

**STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
CORRECTIONS SERVICES**



**Department Regulation
No. C-01-022**

10 May 2017

**FIELD OPERATIONS
General
Prison Rape Elimination Act (PREA)**

1. **AUTHORITY:** Secretary of the Department of Public Safety and Corrections as contained in Chapter 9 of Title 36; Department of Civil Service Rule No. 12 and the Prison Rape Elimination Act (PREA) of 2003 and Part 115 of Title 28 of the Code of Federal Regulations: Standards for Adult Prisons and Jails.
2. **REFERENCES:** La. R.S. 14:134.1 and 134.2, La. R.S. 15:228.6 and 621 and La. R.S. 44:3 et seq.; Ch.C. Art. 603 and 610; C.Cr.P. Art. 926.1(H)(6); Act No. 276 of the 2015 Regular Session; ACA Standards 4-4084 and 4084-1, 4-4281-1 through 4-4281-8, 4-4371, and 4-4406 (Adult Correctional Institutions); Department Regulation Nos. A-01-011 "Safety Plan," A-01-013 "Forms Management Program," A-02-018 "Institutional Staffing," A-02-022 "Criminal Record Check," A-02-024 "Critical Incident Stress Management Program," A-02-028 "Training and Staff Development," B-05-001 "Disciplinary Rules and Procedures for Adult Offenders," B-02-001 "Assignment and Transfer of Offenders," B-02-020 "Youthful Offenders," B-06-001 "Health Care Manual" (Health Care Policy Nos. 14 "Medical Level of Care" and HC-30 "Sexual Assault"), B-08-010 "Americans with Disabilities Act," B-08-013 "Offender Reentry Program," B-08-018 "Effective Communication with the Hearing Impaired," C-05-001 "Activity Reports/Unusual Occurrence Reports Operational Units" and C-05-003 "Headquarters Compliance Monitoring, etc." and Department Offender Posted Policies (DOPP's) #034 "Maximum Custody Housing-General and #035 "Maximum Custody Housing-Privileges and Restrictions."
3. **PURPOSE:** To prevent, detect, and respond to sexual abuse by staff, volunteers, contractors and offenders within units of the Department of Public Safety and Corrections (DPS&C).
4. **APPLICABILITY:** Deputy Secretary, Undersecretary, Chief of Operations, Department's Medical/Mental Health Director, Regional Wardens, Wardens, Sheriffs and Administrators of transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C, Director of Prison Enterprises, Headquarters Training Director, Department's PREA Coordinator, Department's PREA Investigator, unit staff with responsibility for processing contracts and all other DPS&C Staff. Each Unit Head is responsible for ensuring

that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

Note: This regulation serves to provide guidance and an overview of the required PREA Standards. Each Unit Head shall also be responsible for ensuring complete compliance with all provisions of Part 115 of Title 28 of the Code of Federal Regulations: Standards for Adult Prisons and Jails (copy attached) as outlined in this regulation.

5. **POLICY:** It is the Secretary's policy to provide a safe, humane and appropriately secure environment, free from threat of sexual abuse and sexual harassment for all staff and offenders by maintaining a program of prevention, detection, response, reporting, investigating and tracking of all alleged and substantiated incidents of sexual abuse. The DPS&C shall have zero tolerance for incidents of sexual abuse and sexual harassment within its facilities. (§115.11(A))

6. **DEFINITIONS:**

A. **Abusive Sexual Contact:** Contact without a person's consent or when a person is unable to consent or refuses to consent. The intentional touching, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or buttocks where the intent to abuse, arouse, or gratify sexual desire. This does not include kicking, grabbing or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

B. **Aggressor:** A staff member, contractor or offender committing an incident that involves sexual contact that is forced on or against another staff member or offender.

C. **Biological Evidence:** The contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in a criminal investigation, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes or any other item of evidence.

D. **Community Confinement Facility:** A community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center or other community correctional facility (including, a transitional work program (TWP) and residential reentry centers), other than a juvenile facility, in which individuals reside as part of a term of

imprisonment or as a condition of pretrial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs or similar facility-approved programs during non-residential hours.

- E. **Contractor:** An entity that provides services on a recurring basis pursuant to a contractual agreement with the Department to confine offenders. Any new contract or contract renewal following the effective date of this regulation shall include a requirement that the entity is obligated to adopt and comply with the PREA Standards. (§115.12)
- F. **Criminal Justice Agency:** Includes any government agency or subunit or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, having the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation or release of persons suspected, charged or convicted of a crime, or that collects, stores, processes or disseminates criminal history records or crime information.
- G. **Direct Staff Supervision:** Security staff who are present in the same room and within reasonable hearing distance of offenders.
- H. **DPS&C Facility:** Includes, for the purpose of this regulation, state operated prison facilities, state privately operated prison facilities and all transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C.
- I. **Exigent Circumstances:** Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- J. **Full Compliance:** Conformity with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.
- K. **Gender Nonconforming:** A person whose appearance or manner does not conform to traditional societal gender expectations.
- L. **Health Care Practitioner:** Clinicians (such as physicians, dentist, psychologist, podiatrist, optometrists, nurse practitioners, physician assistants and psychiatrists) trained to diagnose and treat patients.
- M. **Intersex:** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or

female. Intersex medical conditions are sometimes referred to as disorders of sex development.

N. Investigation Outcome Categories

- 1) **Substantiated Allegation:** An allegation that was investigated and the investigation determined the incident to have occurred.
- 2) **Unfounded Allegation:** An allegation that was investigated and the investigation determined the incident not to have occurred.
- 3) **Unsubstantiated Allegation:** An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the incident occurred.
- 4) **Pending Allegation:** An allegation that was investigated and the outcome of the investigation cannot be decided or settled due to awaiting DNA evidence.

O. Jail: A confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges or persons adjudicated guilty who are awaiting transfer to a correctional facility.

P. LGBTI: An acronym for Lesbian, Gay, Bisexual, Transgender, Intersex and Gender Nonconforming offender.

Q. Lockup: A facility that contains holding cells, cell blocks or other secure enclosures that are:

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

R. 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 their professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

- S. **Offender:** Anyone in the physical custody of the DPS&C.
- T. **Pat-down Search:** A running of the hands over the clothed body of an offender, detainee or resident by an employee to determine whether the individual possesses contraband.
- U. **PREA Blue:** Any offender within the custody of the DPS&C and "Yes" is checked for Item A1 or the offender has four or more points in Section II of the PREA Screening Checklist (Form C-01-022-D).
- V. **PREA Red:** Any offender within the custody of the DPS&C and "Yes" is checked for Item A1 or the offender has four or more points in Section III of the PREA Screening Checklist (Form C-01-022-D).
- W. **PREA Screening Checklist (Checklist):** An assessment tool utilized to assess an offender's probability of being a PREA Blue High Risk Sexual Victim (HRSV), PREA Red High Risk Sexual Predator (HRSP) or PREA Green.
 - 1) **PREA Blue HRSV:** Based on the Checklist, any offender within the custody of the DPS&C who has been identified as an individual who has been confirmed as a sexual victim or appears to be at high risk for sexual predation.
 - 2) **PREA Red HRSP:** Based on the Checklist, any offender within the custody of the DPS&C who has been identified or confirmed as an individual with the propensity to sexually assault others.
 - 3) **PREA Green:** Based on the Checklist, any offender within the custody of the DPS&C with no significant risk of sexual victimization or sexually predatory behavior.
- X. **Prison:** For the purpose of this regulation, any institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a felony.
- Y. **Reception and Diagnostic Centers:** Elayn Hunt Correctional Center (EHCC) and the Louisiana Correctional Institute for Women (LCIW) shall serve as the Department's primary reception and diagnostic centers, responsible for reception and diagnostic processing, escapes, apprehensions, extraditions and returns. However, other facilities may also provide reception and diagnostic processing. (See Department Regulation No. B-02-001 "Assignment and Transfer of Offenders" for additional information).

- Z. **Repeated:** Regarding sexual harassment, “repeated” for the purpose of a counseling session(s) is more than three complaints. A third alleged sexual harassment complaint against a staff member shall require a formal counseling session with the appropriate supervisor to discuss the complaint.

Note: The seriousness of the conduct shall be taken into account in determining the appropriate commensurate response by the unit. Serious sexual harassment complaints, even if committed once, shall still be addressed by the unit. Alleged inappropriate touching of romantic nature, by staff, whether wanted or unwanted, shall be evaluated on a case by case basis to determine if the incident is a violation of PREA.

- AA. **Security Staff:** Employees primarily responsible for the supervision and control of offenders in housing units, recreational, dining and other program areas of the facility.

BB. **Sexual Abuse (§115.6):**

- 1) Sexual abuse of an offender by another offender which includes any of the following acts if the victim does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person; and
 - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person, excluding incidents in which the intent of the sexual contact is solely to harm or debilitate rather than to sexually exploit.

- 2) Sexual abuse of an offender by a staff member, contractor or volunteer which includes any of the following acts, with or without the consent of the offender:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire;

- d. Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument that is unrelated to official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks that is unrelated to official duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - f. Any attempt, threat, or request by a staff member, contractor or volunteer to engage in the activities described in Subsections 2)a. through e. of this Section;
 - g. Any display by a staff member, contractor or volunteer of their uncovered genitalia, buttocks or breast in the presence of an offender; and
 - h. Voyeurism by a staff member, contractor or volunteer.
- 3) Voyeurism by a staff member, contractor or volunteer: An invasion of an offender's privacy by staff for reasons unrelated to official duties: such as peering at an offender who is using a toilet in their cell to perform bodily functions; requiring an offender to expose their buttocks, genitals or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions, and distributing or publishing them.
- 4) Sexual harassment includes:
- a. Repeated and unwelcome sexual advances, unwanted touching, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed toward another; and
 - b. Repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.
- CC. **Sexual Assault Collection Kit:** A kit that is designed to assist in the preservation of a human biological specimen or specimens collected during a forensic medical examination from the victim of a criminal sex offense.
- DD. **Sexual Assault Forensic Examiners (SAFEs) and Sexual Assault Nurse Examiners (SANEs):** Specially trained and certified examiners

that have specialized training and experience so that they are more sensitive to victim needs and are highly skilled in the collection of evidence, resulting in more successful prosecutions.

- EE. **Sexual Misconduct:** A range of behaviors used to obtain sexual gratification against another's will or at the expense of another. Includes sexual harassment, sexual assault and any conduct of a sexual nature that is without consent, or has the effect of threatening or intimidating the person against whom such conduct is directed.
- FF. **Staff:** Individuals who are employed by the DPS&C on a full-time, part-time or contractual basis.
- GG. **Strip Search:** A search that requires a person to remove all of their clothing so as to permit a visual inspection of the person's breasts, buttocks or genitalia.
- HH. **Student Interns:** Students from a credible educational institution who are not paid and allowed to use the classroom knowledge and skills they have obtained in a real world setting.
- II. **Transgender:** A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- JJ. **Unit Head:** Refers to the head of an operational unit, specifically the Undersecretary, Wardens, Director of Prison Enterprises and Sheriffs and Administrators local jail facilities and transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C.
- KK. **Volunteer:** An individual who donates their time and effort on a recurring basis to enhance the activities and programs of the DPS&C.
- LL. **Victim Advocate:** A qualified staff member or a qualified community-based staff member from a rape crisis center who has been screened for appropriateness to serve in the role of a victim's advocate and has received education concerning sexual assault and forensic examination issues in general. (§115.21)
- MM. **Vulnerable Adult:** A person 18 years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make, communicate or implement decisions regarding his person.

NN. **Youthful Offender:** Any offender under the age of 18 who is incarcerated in a DPS&C facility.

7. COORDINATION OF PREA RELATED ISSUES:

The Secretary shall appoint a staff member to serve as the Department's PREA Coordinator. This position shall also serve as the unit Compliance Manager for Headquarters and Prison Enterprises. The Department's PREA Coordinator shall have oversight of all activities to develop, implement and oversee the Department's efforts to comply with the PREA Standards in all units. (§115.11(B)) In addition, the Secretary shall appoint a staff member to serve as the Department's PREA Investigator. This position shall oversee all investigations for the Department and will work in conjunction with the Unit Heads and unit investigators. See Section 19. "INVESTIGATIONS" regarding the specifics concerning the Department's PREA Investigator's role in PREA investigations.

- A. Each Unit Head shall designate an employee to serve as the unit PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. Generally, the employee selected should hold an upper management position. (§115.11(C))
- B. Each Unit Head shall submit the names of prospective unit PREA Compliance Managers, along with their position title to the Department's PREA Coordinator. Each submittal shall be reviewed for approval by the Department's PREA Coordinator.
- C. The unit PREA Compliance Managers shall serve as a liaison between their facility and the Department's PREA Coordinator and other appropriate Headquarters staff and shall be responsible for monitoring PREA related activities, etc. The unit PREA Compliance Managers shall ensure that each requirement of this regulation, including verification that all training, screening, assessments, reporting and monitoring is accomplished in a timely manner.

8. STAFFING:

- A. Each facility shall develop and document a staffing plan (see Department Regulation No. A-02-018 "Institutional Staffing") that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against sexual abuse. When designing new units, planning substantial expansions or modifications to existing units or when updating a video monitoring system, the Unit Head shall consider how such

expansions, modifications or updates would enhance the unit's ability to protect offenders from sexual abuse. (§115.18(A) and (B))

B. When calculating adequate staffing levels and determining the need for video monitoring, each unit shall take into consideration the following: (§115.13(A))

- 1) Generally accepted detention and correctional practices;
- 2) Any judicial findings of inadequacy;
- 3) Any finding of inadequacy from Federal investigative agencies;
- 4) Any findings of inadequacy from internal or external oversight bodies;
- 5) All components of the unit's physical plant (including "blind spots" or areas where staff or offenders may be isolated);
- 6) The composition of the offender population;
- 7) The number and placement of supervisory staff;
- 8) Institution programs occurring on a particular shift;
- 9) Any applicable State or local laws, regulations or standards;
- 10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse;
- 11) Any other relevant factors.

C. In addition to and along with other rounds as specified in institutional policy, each Unit Head shall ensure policy, post orders, and practice require both intermediate-level or higher-level supervisors conduct and document unannounced rounds for the purpose of identifying and deterring staff sexual abuse and sexual harassment. These rounds shall occur during both night and day shifts. Each unit shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the unit. (§115.13(D))

D. In circumstances where the staffing plan is not complied with, the Unit Head or designee shall document and justify all deviations from the plan.

This document shall be forwarded to the unit's PREA Compliance Manager for retention purposes. (§115.13(B))

- E. Each Unit Head shall develop a PREA staffing plan and annual updates shall be submitted to the Department's PREA Coordinator. The staffing plan shall assess, determine and document whether adjustments are needed to the staffing plan, deployment of video monitoring systems or other monitoring technologies and the resources the facility has available to commit to ensure adherence to the staffing plan. (§115.13(A) and (C))

9. SCREENING, HIRING, DETAIL TO SPECIAL DUTY AND PROMOTION DECISIONS (§115.17):

- A. No unit shall hire, detail or promote any applicant or employee who:
 - 1) Has engaged in sexual abuse in a community confinement facility, jail, lockup or prison as defined in Section 6. of this regulation;
 - 2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse;
 - 3) Has been civilly or administratively adjudicated to have engaged in the above conduct.
- B. In order to comply with the Prison Rape Elimination Act, applicants for hire must allow the Department to contact previous employers from a community confinement facility, jail, lockup or prison (as defined in Section 6. of this regulation). An Authorization to Contact Previous Employers (Form C-01-022-F) shall be completed by all applicants prior to the effective date of hire.
- C. Applicants for hire, detail to special duty or direct promotion must truthfully answer all questions included on the PREA Requirements for Applicants and Employees Being Considered for Hire, Detail to Special Duty and/or Promotion (Form C-01-022-G). This form shall be completed by the applicant/employee during the interview process or prior to the effective date of hire.
- D. The unit shall consider any incidents of sexual harassment in determining whether to hire, detail or directly promote anyone who may have contact with offenders.

- E. Before hiring, detailing or directly promoting any employee who may have contact with offenders each unit shall perform criminal background checks in accordance with Department Regulation A-02-022 "Criminal Record Check." In addition, criminal background checks shall be performed at least once every five years for current employees who may have contact with offenders. (§115.17(E))
- F. Prior to hiring any applicant, each unit's Human Resources Office shall contact each applicant's prior community confinement facility, jail, lockup and/or prison employers (as defined in Section 6. of this regulation) for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse using the PREA Reference Check (Form C-01-022-H).
- G. Each employee has a personal responsibility to disclose to the Unit Head within 72 hours, any conduct for which he was accused, charged and/or convicted as listed in Section 6.A. of this regulation. The PREA Requirements for Applicants and Employees Being Considered for Hire, Detail to Special Duty and/or Promotion (Form C-01-022-G) shall be utilized upon hire for this purpose.
- H. Omissions by applicants for hire, detail to special duty or direct promotion regarding such conduct or providing false information about such conduct shall be grounds for disciplinary action up to and including dismissal.
- I. Unless prohibited by law, each unit shall provide information regarding substantiated allegations of sexual abuse or sexual harassment involving current or former employees upon receiving a request from a community confinement facility, jail, lockup or prison (as defined in Section 6. of this regulation) for whom such employee has applied to work.

10. LIMITS TO CROSS-GENDER VIEWING AND SEARCHES (§115.15):

- A. Cross-gender pat-down searches of female offenders are not permitted, absent exigent circumstances.
- B. Cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) shall not be conducted except in exigent circumstances.
- C. No search or physical exam may be conducted when the sole purpose of the search or physical exam is to determine the offender's genital status. (See Section 14.B. of this regulation for additional information regarding identification of an offender's genital status).

- D. Offenders should be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Upon entering a housing unit, all cross-gender staff shall announce their presence.
- E. All cross-gender strip searches and cross-gender visual body cavity searches shall be documented on an Unusual Occurrence Report (UOR). (§115.15(C))

11. TRAINING

All training on sexual abuse pursuant to the PREA Standards shall be developed by the Department's Training Director in conjunction with the Chief of Operations, Regional Wardens, Department's PREA Coordinator and Department's Medical/Mental Health Director and shall include the following:

- A. Employee Training
 - 1) All current staff and new hire employees shall sign the Sexual Assault and Sexual Misconduct with Offenders Acknowledgement (Form C-01-022-A) and the Malfeasance in Office (Form C-01-022-B). Both forms shall be maintained in the employee's personnel file. All staff shall receive instruction related to the prevention, detection, response, reporting and investigation of sexual abuse. (§115.31(D))
 - 2) Training shall be tailored to the gender of the offenders at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male offenders to a facility that houses only female offenders, or vice versa. (§115.15(B))
 - 3) The Department shall provide Correctional Officers with refresher training annually and all other employees shall receive refresher training every two years to ensure that all employees are aware of the Department's current sexual abuse and sexual harassment policies and procedures. (§115.31(C))
 - 4) All security staff shall be trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex offenders, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. (§115.15(F))

- 5) During orientation and annually thereafter, all staff shall be trained in the prevention, detection, response, reporting and investigation of sexual abuse. This training shall include: (§115.31(A) and 115.35(A))
- a. The Department's zero-tolerance policy for sexual abuse and sexual harassment;
 - b. How to fulfill the employee's responsibilities pursuant to this Section and this regulation;
 - c. An offender's right to be free from sexual abuse and sexual harassment;
 - d. The right of offenders and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e. The dynamics of sexual abuse and sexual harassment in confinement;
 - f. Common reactions of sexual abuse and sexual harassment victims;
 - g. How to detect and respond to signs of threatened and actual sexual abuse;
 - h. How to avoid inappropriate relationships with offenders;
 - i. How to communicate effectively and professionally with offenders, including LGBTI offenders; and
 - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. (§115.31(A))

Training shall also include: (§115.35) Specialized training: Medical and mental health care

- a. The agency shall ensure that all full and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
 - i. How to detect and assess sign of sexual abuse and sexual harassment;
 - ii. How to preserve physical evidence of sexual abuse;
 - iii. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
 - iv. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
- b. If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

- c. The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.
- d. Medical and mental health care practitioners shall also receive the training mandated for employees under §115.31 or for contractors and volunteers under §115.32, depending upon the practitioner's status at the agency.

B. Volunteer, Intern and Contractor Training (§115.32)

The Department shall ensure that all volunteers, interns and contractors who have contact with offenders have been trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection and response policies and procedures.

- 1) All volunteers, interns and contractors must sign the Sexual Assault and Sexual Misconduct with Offenders Volunteer Acknowledgement (Form C-01-022-C) stating that they understand that any violation shall result in disbarment from the unit and may include the filing of criminal charges as warranted. Form C-01-022-C shall be maintained in a file under the direct responsibility of the Unit Head or designee.
- 2) The level and type of training provided to volunteers, interns and contractors shall be based on the services they provide and level of contact they have with offenders, but all volunteers who have contact with offenders shall be notified of the Department's zero tolerance policy regarding sexual abuse and sexual harassment and informed of the procedures to follow to report such incidents.
- 3) The facility shall maintain documentation confirming the training the volunteers, interns and contractors received.

C. Offender Training (§115.33)

- 1) Offender orientation for all new incoming offenders shall include verbal and written training information regarding sexual assault and sexual misconduct. This information shall address the following:
 - Prevention;
 - Self-protection;
 - Multiple channels of reporting sexual assault and sexual misconduct;

- Protection from retaliation;
- Treatment and counseling;
- DPS&C zero tolerance for sexual assault and sexual misconduct.

2) Offenders at all institutions shall receive information concerning sexual abuse during offender orientation at their respective permanent housing unit upon intake. In addition, each offender shall receive one hour of annual training regarding sexual abuse and reporting.

D. Offenders with Disabilities and Offenders who are Limited English Proficient

All facilities shall take appropriate steps to ensure that offenders with disabilities (including, for example, offenders who are deaf or hard of hearing, those who are blind or have low vision, those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment. (See Department Regulation Nos. B-08-010 "Americans with Disabilities Act" and B-08-018 "Effective Communication with the Hearing Impaired" for additional information). (§115.15(A) and 115.33(D))

1) The Department shall take reasonable steps to ensure meaningful access to all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and sexual harassment to offenders who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. (§115.16(B))

2) Certified offender interpreters may be used to explain the policies and procedures for reporting; however, the Department shall not rely on offender interpreters, offender readers or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties (§115.64) or the investigation of the offender's allegations. (§115.16(C))

3) Per the Memorandum of Understanding, the Department will utilize Speak Easy Telephone Interpreting Services for all foreign language interpreting needs.

12. SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS (§115.41):

All new incoming offenders shall be screened at the reception and diagnostic centers for a history of predator sexual behavior, sexual abuse and the likelihood/potential of sexual abuse/victimization. Initial intake screening shall occur ordinarily within 24 hours of intake, and requires that the facility reassess the offender's risk of victimization or abusiveness within a set time period, not to exceed 30 days from the offender's arrival at the facility, based upon any additional, relevant information received by the facility subsequent to the intake screening.

- A. Reception center staff shall interview and evaluate all incoming offenders for PREA Blue HRSV and/or PREA Red HRSP and/or PREA Green tendencies utilizing the results of the PREA Screening Checklist and Instructions for Utilizing the PREA Screening Checklist (Form C-01-022-D), available offender records and mental health screening. The completed Checklist shall be filed in the offender's Master Record and in the mental health section of the offender's medical record file. Offenders shall not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked in the PREA Screening Checklist.
- B. Offenders who enter the Department as sex offenders or offenders identified as PREA Red HRSP by the Checklist shall be advised of the sex offender treatment and programming available by mental health professionals involved in the reception and classification process. Clinical decisions involving these offenders awaiting transfer to a permanent institutional setting shall be the responsibility of the mental health staff at the reception centers.
- C. Offenders who enter the Department and are identified as confirmed PREA Blue HRSV victims of sexual assault utilizing the Checklist shall be considered for placement in a permanent institutional setting in accordance with the provisions of Section 16.H.
- D. Facility staff shall utilize the Offender Management System High Risk Sexual Predator/Victim Report (Entry Code "CHRSPV 2") to identify offenders that have been screened and identified as PREA Blue or PREA Red and their current housing assignment. PREA Compliance Managers or delegated appropriate staff shall utilize this reporting method to review housing assignments on the first working day of each month in order to verify that PREA Blue and PREA Red are not housed in the same housing area. If the offender's score designates both a PREA Red and PREA Blue, the Warden or designee will determine appropriate housing of the offender.

13. MEDICAL AND MENTAL HEALTH SCREENINGS/HISTORY OF SEXUAL ABUSE (§115.81):

- A. If the PREA screening indicates that an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, or that an offender perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. (§115.81(A) and (B)). The units' Classification Department will complete an Availability of Mental Health Counseling (Form C-01-022-M) upon intake for those offenders with a history of sexual victimization or who have previously perpetrated sexual abuse. This form will then be forwarded to the Mental Health Director for completion and placement into the Mental Health Section of the Medical Record.
- B. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be limited to treatment staff (and others as necessary) in order to develop treatment plans and security and management decisions, including housing, bed, work, education and program assignments, or as otherwise required by Federal, State or local law. (§115.81(D))
- C. Medical and mental health practitioners shall obtain informed consent from offenders before reporting information regarding prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18. (§115.81(E))

14. USE OF SCREENING INFORMATION UPON INITIAL INTAKE:

- A. Decisions concerning housing assignments, jobs and group activities for PREA Blue HRSV and PREA Red HRSP offenders shall be the responsibility of the Initial Classification Board at each receiving institution and shall be based on the Checklist, record review, prior facility behavior and current behavior. If mental health intervention is indicated, a referral shall be made by the Initial Board to a mental health professional. Offenders may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions which are contained on the PREA Screening Checklist. (§115.41 (d)(1), (d)(7), (d)(8) or (d)(9))
- B. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the unit shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety,

and whether the placement would present management or security problems. Transgender offenders will also be given the opportunity to shower separately and each unit shall maintain documentation of the efforts to offer separate showers utilizing a Shower Preference Statement (Form C-01-022-N). Questions regarding identification of a transgender or intersex offender's genital status shall be referred to the Department's Medical/Mental Health Director for review and, if needed, determination if a physical examination in a private setting by a health care provider is necessary. (§115.15(E) and 115.42(C))

- C. Reception center staff shall note the results of the Checklist in the Offender Management System. Consideration concerning housing, including possible single cell, shall be determined by the Classification Board based on initial screening information for those offenders confirmed/deemed PREA Blue HRSV and/or PREA Red HRSP.

15. YOUTHFUL OFFENDERS (§115.14):

- A. All offenders under the age of 18 years housed in a state correctional facility are considered youthful offenders.
- B. The Department recognizes that:
 - 1) No youthful offender may be placed in a housing unit in which the offender will have contact with any adult offender through use of a shared day room or other common space, shower area or sleeping quarters;
 - 2) Outside of housing units, the Department shall either maintain "sight and sound separation" between youthful offenders and adult offenders to prevent adult offenders from seeing or communicating with youthful offenders, or provide direct staff supervision when youthful offenders and adult offenders are together.
- C. Administrative staff shall make their best efforts to avoid placing youthful offenders in segregation to comply with the provisions of this Section and that, absent exigent circumstances, each unit shall comply with this standard in a manner that affords youthful offenders daily large-muscle exercise and any legally required special education. Youthful offenders shall also have access to other programs and work opportunities to the extent possible.
- D. Refer to Department Regulation No. B-02-020 "Youthful Offenders" for additional information specific to this offender population.

16. USE OF SCREENING INFORMATION AT PERMANENT HOUSING ASSIGNMENT (§115.42):

The completed Checklist for all offenders at their permanent housing assignment shall be filed and shall remain in the offender's Master Record and in the mental health section of the offender's medical record file. The Checklist shall not be considered a public record.

- A. Once an offender is confirmed/deemed a PREA Blue HRSV and/or PREA Red HRSP at any time during incarceration, the offender shall be evaluated by the Classification Board for appropriate housing and programs and the offender shall be referred to a mental health professional. The mental health professional shall meet with the offender upon receipt of the referral to offer services and encourage programming.
- B. Placement and programming assignments for transgender or intersex offenders shall be reassessed and documented at least twice each year utilizing the Transgender/Intersex Reassessment (Form C-01-022-O) by Classification staff to review any threats to safety experienced by the offender.

Note: It is prohibited to place a lesbian, gay, bisexual, transgender, intersex and gender nonconforming offender (LGBTI) in a dedicated unit or facility solely on the basis of LGBTI identification unless such placement is pursuant to a legal requirement for the purpose of protecting such an offender. Transgender and intersex offenders must be given the opportunity to shower separately from other offenders.

- C. The Department's Medical/Mental Health Director shall ensure that the institution employs or has access to the services of a licensed mental health professional that has a scope of practice, training and/or experience in trauma counseling.
- D. Mental health services for PREA Blue HRSV offenders shall focus on issues related to treatment for and prevention of victimization.
- E. Mental health services for PREA Red HRSP offenders shall focus on alleviating the offender's propensity for predatory or aggressive sexual behavior.
- F. The Director of Classification or designee at each institution shall be notified at intake by the Initial Board or by any staff member thereafter who identifies an offender as a PREA Blue HRSV and/or PREA Red HRSP. The Director of Classification or designee shall ensure that this information is entered into the offender's Annual Assessment, Master Record and in

the mental health section of the offender's medical record for monitoring purposes. If the offender's discharge date occurs prior to the Annual Assessment, a screening shall be completed prior to discharge. Each facility will be responsible for reviewing an offender's PREA designation prior to any housing, job or program reassignment to make an individualized determination regarding how to ensure the safety of each offender.

- G. At least quarterly, Unit Managers shall ensure housing area supervisors and staff are provided with information identifying which offenders within those housing locations are designated as PREA Blue HRSV and PREA Red HRSP in order to achieve the effective management of these offender populations. Additionally, this information shall be provided to housing area supervisors each time a PREA Blue HRSV or PREA Red HRSP offender's housing location is changed.
- H. Offenders at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If the facility restricts access to programs, privileges, education or work opportunities, the facility shall document this information on the 24 Hour Review of Involuntary Segregation Status during PREA-Related Investigations (Form C-01-022-P). If a facility cannot conduct an assessment immediately, the facility may hold the offender in involuntary segregated housing for less than 24 hours while completing the assessment. (§115.43)
- I. Any offender who is recognized by staff or others as displaying predatory behavior or the potential for victimization shall be referred to the PREA Compliance Manager for a special referral evaluation utilizing the Checklist to determine the appropriate classification for the offender. If indicated, the Compliance Manager shall ensure that a referral is made to a mental health professional for intervention.

17. REPORTING WITHIN THE DEPARTMENT:

- A. An allegation of sexual abuse shall be reported to the Department's PREA Coordinator and the Department's PREA Investigator immediately following the initial notification to the Unit Head. Such allegations shall be treated with discretion and confidentiality.
- B. All allegations of sexual assault, sexual misconduct or sexual harassment by either staff or offender may be reported to any staff member. The staff member who receives such reports whether verbally or in writing, shall

immediately notify their supervisor who shall ensure that an Unusual Occurrence Report (UOR) is completed. Unit policy and procedures shall include specific methods for staff to also privately report sexual assault or sexual misconduct of offenders to any staff member. All PREA related UOR's shall be forwarded immediately up the chain of command. The appropriate supervisor shall immediately contact the facility investigative section. Staff shall also report any claims of retaliation against offenders and staff for reporting abuse, as well as any staff neglect or violation of responsibility that may have contributed to an incident or retaliation. For at least 90 days following a report of sexual abuse, the unit shall monitor the conduct and treatment of offenders or staff who reported the sexual abuse and offenders who were reported to have suffered sexual abuse to determine if there are changes that may suggest possible retaliation by offenders or staff and shall act promptly to remedy any such retaliation. Items the unit should monitor include any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. The unit shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. This should be documented on the PREA Agency Protection against Retaliation for Offenders/Staff (Form C-01-022-Q). In the event an offender who is being monitored for retaliation is transferred, the PREA Compliance Manager at the sending facility shall follow up with the receiving facility to ensure continuity of retaliation monitoring. (§115.61(A), 115.51(C) and (D) and 115.67 (A) and (E)). An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

- C. An offender may also use the Administrative Remedy Procedure (ARP) as a means to report an alleged sexual assault or sexual misconduct. There is no time limit imposed regarding when an offender may submit a grievance regarding an allegation of sexual abuse. The Department shall not require an offender to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. Nothing in this section shall restrict the unit's ability to defend against an offender's lawsuit on the ground that the applicable statute of limitations has expired. (§115.52)

Third parties (which may include other offenders, unit staff, family members, attorneys and outside advocates) may also assist offenders by making sexual abuse harassment reports, and/or initiating formal grievances. However, once this formal grievance process has been initiated by a third party, the offender must authorize the request for remedy and must continue the process in accordance with Department Regulation No. B-05-005 "Administrative Remedy Procedure." The unit shall document offenders who decline to continue with the grievance once a third party initiates the process.

- D. In every case where the alleged aggressor is a staff member, there shall be no contact between the alleged aggressor and the alleged offender/victim without the approval of the Unit Head.
- E. The staff member receiving the report and/or the appropriate supervisor shall advise the victim not to shower or otherwise hygienically clean or if the assault was oral, not to eat, drink, or brush the teeth or otherwise take any action that could damage or destroy physical evidence pending completion of the gathering of that evidence and/or the initial investigation.
- F. If the alleged assault has occurred within the previous 72 hours and evidence is obtainable or other circumstances dictate, arrangements shall immediately be made to have the alleged victim escorted under appropriate security provisions to the infirmary for assessment. Testing for pregnancy, sexually transmitted diseases (HIV, gonorrhea, hepatitis etc.) and other diseases as determined by the attending physician and counseling shall be made available to the alleged victim when appropriate.
- G. The Department shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost to the victim, when evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The Department shall document its efforts to provide SAFEs and SANEs. (§115.21(C))
- H. The assigned investigator shall immediately notify the Victim Advocate (but no later than the next business day), that an alleged sexual abuse has occurred. (§115.21(D))
 - 1) The Victim Advocate shall consult with the assigned investigator and offer assistance to the alleged victim as is appropriate.
 - 2) As requested by the victim and with the alleged victim's written consent utilizing the Consent for Victim Advocate (Form C-01-022-1), the Victim Advocate may participate in supporting victims throughout the forensic medical examination process (ensuring compliance in confidentiality laws) and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals. (§115.21(E))
 - 3) The Victim Advocate may not obstruct or interfere with the course of the investigation in any manner.

- 4) All conversations between the Victim Advocate and the alleged victim shall remain confidential except when:
 - a. Disclosure of the confidential information is necessary to protect the victim or another (staff or offender) from potential harm; or
 - b. The identity of an otherwise unknown alleged sexual predator is revealed.
 - 5) The Victim Advocate shall not prepare or submit an Unusual Occurrence Report based upon conversations or functions performed while in the role of Victim Advocate.
- I. If the alleged victim is a youthful offender (or is considered a vulnerable adult), the reporting requirements outlined in this Section shall be followed. (§115.61(D) and 115.21(B))
- 1) The unit PREA Compliance Manager shall complete the Department of Children and Family Services/Child Welfare Report for Mandated Reporters of Child Abuse/Neglect (Form C-01-022-J) and e-mail a copy of the report to the Department's PREA Investigator and the Department's PREA Coordinator within 24 hours of the allegation or incident. Within this 24 hour period, the unit PREA Compliance Manager shall also make an oral report of the allegation or incident to the Department of Family Services by calling 1-855-452-5437 or, in the case of vulnerable adults, the appropriate law enforcement agency.
 - 2) Following review and concurrence with the report by the Department's PREA Coordinator and Department's PREA Investigator, the unit PREA Compliance Manager shall fax a copy of the report (Form C-01-022-J) to the Department of Family Services at the appropriate fax number listed below. For convenience, telephone numbers are also included.

<u>Facility</u>	<u>Fax No.</u>	<u>Telephone No.</u>
AVC	318-253-5053	318-253-7734
ALC, WNC	337-639-4052	337-639-2963
DCI, LSP	225-683-9634	225-683-3734
DWCC	318-371-3083	318-371-3004
EHCC, LCIW	225-687-2129	225-687-4373
RCC	985-732-6826	985-732-6800

- 3) Mandatory reporters of sexual abuse of a youthful offender include health practitioners, mental health/social service practitioners, clergy, teachers and law enforcement officers. Failure to report sexual abuse of a youthful offender or a vulnerable adult by a mandatory reporter may result in disciplinary action taken by the Department and the individual's professional licensing board.
- 4) Submission of Form C-01-022-J as stated in Sections 17.I.1) and 2) shall be in addition to and prior to the completion of the mandatory PREA investigation.
- 5) Form C-01-022-J shall be maintained in the investigative file of the incident and a copy shall be maintained in the youthful offender's mental health file.

18. REPORTING TO OTHER CONFINEMENT FACILITIES (§115.63):

Upon receiving an allegation that an offender was sexually abused while confined at another facility, the Unit Head or designee of the facility that received the allegation shall notify in writing the Unit Head of the facility or designee where the alleged abuse occurred. Notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation and documentation shall be placed in the offender's Master Record

19. REPORTING TO EXTERNAL AGENCIES:

- A. Reporting to the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice
 - 1) By February 15th of each year, the Department's PREA Investigator shall report all of the following information for the prior calendar year to the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice:
 - 2) The number of sexually-oriented criminal offenses reported;
 - 3) The status of each sexually-oriented criminal offense case reported;
 - 4) The number of sexual assault collection kits submitted for analysis;
 - 5) The number of reported sexual assault collection kits requiring analysis;
 - 6) The number of reported sexual assault collection kits received;

- 7) The number of unreported sexual assault collection kits that were untested due to judicial or investigative reasons.
- 8) The report shall also provide written notification if it does not have:
 - a. Any sexually-oriented criminal offenses reported;
 - b. Any reported sexual assault collection kits in the Department's possession;
 - c. Any unreported sexual assault collection kits in the Department's possession.

B. Reporting to the United States Department of Justice

- 1) The Department's PREA Investigator shall prepare the annual Survey of Sexual Victimization for State Prison Systems (SSV-2) report. The official SSV-2 contains statistics for DPS&C owned and operated facilities.
- 2) A separate Incident Form (Adult, SSV-1A) shall be prepared for each substantiated sexual victimization allegation reported at a Department facility. The SSV-1A shall be created by the PREA Investigator at the facility where the incident occurred. The PREA Investigator shall submit the SSV-1A to the Department's PREA Investigator who shall ensure the accurate completion of each incident form and retain the SSV-1A.
- 3) The SSV-2 and all SSV-1A forms shall be submitted by the Department's PREA Investigator to the United States Department of Justice by September 1st of each year for the statistics accumulated the prior calendar year.
- 4) A second SSV-2 report shall be completed by the Department's PREA Investigator which shall include any and all state privately operated prisons and all transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C.
- 5) The Department's PREA Investigator shall also maintain any SSV-1A reports concerning a substantiated sexual victimization allegation occurring at all state privately operated prisons and all transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C.
- 6) The Department's PREA Investigator shall submit copies of both SSV-2 reports to the Secretary and the Chief of Operations prior to September 1st of each year.

- 7) The aggregate numbers of the SSV-2 reports which includes statistics from the state operated prison facilities, state privately operated prison facilities and all transitional work programs under contract to or under cooperative endeavor agreement with the DPS&C shall be posted on the Department's website by October 1st of each year. The Department shall maintain sexual abuse data collected pursuant to La. R.S. 115.87 for at least 10 years after the date of initial collection.

Note: All external reports are confidential and exempt from the Louisiana Public Records Act (La. R.S. 44:3 et seq.)

20. INVESTIGATIONS (§115.71):

Note: When sexual abuse is alleged, the unit shall use investigators who have received special training in investigating incidents of sexual assault and sexual misconduct. This training may include, but not be limited to: sexual abuse investigations; crime scene management; elimination of contamination; evidence collection protocol and crisis intervention. (§115.34(A))

- A. Investigation of recent sexual assault or sexual misconduct occurring within 72 hours: If the alleged sexual assault or sexual misconduct is reported or discovered within 72 hours of the incident, the following steps shall be taken by the Unit Head or designee. (§115.21(A) and 115.64)
 - 1) The Unit Head shall be notified and an investigation shall be initiated as directed. Based upon the initial inquiry and/or evidence that the allegation represents possible criminal activity, the Unit Head or designee shall notify local law enforcement and the facility investigative section.
 - 2) If the alleged aggressor is known to be an offender, he shall be placed in segregation pending investigation.
 - 3) At the initiation of the investigation, alleged victim(s) and alleged aggressor(s) shall be immediately separated.

Note: The Unit Head, designee or unit PREA Compliance Manager shall coordinate with the assigned investigator in making decisions regarding the housing and management of the alleged offender/victim(s), the alleged offender/ aggressor(s) and any alleged offender/witness(es) so as not to inadvertently interfere with the criminal investigation.

- 4) Secure the alleged crime scene if feasible and if forensic evidence is likely to exist.
- 5) A log shall be maintained to record the name of each person entering the crime scene, the time of entry and time of departure.
- 6) The only persons allowed to enter a secured crime scene are the assigned investigator(s), medical staff and/or the Unit Head, as needed.
- 7) The crime scene shall remain secured until released by the investigator.
- 8) Investigators shall: gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- 9) In accordance with La. R.S. 15:621, all biological evidence collected in cases involving homicide and rape shall be held in secure custody indefinitely or turned over to the Sheriff's Office that is handling the criminal investigation. In either case, the biological evidence shall not be destroyed and shall be stored appropriately. This does not preclude removing parts containing biological evidence from large items of evidence and retaining only the parts containing the biological evidence.
Note: All unit PREA Compliance Managers or investigators shall notify the Department's PREA Investigator via e-mail before any sexual assault kits involving staff DNA are submitted to the Louisiana State Police Crime Lab for investigative purposes.
- 10) The alleged victim shall be promptly escorted under appropriate security provisions to the infirmary for assessment.
- 11) In preparation for transporting the alleged victim to the infirmary or hospital emergency room, the victim shall be instructed to undress over a clean sheet in order to collect any potential forensic evidence that may fall from his person. The sheet, along with the victim's clothing, shall be collected as evidence and placed in a paper bag with an appropriate chain of evidence form attached. Appropriate substitute clothing shall be provided to the victim.
- 12) When the alleged victim is an offender and is released from the infirmary or emergency room, the alleged offender/victim shall be

segregated from the alleged aggressor and screened by a mental health professional and appropriate referrals are made.

- 13) Separate interviews of the alleged victim and the alleged aggressor shall be conducted.
- 14) No facility shall require an offender who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- 15) The credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as detainee or staff.
- 16) Alleged aggressors who are offenders shall be held in segregation pending investigation and shall remain there until the investigation is complete, unless other circumstances require the transfer of the alleged offender aggressor. The offender accused of the predatory behavior shall be evaluated by mental health staff prior to the disciplinary hearing of the violation.
- 17) All facilities shall attempt to conduct a mental health evaluation of all known offender on offender abusers within 60 days of learning of such abuse history and after treatment when deemed appropriate by mental health practitioners. This shall be documented utilizing the Mental Health Evaluation for Substantiated Cases of Sexual Assault (Form C-01-022-R).

B. Investigations of sexual abuse occurring more than 72 hours after the incident: The following steps shall be taken by the Unit Head or designee.

- 1) Alleged victim(s) and alleged aggressor(s) shall be immediately separated and assigned to an appropriate housing unit.
- 2) Medical and mental health screening shall be offered to all victims.
- 3) A determination shall be made based upon the amount of time that has passed since the alleged incident occurred and the possibility of evidence still existing, as to whether the alleged aggressor, if known to be an offender, should be placed in a dry cell to preserve forensic evidence. An offender who is placed in a dry cell for purposes of preserving forensic evidence shall be strip-searched, issued a paper gown and will have all possessions removed. No offender placed in a dry cell shall remain in such status any longer

than is necessary to determine if any forensic or other evidence can be obtained.

- 4) A determination shall be made based upon the amount of time that has passed since the alleged incident and other factors, whether there is a possibility of evidence still existing at the crime scene. If it is determined that evidence may still exist, the alleged crime scene shall be secured and any potential evidence shall remain in place for the investigation. If the alleged crime scene cannot be secured, it shall be photographed and/or videotaped and proper evidence protocols followed.
- 5) Investigators shall: gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- 6) All PREA investigations shall result in a formal report utilizing the Standardized Case Report (Form C-01-022-E). Standardized case reporting shall be conducted as follows.
 - a. A case report numbering format shall be utilized:
 - i. Three letter facility identifier;
 - ii. Two digit year identifier;
 - iii. Single letter month identifier, with January beginning "A";
 - iv. A sequential case number example: The case report number for Rayburn Correctional Center assigning the first case of January, 2012 would be: RCC-12-A-001.
 - b. All PREA investigation case reports shall be reviewed and approved by the Warden or designated Deputy Warden. Upon unit review and approval, all PREA investigation case reports shall be forwarded to the Department's PREA Investigator for final review, approval/disapproval and disposition.
- 7) All investigation case reports shall be concluded, reviewed and forwarded to Headquarters within 30 days of receiving the initial allegation. In the event an extension of the 30-day time period is needed, a request shall be submitted to the Headquarters Director of Investigations who shall approve or deny the request.

- 8) Investigations concerning allegations of employees holding the rank of Colonel or above shall be conducted by investigators assigned by the Department's PREA Investigator. Following an investigation regarding an offender's allegation of sexual abuse, the unit shall inform the offender if the allegation was determined to be substantiated, unsubstantiated or unfounded. (§115.73(A))

C. Investigations of Potential Criminal Allegations

Incidents involving criminal acts of sexual assault and sexual misconduct where local law enforcement is not conducting the investigation should be investigated by an investigator who is acting under the authority of the Department's PREA Investigator. If such an investigator is not assigned to the reporting unit, one shall be assigned to the facility by the Chief of Operations.

D. Notifications

- 1) Following the conclusion of an investigation into an offender's allegation that the offender suffered sexual abuse, the unit shall inform the offender as to whether the allegation was determined to be substantiated, unsubstantiated or unfounded.
- 2) If the unit did not conduct the investigation, it shall request the relevant information from the investigative entity in order to inform the offender of the investigative findings.
- 3) Following an offender's allegation that a staff member has committed sexual abuse against the offender, the unit shall subsequently inform the offender (unless the unit has determined that the allegation is unfounded) whenever:
 - a. The staff member is no longer posted within the offender's unit;
 - b. The staff member is no longer employed at the unit;
 - c. The unit learns that the staff member has been indicted on a charge related to sexual abuse within the unit; or
 - d. The unit learns that the staff member has been convicted on a charge related to abuse within the unit.
- 4) Following an offender's allegation of sexual abuse by another offender, the unit shall subsequently inform the alleged victim whenever:

- a. The unit learns that the alleged abuser has been indicted on a charge related to sexual abuse within the unit; or
 - b. The unit learns that the alleged abuser has been convicted on a charge related to sexual abuse within the unit.
- 5) All notifications or attempted notifications shall be documented utilizing the Notification of Outcome of PREA Allegation (Form C-01-022-S).
 - 6) A unit's obligation to report pursuant to this Section shall terminate when the offender achieves a full term release date.

21. DATA COLLECTION AND PROSECUTION:

A. Data Collection

- 1) The PREA Allegation Database, accessed in Lotus Notes, is the electronic data collection system which tracks all allegations of sexual abuse defined by this regulation.
- 2) Allegations shall be input into the Database by authorized staff (approved by the Chief of Operations or designee) who shall track the investigations of all allegations of sexual assault and sexual misconduct.
- 3) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice's Bureau of Justice Statistics. (§115.87)

B. Prosecution

- 1) Substantiated allegations shall be forwarded to the local District Attorney for a decision regarding prosecution. (§115.71(h)) Administrative disciplinary action should be initiated on the aggressor (offender or staff). The unit PREA Investigator shall work with the District Attorney's Office to ensure appropriate criminal prosecution of substantiated cases of sexual assault. Each facility shall request the outside investigative entity to abide by PREA standards and shall maintain documentation of the request. (§115.22(B))
- 2) The PREA Allegation Database shall be updated by authorized staff to reflect the District Attorney's actions concerning PREA cases.

22. SEXUAL ABUSE INCIDENT REVIEWS (§115.86):

The unit shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including substantiated cases, as well as unsubstantiated cases, unless the allegation has been determined to be unfounded. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include upper management officials, (Deputy Warden, or Assistant Warden(s) and unit PREA Compliance Manager, etc.) with input from line supervisors, investigators and medical or mental health practitioners. The review team shall prepare a Sexual Abuse Incident Review (Form C-01-022-K) pursuant to Paragraphs (1) through (6) of §115.86. The completed Sexual Abuse Incident Review (Form C-01-022-K) shall be maintained in the investigative file of the incident and a copy shall be sent to the Unit Head and the unit PREA Compliance Manager.

23. DISCIPLINARY ACTION:

- A. The Department has adopted a zero tolerance policy toward victimization and sexual abuse within our facilities through the PREA Program. It is imperative that all Department personnel take appropriate actions to properly document and investigate allegations of sexual assault, sexual misconduct, sexual harassment and sexual coercion. Full investigations, appropriate reporting and compliance to the standards program are crucial to the success of the program and will be treated as a top priority by administrators and investigators. (§115.22(A))
- B. Staff that violate this regulation may receive disciplinary action, up to and including termination. Appropriate steps shall be taken to ensure fairness and due process.

24. DATA PUBLICATION (§115.89):

The Department's PREA Coordinator shall make an annual report regarding all sexual abuse data from DPS&C facilities available to the public through the Department's website (www.doc.la.gov). The report shall consist of numbers only and shall not include personal identifiers or specific institutions.

s/James M. Le Blanc
Secretary

Attachment: Part 115 of Title 28 of the Code of Federal Regulations: Standards for Adult Prisons and Jails

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Forms:

- C-01-022-A Sexual Assault and Sexual Misconduct with Offenders Acknowledgement
- C-01-022-B Malfeasance in Office
- C-01-022-C Sexual Assault and Sexual Misconduct with Offenders Volunteer Acknowledgement
- C-01-022-D PREA Screening Checklist and Instructions for Utilizing the PREA Screening Checklist
- C-01-022-E Standardized Case Report
- C-01-022-F Authorization to Contact Previous Employers
- C-01-022-G PREA Requirements for Applicants and Employees Being Considered for Hire, Detail to Special Duty and/or Promotion
- C-01-022-H PREA Reference Check
- C-01-022-I Consent for Victim Advocate
- C-01-022-J Department of Children and Family Services/Child Welfare Written Report for Mandated Reporters of Child Abuse/Neglect
- C-01-022-K Sexual Abuse Incident Review
- C-01-022-L PREA Vulnerability Reassessment Questionnaire
- C-01-022-M Availability of Mental Health Counseling
- C-01-022-N Shower Preference Statement
- C-01-022-O Transgender/Intersex Reassessment
- C-01-022-P 24 Hour Review of Involuntary Segregation Status during PREA-Related Investigations
- C-01-022-Q PREA Agency Protection against Retaliation for Offenders/Staff
- C-01-022-R Mental Health Evaluation for Substantiated Cases of Sexual Assault
- C-01-022-S Notification of Outcome of PREA Allegation

This regulation supersedes Department Regulation No. C-01-022 dated 22 November 2016.