2 requires agencies to collect incident-based data for every incident of sexual abuse. Under this standard, the agency is required to collect data sufficient to answer all of the questions from the Bureau of Justice Statistics' (BJS') Survey on Sexual Violence. Collecting data on the following items would allow the agency to answer the questions posed on the BJS survey and should help it to reach the broader goal of eliminating sexual abuse and keeping detainees safe.

### **I. Victim information**

1. Sex and gender identity.
2. Race/ethnicity.
3. Age.
4. Custody level.
5. Height and weight.
6. Previous sexual victimization in confinement.
7. Previous sexually abusive behavior in confinement.
8. Prior relationship with the alleged perpetrator.
9. Gang affiliation outside and/or inside the agency.
10. HIV/AIDS status.

### **II. Perpetrator information**

#### **A. Detainee perpetrator**

1. Sex and gender identity.
2. Race/ethnicity.
3. Age.
4. Custody level.
5. Height and weight.
6. Previous sexual victimization in confinement.
7. Previous sexually abusive behavior in confinement.
8. Prior relationship with the victim.
9. Gang affiliation outside and/or inside the agency.
10. HIV/AIDS status.

#### **B. Staff perpetrator**

1. Sex and gender identity.
2. Race/ethnicity.
3. Age.
4. Position held within the agency.
5. Relationship with victim.



6. Prior history of allegations and/or substantiated incidents of sexual abuse or harassment in current and prior employment.
7. Prior history of failure to comply with the agency's sexual abuse policies.

### **III. Other incident information**

#### **A. Reporting**

1. The date and time of the report.
2. The date, time, and location of the incident.
3. The reporting mechanism used.
4. Who made the report.
5. To whom the report was made.
6. Details of the incident alleged to have occurred, including type of sexual abuse.
7. The time lapse between when the incident took place and when the report was made.
8. The time lapse between when the report was made and when an investigation was initiated.
9. The time lapse between when the report was made and when the detainee received medical/mental health care, if applicable.

#### **B. Medical Care**

1. Whether the victim was transported to a community health provider for emergency medical services and/or a forensic medical exam.

#### **C. Investigations**

1. Type of investigation pursued: criminal and/or administrative.
2. Name of investigator(s).
3. Dates of the initiation and conclusion of the investigation(s).
4. Outcome of the investigation(s)/if the investigation(s) is ongoing.
5. Violations of administrative and/or criminal codes.
6. If the case is referred for prosecution, whether the prosecutor accepted or declined the investigation and, if accepted, the case disposition.
7. If administrative actions against staff member(s) are pursued, details about the sanctions.

## APPENDIX C: NPREC STANDARDS DEVELOPMENT EXPERT COMMITTEE MEMBERS

During the standards development process, the Commission convened expert committees comprised of diverse stakeholders with broad correctional expertise to provide information and guidance. The Commission thanks the members of the expert committees for their participation and contribution.

Organizational affiliations are provided for identification purposes only; committee members were not necessarily acting as representatives of their organizations. This list reflects each committee member's organizational affiliation at the time of participation and may not represent the person's current position. The Commission's standards do not reflect the official views of any of the organizations referenced here.

**Carrie Abner**, Research Associate, American Probation and Parole Association

**Aaron Aldrich**, Chief Inspector, Rhode Island Department of Corrections

**James Austin**, President, JFA Institute

**Roy F. Austin, Jr.**, Partner, McDermott Will & Emery

**Chris Baker**, Lieutenant, Corrections Supervisor/Jail Administrator, Van Buren County Sheriff's Office, Michigan

**David Balagia**, Major, Travis County Sheriff's Office, Texas

**Joe Baumann**, Corrections Officer, California Rehabilitation Center Chapter President, California Correctional Peace Officers Association

**Jeffrey Beard**, Secretary, Pennsylvania Department of Corrections

**Theodis Beck**, Secretary, North Carolina Department of Correction

**Art Beeler**, Warden, Federal Correctional Complex, Federal Bureau of Prisons, U.S. Department of Justice

**Andrea Black**, Coordinator, Detention Watch Network

**Charma Blount**, Sexual Assault Nurse Examiner, Texas Department of Criminal Justice

**Tim Brennan**, Principal, Northpointe Institute for Public Management, Inc.

**Lorie Brisbin**, Program Coordinator, Prisons Division, Idaho Department of Correction

**Barbara Broderick**, Director, Maricopa County Adult Probation Department, Arizona

**Roger Canaff**, Deputy Chief, Sex Offender Management Unit, Office of the Attorney General, New York

**Susan Paige Chasson**, President, International Association of Forensic Nurses

**Gwendolyn Chunn**, Immediate Past President, American Correctional Association

**Suanne Cunningham**, National Director, Corrections/Criminal Justice Program, Heery International

**Karen Dalton**, Director, Correctional Services Division, Los Angeles County Sheriff's Department

**Kim Day**, SAFE Technical Assistance Coordinator, International Association of Forensic Nurses

**Gina DeBottis**, Executive Director, Special Prosecution Unit, Texas Youth Commission

**Kathleen Dennehy**, Superintendent, Security Operations, Bristol County Sheriff's Office, Massachusetts

**Gary Dennis**, Senior Associate, The Moss Group, Inc.

**Ruth Divelbiss**, Captain, Ford County Sheriff's Office, Kansas

**Mark Donatelli**, Partner, Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg, and Bienvenu LLP

**Sarah Draper**, Director of Investigations, Office of Investigation and Compliance, Internal Investigation Unit, Georgia Department of Corrections

**Dr. Richard Dudley**, Private Practice of Clinical and Forensic Psychiatry

**Robert Dumond**, President and Licensed Clinical Mental Health Counselor, Consultants for Improved Human Services, PLLC

**Earl Dunlap**, Chief Executive Officer, National Partnership for Juvenile Services

**Maureen Dunn**, Director, Unaccompanied Children's Services, Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services

**Teena Farmon**, Retired Warden, Central California Women's Facility

**Lisa Freeman**, Staff Attorney, Prisoners' Rights Project, Legal Aid Society, New York City

**Vanessa Garza**, Associate Director for Trafficking Policy, Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services

**Michael Gennaco**, Chief Attorney, Office of Independent Review, Los Angeles County Sheriff's Department

**Karen Giannakoulis**, Forensic Interviewer/Victim Advocate, U.S. Attorney's Office, Washington, D.C.

**Steve Gibson**, Administrator, Youth Services Division, Montana Department of Corrections

**Simon Gonsoulin**, Former Director, Louisiana Office of Youth Development

**Kathleen Graves**, Director, Community Corrections Services, Kansas Department of Corrections

**Robert L. Green**, Warden, Montgomery County Correctional Facility, Montgomery County Department of Correction and Rehabilitation, Maryland

**Dr. Robert Greifinger**, Correctional Health Care and Quality Management Consultant

**David Guntharp**, Director, Arkansas Department of Community Correction

**Karyn Hadfield**, Training Specialist, Day One: The Sexual Assault and Trauma Resource Center

**Dee Halley**, PREA Program Manager, National Institute of Corrections, Federal Bureau of Prisons, U.S. Department of Justice

**Greg Hamilton**, Sheriff, Travis County, Texas

**Patrick M. Hanlon**, Partner, Goodwin Proctor LLP

**Patricia Hardyman**, Senior Associate, Association of State Correctional Administrators

**Rachel Harmon**, Associate Professor of Law, University of Virginia School of Law

**Michael Hennessey**, Sheriff, City and County of San Francisco, California

**Andrew Jordan**, Consultant, Migima, LLC; Retired Chief of Police, Bend Police Department, Oregon

**Thomas Kane**, Assistant Director, Information, Policy and Public Affairs Division, Federal Bureau of Prisons, U.S. Department of Justice

**Cliff Keenan**, Assistant Director, District of Columbia Pretrial Services Agency

**Jacqueline Kotkin**, Field Services Executive, Probation and Parole, Vermont Department of Corrections

**Deborah LaBelle**, Attorney

**Madie LaMarre**, Consultant

**Neal Langan**, Senior Research Analyst, Office of Research and Evaluation, Federal Bureau of Prisons, U.S. Department of Justice

**Dori Lewis**, Senior Supervising Attorney, Prisoners' Rights Project, Legal Aid Society, New York City

**Cheryl Little**, Executive Director, Florida Immigrant Advocacy Center, Inc.

**Jennifer Long**, Director, National Center for the Prosecution of Violence Against Women

**Christy Lopez**, Partner, Independent Assessment and Monitoring, LLP

**Margaret Love**, Attorney; Consulting Director, American Bar Association Commission on Effective Criminal Sanctions

**Bobbi Luna**, Captain, Multnomah County Sheriff's Office, Oregon

**Martha Lyman**, Director of Research, Hampden County Correctional Center, Massachusetts

**Bob Maccarone**, Director, New York State Division of Probation and Correctional Alternatives

**Cindy Malm**, Consultant, Retired Jail Administrator, Rocky Mountain Corrections

**Michael Marette**, Assistant Director of Corrections, American Federation of State, County, and Municipal Employees

**Jenifer Markowitz**, Forensic Nurse Consultant, DOVE Program, Summa Health System

**Steve Martin**, Attorney/Corrections Consultant

**Susan McCampbell**, President, Center for Innovative Public Policies, Inc., McCampbell & Associates, Inc.

**Ron McCuan**, Captain, U.S. Public Health Service; Public Health Analyst, National Institute of Corrections, Federal Bureau of Prisons, U.S. Department of Justice

**Linda McFarlane**, Mental Health Program Director, Just Detention International

**Jeff McInnis**, PREA Coordinator, District of Columbia Department of Youth Rehabilitation Services

**John Milian**, Detention and Deportation Officer, Criminal Alien Program, Office of Detention and Removal, Immigration and Customs Enforcement, U.S. Department of Homeland Security

**Phyllis Modley**, Correctional Program Specialist, Community Corrections Division, National Institute of Corrections, Federal Bureau of Prisons, U.S. Department of Justice

**Jean Moltz**, Correctional Health Care Consultant

**James Montross**, Director of Mental Health Monitoring, Texas Department of Criminal Justice

**Marcia Morgan**, Consultant, Migima, LLC

**John Moriarty**, Inspector General, Texas Department of Criminal Justice

**Anadora Moss**, President, The Moss Group, Inc.

**Gail D. Mumford**, Juvenile Detention Alternatives Initiative, Annie E. Casey Foundation

**Melissa Nolan**, Executive Assistant, Policy and Public Affairs Division, Federal Bureau of Prisons, U.S. Department of Justice

**Christopher Nugent**, Senior Counsel, Community Services Team, Holland & Knight LLP

**Barbara Owen**, Professor of Criminology, California State University, Fresno

**David Parrish**, Colonel, Commander, Department of Detention Services, Hillsborough County Sheriff's Office, Florida

**T.J. Parsell**, Human Rights Activist, Author of *Fish: A Memoir of a Boy in a Man's Prison*

**Dr. Farah M. Parvez**, Director, Office of Correctional Public Health, New York City Department of Health and Mental Hygiene; National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention

**Susan Poole**, Criminal Justice Consultant; Retired Warden, California Institution for Women

**Roberto Hugh Potter**, Centers for Disease Control and Prevention

**Eugenie Powers**, Director, Probation and Parole, Louisiana Department of Public Safety and Corrections

**Judy Preston**, Deputy Chief, Civil Rights Division, U.S. Department of Justice

**J. Michael Quinlan**, Senior Vice President, Corrections Corporation of America

**Jeffrey Renzi**, Associate Director, Planning and Research, Rhode Island Department of Corrections

**Denise Robinson**, President and CEO, Alvis House; Past-President, International Community Corrections Association

**Melissa Rothstein**, East Coast Program Director, Just Detention International

**David Roush**, Director, National Partnership for Juvenile Services, Center for Research and Professional Development, National Juvenile Detention Association

**Elissa Rumsey**, Compliance Monitoring Coordinator, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice

**Timothy Ryan**, Director, Miami-Dade County Corrections and Rehabilitation Department

**Teresa Scalzo**, Senior Policy Advisor, Sexual Assault Prevention and Response Office, U.S. Department of Defense

**Vincent Schiraldi**, Director, District of Columbia Department of Youth Rehabilitation Services

**Margo Schlanger**, Professor of Law, Washington University in St. Louis School of Law

**Karen Schneider**, Legal Consultant

**Dana Shoenberg**, Senior Staff Attorney, Center for Children's Law and Policy

**Linda Smith**, Research Consultant

**Donald Specter**, Director, Prison Law Office

**Mai-Linh Spencer**, Deputy State Public Defender, Office of the State Public Defender, California

**Richard Stalder**, Former Secretary, Louisiana Department of Public Safety and Corrections

**Lovisa Stannow**, Executive Director, Just Detention International

**Lara Stemple**, Former Director, Just Detention International; Director, Graduate Studies, University of California, Los Angeles, School of Law

**Tom Stickrath**, Director, Ohio Department of Youth Services

**Victor Stone**, Special Counsel, Office of Enforcement Operations, Criminal Division, U.S. Department of Justice

**Robert Sudlow**, Chief Probation Officer, Ulster County Probation Department, New York

**Anjali Swinton**, Director of Outreach, National Clearinghouse for Science, Technology, and the Law, Stetson University College of Law; President and CEO, SciLaw Forensics Ltd.

**Robin Toone**, Attorney, Foley Hoag LLP

**Cynthia Totten**, Program Director, Just Detention International

**Ashbel T. Wall, II**, Director, Rhode Island Department of Corrections

**Kelly Ward**, Former Warden, David Wade Correctional Center, Louisiana Department of Public Safety and Corrections

**Richard White**, Deputy Commissioner of Operations, City of New York Department of Correction

**Anne Wideman**, Clinical Psychologist

**Reginald Wilkinson**, Executive Director, Ohio Business Alliance for Higher Education and the Economy; Former Director, Ohio Department of Rehabilitation and Correction

**Margaret Winter**, Associate Director, National Prison Project, American Civil Liberties Union

**Jason Ziedenberg**, Consultant; Former Director, Justice Policy Institute



## APPENDIX D: STANDARDS IMPLEMENTATION NEEDS ASSESSMENT

During the public comment period, the Commission conducted a Standards Implementation Needs Assessment (SINA). The Commission created the SINA process to provide feedback on the draft standards through a series of “case studies” at particular facilities. More than 40 facilities from around the country applied to participate in the SINA process. The Commission selected 11 sites that reflected ranges in capacity, populations, and geographic settings and that included jails and prisons; facilities for men, women, and juveniles; and community corrections facilities. Each site visit took place over one and a half days and included a facility tour and five structured interviews: one with the Warden or Superintendent, and the others with small groups of staff to discuss general issues, training, medical/mental health, and investigations. These group interviews involved a variety of staff with experience relevant to the particular topic. When possible, we also spoke with inmates detained in the facilities.

### **Pilot Site**

Montgomery County Correctional Facility, Montgomery County Department of Correction and Rehabilitation, Boyds, MD  
April 22–23, 2008

### **Jails**

Suffolk County House of Correction, Suffolk County Sheriff’s Department, Boston, MA  
May 22–23, 2008

Washington County Jail, Washington County Sheriff’s Office, Hillsboro, OR  
June 5–6, 2008

### **Juvenile Facilities**

Cuyahoga Hills Juvenile Correctional Facility, Ohio Department of Youth Services, Highland Hills, OH  
July 9–10, 2008

Lynn W. Ross Juvenile Center, Tarrant County Juvenile Probation Department, Tarrant County Juvenile Services, Fort Worth, TX  
June 24–25, 2008

### **Prisons for Men**

James Allred Unit, Texas Department of Criminal Justice, Iowa Park, TX  
June 22–23, 2008

Northern Correctional Facility, West Virginia Division of Corrections, Moundsville, WV  
July 7–8, 2008



**Prisons for Women**

New Mexico Women's Correctional Facility, New Mexico Corrections Department, Grants, NM  
June 26–27, 2008

Valley State Prison for Women, California Department of Corrections and Rehabilitation,  
Chowchilla, CA  
June 3–4, 2008

**Community Corrections Facilities**

Southwestern Ohio Serenity (SOS) Hall, Hamilton, OH  
August 1, 2008

Talbert House, Cincinnati, OH  
July 30–31, 2008

