



**WYOMING DEPARTMENT OF CORRECTIONS**

**Policy and Procedure #3.402**

**Protection from Sexual Misconduct Against Offenders**

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<p><b>Authority:</b>  <b>Wyoming Statute(s):</b> 6-2-301, <i>et seq.</i>;          6-5-112; 6-5-113; 25-1-104; 25-1-105</p> <p><b>ACA Standard(s):</b> 4-4281; 4-4281-1;          4-4281-2; 4-4281-3; 4-4281-4; 4-4281-5;          4-4281-6; 4-4281-7; 4-4281-8</p> <p><b>PREANS:</b> 115.11; 115.12; 115.16; 115.17;          115.21; 115.22; 115.31; 115.32; 115.33;          115.34; 115.35; 115.41; 115.42; 115.43;          115.51; 115.53; 115.54; 115.61; 115.62;          115.63; 115.64; 115.65; 115.66; 115.67;          115.68; 115.71; 115.72; 115.73; 115.76;          115.77; 115.78; 115.81; 115.82; 115.83;          115.86; 115.87; 115.88; 115.89; 115.93</p>	<p><b>Effective Date:</b> July 1, 2016</p> <p><b>Revision/Review History:</b> 07/02/15          07/01/14          07/01/13          11/15/11          01/14/08</p>
<p><b>Cross Reference of Policy:</b>          P&amp;P #1.013, <i>Incident Reporting</i>; P&amp;P #1.014,  <i>Investigations</i>; P&amp;P #3.102, <i>Inmate          Disciplinary Procedures</i>; P&amp;P #3.305,  <i>Temporary Restriction Order</i>; P&amp;P #3.009,  <i>Evidence Handling and Storage</i>; P&amp;P #4.303,  <i>Written Exposure Control Plan for Blood-          borne Pathogens</i></p>	<p><b>Summary of Revision/Review:</b>          Updates existing policy pursuant to annual          review.</p> <p><b>Supersedes Existing Policy :</b></p>
<p><b>Approved:</b></p> <p align="center">R.O. Lampert <span style="float: right;">5-25-16</span></p> <hr/> <p align="center">Robert O. Lampert, Director <span style="float: right;">Date</span></p>	

**APPROVED FOR INMATE DISTRIBUTION**

*The policy and procedures set forth herein are intended to establish directives for staff members and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty or property interests for staff members or inmates, or an independent duty owed by the WDOC to staff members, inmates, or third parties. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.*

**REFERENCE**

1. ATTACHMENTS - None Noted
2. OTHER – None Noted



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## I. PURPOSE

- A. Zero Tolerance of Sexual Misconduct against Offenders.** The purpose of this policy is to establish a “zero tolerance” policy regarding sexual misconduct directed towards Wyoming Department of Corrections (WDOC) offenders and to establish uniform guidelines and procedures for preventing, detecting, reporting, investigating, responding to and sanctioning incidents of sexual misconduct against offenders. (PREANS 115.11.a)
- B. Scope.** This policy applies to offender-on-offender and staff-on-offender sexual assault and misconduct.

## II. POLICY

### A. General Policy

1. It is the policy and practice of the Wyoming Department of Corrections (WDOC) to protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment. (ACA 4-4281)
2. It is the policy of the WDOC that offenders, whether in the custody of WDOC or under the supervision of WDOC, have the right to be free from all forms of sexual abuse and sexual harassment perpetrated by staff or by other offenders. WDOC strictly prohibits acts of sexual misconduct against offenders and hereby establishes a zero tolerance policy against such acts. (PREANS 115.11.a)
3. It is the policy and practice of the WDOC to designate an upper level agency wide PREA coordinator with sufficient time and authority to develop, implement and oversee agency efforts to comply with PREA standards in all of its facilities. (PREANS 115.11.b)
4. It is the policy and practice of the WDOC to designate a PREA compliance manager at each facility with sufficient time and authority to coordinate the facility’s effort to comply with PREA standards. (PREANS 115.11.c)
5. It is the policy and practice of the WDOC to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, and to document all such referrals. A copy of this policy and procedure shall be



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published on WDOC's website and available to inmates in the law library at each institution. (PREANS 115.22.b)

6. It is the policy of the WDOC to impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. (PREANS 115.72)
- B. Consent Is Not a Defense.** It is the policy of the WDOC that an offender is not able to give "consent" to sexual misconduct with a staff, including but not limited to employees, contract personnel and volunteers. Wyoming law makes it a criminal act for an employee of WDOC to engage in sexual activity with an offender. (See W.S. § 6-2-301, *et seq.*, specifically at 6-2-303(a) (vii).) WDOC shall report all suspected criminal activity to the proper authorities. In cases involving staff sexual misconduct against offenders, WDOC reserves the right to also take appropriate administrative personnel action regardless of any criminal disposition. (ACA 4-4281-6)
- C. Duty to Report.** It is the policy of WDOC that all staff and offenders have a continuing affirmative duty to report any acts of sexual misconduct against offenders.
1. Staff must remain alert to sexual aggression or other activity among the offender population. In addition, suspected misconduct of staff or inmates should be reported by staff utilizing, WDOC Form #102, *Staff Report*, to ensure intervention at the earliest level.
  2. Any WDOC staff that knowingly and intentionally allows or fails to report any acts of sexual misconduct, shall be considered negligent in their job duties.
  3. WDOC prohibits retaliation against staff or offenders who make good faith and legitimate reports of sexual misconduct incidents. However, staff or offenders who intentionally make false reports of sexual misconduct will be subject to non-retaliatory disciplinary or legal actions.
- D. Training, Investigation and Corrective Action for Prohibited Misconduct**
1. WDOC will aggressively respond to, investigate, and support the prosecution of sexual misconduct in Wyoming prisons, contract facilities and ACCs in partnership with law enforcement and county prosecutors.
  2. It is the policy of WDOC to train staff and offenders in the prohibitions against sexual misconduct, to fully investigate all allegations and



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discipline persons who violate this policy, and to implement corrective actions as indicated by investigation of cases of sexual misconduct, including referral for criminal prosecution.

**E. Contracting with Other Entities.**

1. All contracts for the confinement of offenders with adult community corrections facilities or other entities shall include in any new contracts or contract renewals the entity's obligation to adopt and comply with PREA standards. (PREANS 115.12.a)
2. Any new contract or contract renewal shall provide for agency contract monitoring to ensure the contractor is complying with PREA standards. (PREANS 115.12.b)

**F. Institutional Plans.** Each facility shall develop a written institutional plan to coordinate actions to be taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. (PREANS 115.65)

**G. Retaliation Prohibited.** It is the policy of the Wyoming Department of Corrections to protect all offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other offenders or staff. The agency-wide PREA coordinator and each facility's PREA compliance manager (in conjunction with each facility's human resource manager regarding staff issues) shall be responsible for monitoring retaliation. (PREANS 115.67.a)

1. The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (PREANS 115.67.b)
2. For at least ninety (90) days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered the sexual abuse to see if there are changes that suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items to be monitored include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of



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staff. The agency shall continue monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need. (PREANS 115.67.c)

3. In the case of inmates, such monitoring shall also include periodic status checks. (PREANS 115.67.d)
4. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation. (PREANS 115.67.e)
5. The agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded. (PREANS 115.67.f)

**H. Offenders with Disabilities and Offenders who are Limited English Proficient**

1. WDOC 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, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of WDOC's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with offenders who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary unless doing so would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under Title II of the American With Disabilities Act, 28 CFR 35.164. In addition, the agency shall ensure that written materials are provided in formats and through methods that ensure effective communication with offenders with disabilities, including offenders who have intellectual disabilities, limited reading skills, or who are blind or have low vision. (PREANS 115.16.a)
2. WDOC shall take reasonable steps to ensure meaningful access to all aspects of WDOC'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. (PREANS 115.16.b)



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3. WDOC shall not rely on inmate 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, or the investigation of the offender's allegations. (PREANS 115.16.c)

#### I. Transgender and Intersex Inmates

1. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether placement would present management or security problems. (PREANS 115.42.c)
2. Placement and programming assignments for each transgender or intersex inmate shall be assessed at least twice a year to review any threats to safety experienced by the inmate. (PREANS 115.42.d)
3. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration. (PREANS 115.42.e)
4. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates (*i.e.*, in individual single person showers or at a time separate from other inmates in larger shower areas, if such exist). (PREANS 115.42.f)
5. The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates. (PREANS 11.42.g)

#### III. DEFINITIONS

- A. **Abuse:** (*For this policy only.*) The unlawful or unjustified use of force, coercion, or other actions that jeopardize the physical or mental well-being of an inmate.
- B. **Accused:** A person accused of acts prohibited by state statute, Wyoming Department of Corrections' policies, or both.



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- C. **Adult Community Correctional Facility or Program (ACC):** A community based or community-oriented facility or program which is operated pursuant to the Adult Community Corrections Act W.S. 7-18-101 through 7-18-115.
- D. **Assault:** *(For this policy only.)* The willful, unauthorized touching of one inmate by another inmate or by staff undertaken with the intent to cause injury or harm or to derive sexual gratification.
- E. **Chief Executive Officer (CEO):** A CEO is identified, but not limited to, the following positions: Director, Deputy Director, division administrators, deputy administrators, wardens, district supervisors, adult community corrections coordinator, and adult community corrections directors.
- F. **Contractor:** *(For this policy only.)* Any person who provides services on a recurring basis pursuant to a contractual agreement with the Wyoming Department of Corrections.
- G. **Direct Staff Supervision:** *(For this policy only.)* When staff are in the immediate area of or in the same room with, and within a reasonable hearing distance of, the inmate.
- H. **Exigent Circumstances:** *(For this policy only.)* 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.
- I. **Facility:** Any building, structure and grounds areas operated by the Wyoming Department of Corrections which physically houses inmates or office space.
- J. **False Reporting:** Preparing, soliciting, or giving false or misleading information to or about a staff member or about an inmate or offender and representing the statement as fact. Providing information, known to be false, to a government official, the media or a court.
- K. **Gender Nonconforming:** A person whose appearance or manner does not conform to traditional societal gender expectations.
- L. **Inmate:** Any person under the supervision of the Wyoming Department of Corrections who is not on parole or probation status. An inmate is a person who is incarcerated in any Wyoming Department of Corrections' correctional facility, county jail, municipal jail or in-state/out-of-state contract facilities, to include adult community corrections centers, who is committed to the custody and supervision of the Wyoming Department of Corrections.



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- 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. **Investigations Unit (IU):** The Wyoming Department of Corrections Central Office unit responsible for providing investigative support and oversight to all Wyoming Department of Corrections facilities.
- O. **Medical Practitioner:** *(For this policy only.)* 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.
- P. **Mental Health Practitioner:** *(For this policy only.)* 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.
- Q. **Offender:** A person who has entered a plea of guilty or has been convicted of a misdemeanor or a felony and is committed to the custody or supervision of Wyoming Department of Corrections.
- R. **Prison Rape Elimination Act National Standards (PREANS):** Part 115 of Title 28 of the *Code of Federal Regulations*, titled Prison Rape Elimination Act National Standards, and adopted in accordance with the Prison Rape Elimination Act of 2003.
- S. **Retaliation:** *(For this policy only.)* An act of vengeance, covert or overt action, or threat of action taken against staff or an offender in response to the staff or offender’s allegation or complaint of sexual misconduct or good faith cooperation in the reporting or investigation of sexual misconduct. Examples of acts of retaliation are unjustified discipline, intimidation, unnecessary changes in work or program assignments, unjustified transfers to other institutions, unjustified placement in involuntary protective custody or unjustified denials of privileges or services, if such actions are motivated by retaliation for the filing of good faith and legitimate complaints of misconduct.



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- T. **Security Staff:** *(For this policy only.)* Employees who are primarily responsible for the supervision and control of inmates or residents in housing units, recreational areas, dining areas, and other program areas of the facility.
  
- U. **Sexual Abuse of an Inmate by Another Inmate:** *(For this policy only; As defined by Part 115, Section 115.6, of Title 28 of the Code of Federal Regulations.)* Sexual abuse of an inmate by another inmate 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:
  - 1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - 2. Contact between the mouth and the penis, vulva, or anus;
  - 3. Penetration of the anus or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
  - 4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
  
- V. **Sexual Abuse of an Inmate/Offender by a Staff member, Contractor, or Volunteer:** *(For this policy only; As defined by Part 115, Section 115.6, of Title 28 of the Code of Federal Regulations.)* Sexual abuse of an inmate/offender by a staff member, contractor, or volunteer includes any of the following acts, with or without the consent or perceived consent of the inmate:
  - 1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - 2. Contact between the mouth and the penis, vulva, or anus;
  - 3. 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;
  - 4. Penetration of the anus or genital opening of another person, 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;



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5. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) through (5) of this section;
  7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate; and
  8. Voyeurism by a staff member, contractor, or volunteer.
- W. Sexual Assault:** Any act made criminal pursuant to W.S. §§ 6-2-302 through 6-2-304.
- X. Sexual Coercion:** The practice of compelling a person to involuntarily behave in a sexual way (whether through action or inaction) by use of threats, intimidation, or some other form of pressure or force. Coercion may typically involve the actual infliction of physical or psychological harm in order to enhance the credibility of a threat. The threat of further harm may then lead to the cooperation or obedience of the person being coerced.
- Y. Sexual Contact:** Touching, with the intention of sexual arousal, gratification, or abuse, of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or of the clothing covering the immediate area of the victim's or actor's intimate parts, as defined by W.S. § 6-2-301 (a) (iv).
- Z. Sexual Harassment:** *(For this policy only; As defined by Part 115, Section 115.6, of Title 28 of the Code of Federal Regulations.)* Sexual harassment includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive nature by one inmate towards another; and repeated verbal comments or gestures of a sexual nature to an inmate 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.
- AA. Sexual Misconduct:** *(For this policy only.)* Acts prohibited by this policy, including but not limited to sexual contact, sexual abuse, sexual harassment, sexual assault and voyeurism.



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- BB. Staff:** *(For this policy only.)* Any person employed full-time, part-time, or under temporary appointment by the Wyoming Department of Corrections; any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to department programs; and any volunteer or intern providing services to WDOC offenders.
- CC. Staff Disciplinary Action:** An action administered for cause not limited to those reasons listed in the *State of Wyoming Personnel Rules*, Chapter 11, Section 1(b). Disciplinary actions include letters of counseling, written reprimands, disciplinary suspensions without pay, and dismissal.
- DD. Substantiated Allegation:** *(For this policy only.)* An allegation that was investigated and determined to have occurred.
- EE. 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.
- FF. Unfounded Allegation:** *(For this policy only.)* An allegation that was investigated and determined not to have occurred.
- GG. Unsubstantiated Allegation:** *(For this policy only.)* An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- HH. Volunteer:** *(For this policy only.)* An individual who donates time and effort on a recurring basis to enhance the activities and programs of the Wyoming Department of Corrections.
- II. WDOC Prison Rape Elimination Act (PREA) Coordinator:** The upper-level staff person charged by the Director with developing, implementing and overseeing agency-wide efforts to comply with PREA standards in all of its facilities.
- JJ. Voyeurism by a Staff member, Contractor, or Volunteer:** *(For this policy only. As defined by Part 115, Section 115.6, of Title 28 of the Code of Federal Regulations.)* An invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.



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#### **IV. PROCEDURE**

##### **A. General Guidelines**

##### **1. Contractor Hiring and Employee Hiring and Promotion Decisions**

- i.** The Wyoming Department of Corrections shall not hire or promote anyone who may have contact with offenders, and shall not enlist the services of any contractor who may have contact with offenders, who: (PREANS 115.17.a)
  - a.** Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. 1997;
  - b.** Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt, or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - c.** Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (b) of this section.
- ii.** The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with offenders. (PREANS 115.17.b)
- iii.** Before hiring new employees who may have contact with offenders, the agency shall: (PREANS 115.17.c)
  - a.** Perform a criminal background records check; and
  - b.** Consistent with federal, state and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.



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- iv. The agency shall also perform a criminal background records check before enlisting the services of any contractor or volunteer who may have contact with offenders. (PREANS 115.17d)
- v. The agency shall either conduct criminal background records checks at least every five (5) years of current employees, contractors, and volunteers who may have contact with offenders or have in place a system for otherwise capturing such information for current employees. (PREANS 115.17.e)
- vi. The agency shall ask all applicants and employees who may have contact with offenders directly about previous misconduct described in paragraph (i) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews or current employees. Employees shall have a continuing affirmative duty to disclose any such misconduct. (PREANS 115.17.f)
- vii. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. (PREANS 115.17.g)
- viii. Unless otherwise prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for who such employee has applied to work. (PREANS 115.17.h)

## **2. Training**

- i. **WDOC Employees.** All WDOC staff that may have contact with offenders shall be provided mandatory Prison Rape Elimination Act (PREA) training which will focus on the prevention, detection, reporting and response to sexual assault or misconduct against offenders. This training will include: (PREANS 115.31.a)
  - a. Instruction on this policy and procedure, including WDOC's zero-tolerance policy for sexual abuse and sexual harassment;
  - b. How to fulfill their responsibilities under WDOC sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;



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- c. Offenders' right to be free from sexual abuse and sexual harassment;
  - d. The right of offenders and employees to be free of retaliation for reporting sexual abuse and sexual harassment;
  - e. Identifying how sexual assault and misconduct affects the community, WDOC offenders, and staff;
  - f. The dynamics of sexual abuse and sexual harassment in confinement;
  - g. The common reactions of sexual abuse and sexual harassment victims;
  - h. Methods for the prevention of sexual misconduct;
  - i. How to detect and respond to signs of threatened and actual sexual abuse;
  - j. Identifying actual and at-risk victims and predators;
  - k. How to avoid inappropriate relationships with offenders;
  - l. How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders;
  - m. Reporting and response procedures;
  - n. Identifying means of medical treatment;
  - o. Instruction on record keeping and confidentiality; and
  - p. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- ii. **Gender Specific Training.** PREA training shall be tailored to the gender of the inmates at the employees' facility. Any employee who is reassigned from a male only facility to a female only



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facility, or vice versa, shall receive additional training relative to the gender of the inmates at their new facility. (PREANS 115.31.b)

- iii. **Timeframe Requirements.** All current employees who have not received this training shall be trained within one year of the effective date of this policy. Refresher training shall be provided to all staff at least once every two years to ensure that all employees know WDOC's current sexual abuse and sexual harassment policies and procedures. In years in which refresher training is not delivered, refresher information shall be provided on WDOC's sexual abuse and sexual harassment policies and procedures. (PREANS 115.31.c)
- iv. **Verification of Training.** The agency shall document, through employee signature or electronic verification, that employees understand the training they have received. (PREANS 115.31.d)
- v. **ACC and Field Services Employees.** PREA training for staff at Adult Community Corrections facilities or Programs (ACCs) and staff in the Division of Field Services will be mandatory and shall include the same material as that provided for WDOC correctional facility staff, only aligned for their specific needs. The agency shall document, through signature or electronic verification, that ACC and field services employees understand the training they have received.
- vi. **Training of Volunteers and Contractors.** WDOC shall ensure that all volunteers and contractors who have contact with offenders have been trained on their responsibilities under WDOC's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. (PREANS 115.32.a)
  - a. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with offenders, but all volunteers and contractors who have contact with offenders shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. (PREANS 115.32.b)



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- b. WDOC shall maintain documentation confirming that volunteers and contractors understand the training they received. (PREANS 115.32.c)

**vii. Specialized Training: Investigations**

- a. In addition to the general training provided to all employees pursuant to this policy, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings, as outlined in WDOC Policy and Procedure #1.014, *Investigations*. (PREANS 115.34.a)
- b. It is the expectation of the agency that any other State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations. (PREANS 115.43.d)

**viii. 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: (PREANS 115.35.a)
  - (1) How to detect and assess signs of sexual abuse;
  - (2) How to preserve physical evidence of sexual abuse;
  - (3) How to respond effectively and professionally to victims of sexual abuse; and
  - (4) How and to whom to report allegations or suspicions of sexual abuse.
- b. If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. (PREANS 115.35.b)
- c. The agency shall maintain documentation that medical and mental health practitioners have received the training



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referenced in this standard either from the agency or elsewhere. (PREANS 115.35.c)

- d. Medical and mental health practitioners shall also receive the training mandated for contractors and volunteers under paragraph (xiii) of this section. (PREANS 115.35.d)
- i. **Inmate Education.** It is mandatory that during initial intake processing upon arrival at a WDOC correctional facility or field service office, offenders will be provided with clear and understandable information pertaining to PREA, both orally and in writing, in a language clearly understood by the offender. This shall include information about sexual misconduct, including background information on PREA, prevention, intervention, self-protection, reporting, treatment and counseling, and confidentiality. (ACA 4-4281-1) Documentation verifying the PREA requirements for inmate intakes and/or transfers have been completed shall be placed in the shared drive under the "PREA" folder. Each facility shall develop procedures to ensure the records are saved in compliance with the established format. The format shall be the inmate's "last name-facility-date". The date is the date that the paperwork was signed.
  - a. During the initial intake process, inmates shall receive information explaining WDOC's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. (PREANS 115.33.a)
  - b. During intake and orientation, and within thirty (30) days of the inmate's initial receipt, WDOC shall provide comprehensive education to inmates, either in person or through video, regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding WDOC policies and procedures for responding to such incidents. (PREANS 115.33.b)
  - c. Current inmates who have not received PREA education shall be educated within one year of the effective date of this policy, and shall receive education upon transfer to a different facility to the extent that the policies and



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procedures of the inmate's new facility differ from those of the previous facility. (PREANS 115.33.c)

- d.** WDOC shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. (PREANS 115.33.d)
- e.** WDOC shall maintain documentation of inmate participation in these education sessions. (PREANS 115.33.e)
- f.** In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters or other postings, inmate handbooks, or other written formats. (PREANS 115.33.f)

### **3. Intake Assessment, Education and Case Management**

- i.** WDOC staff will utilize the WDOC *Institutional Classification Handbook* and the *Internal Classification Handbook* to ensure each inmate is provided a safe and proper housing assignment.
- ii.** All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. (PREANS 115.41.a)
  - a.** Such assessments shall be conducted using an objective screening instrument. (PREANS 115.41.c)
- iii.** As part of the intake process each inmate will undergo a review of any history of sexual abuse/victimization and/or predatory behavior. This review may include a self-report questionnaire for the inmate to provide information regarding his/her sexual violence history. It may also include a review by case management staff of all available reports in the inmate's base file.
  - a.** Within 24 hours of arrival at the facility, inmates will be screened for potential vulnerabilities or tendencies to act out with sexually aggressive predatory behavior using an



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objective screening instrument and housing assignments will be made accordingly. (ACA 4-4281-2; PREANS 115.41.b)

- b.** The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (PREANS 115.41.d)
- (1) Whether the inmate has a mental, physical, or developmental disability;
  - (2) The age of the inmate;
  - (3) The physical build of the inmate;
  - (4) Whether the inmate has been previously incarcerated;
  - (5) Whether the inmate's criminal history is exclusively nonviolent;
  - (6) Whether the inmate has prior convictions for sex offenses against an adult or child;
  - (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
  - (8) Whether the inmate has previously experienced sexual victimization; and
  - (9) The inmate's own perception of vulnerability.
  - (10) Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked pursuant to paragraphs (1), (7), (8), or (9) of this section. (PREANS 115.41.h)
  - (11) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this section in order to ensure that sensitive information is not exploited to



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the inmate's detriment by staff or other inmates. (PREANS 115.41.i)

- c.** The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive. (PREANS 115.41.e)
- (1)** If the screening indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening. (PREANS 115.81.a)
  - (2)** If the screening indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening. (PREANS 115.81.b)
  - (3)** Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law. (PREANS 115.81.d)
  - (4)** Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of eighteen (18). (PREANS 115.81.e)



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- d.** If an inmate is identified as vulnerable to sexual victimization or as having predatory tendencies, this information will be relayed to mental health staff.

  - (1)** Inmates with a history of sexually assaultive behavior shall be identified, monitored, and counseled. Inmates identified as high risk with a history of sexually assaultive behavior shall be assessed by a mental health or other qualified professional. (ACA 4-4281-4)

    - (a)** The facility shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within sixty (60) days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. (PREANS 115.83.h)
  - (2)** Inmates at risk for sexual victimization shall be identified, monitored, and counseled. Inmates identified as at risk for sexual victimization shall be assessed by a mental health or other qualified professional. (ACA 4-4281-5)
- iv.** All inmates will receive PREA education during the intake process. The education will include a basic understanding of what PREA is, health and safety risks, identifying sexual assault and misconduct, avoiding sexual assault, consequences of committing sexual assault, reporting sexual assault and misconduct, victim services, and resources available to them regarding PREA.
- v.** All information regarding an inmate's risk for sexual victimization or predatory behaviors shall be forwarded to the inmate's case worker to be included in the inmate's case plan. This case plan will travel with the offender throughout his/her term of supervision and serve as a method for information sharing between facilities and field services staff.
- vi.** Within a set period of time, not to exceed thirty (30) days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of sexual victimization or abusiveness based upon



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any additional, relevant information received by the facility since the intake screening. (PREANS 115.41.f)

- vii.** An inmate's risk level shall also be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. (PREANS 115.41.g)
- viii.** The agency shall use information from the risk screening conducted pursuant to this section to inform housing, bed, work, education, and program assignments with the goal of keeping separate, or under direct supervision of staff, those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. (PREANS 115.42.a)
- ix.** The agency shall make individualized determinations about how to ensure the safety of each inmate. (PREANS 115.42.b)
- x.** When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. (PREANS 115.62)

**4. Segregated Housing of Inmates Assessed at High Risk for Sexual Victimization**

- i.** Placement into temporary protective custody or protective custody shall be in accordance with WDOC Policy and Procedure # 3.304, *Protective Custody*.
  - a.** Inmates at high risk of 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. (PREANS 115.43.a)
  - b.** If the facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than twenty-four (24) hours while completing the assessment, or may place the inmate in temporary protective custody in accordance with WDOC Policy and Procedure #3.304, *Protective Custody*. (PREANS 115.43.a)





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- c. The WDOC prohibits all sexual activity between inmates and may discipline inmates for such activity.
- ii. **Disciplinary Sanctions for Staff.** Staff shall be subject to disciplinary sanctions under the *State of Wyoming Personnel Rules* up to and including termination for violating agency sexual abuse or sexual harassment policies. (PREANS 115.76.a) Additionally, staff may be subject to criminal sanctions.
  - a. The agency shall not enter into any agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. (PREANS 115.66.a)
  - b. Nothing in this standard shall restrict the entering into or renewal of agreements that govern the conduct of the disciplinary process or whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not sustained. (PREANS 115.66.b)
  - c. This agency maintains a policy of zero tolerance for staff sexual abuse. Therefore, termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. (PREANS 115.76.b)
  - d. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. (PREANS 115.76.c)
  - e. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies, including but not limited to the Wyoming



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Peace Officer Standards and Training (P.O.S.T.)  
Commission for all P.O.S.T. certified correctional staff.  
(PREANS 115.76.d)

**iii. Corrective Action for Contractors and Volunteers**

- a.** Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. (PREANS 115.77.a)
- b.** The facility or office shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. (PREANS 115.77.b)

**iv. Disciplinary Sanctions for Inmates.** Offenders are subject to sanctions under the Code of Inmate Discipline, Adult Community Corrections Code of Discipline, or other applicable administrative discipline. Additionally, offenders may be subject to criminal sanctions.

- a.** Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt of inmate-on-inmate sexual abuse. (PREANS 115.78.a)
- b.** As stated previously, WDOC prohibits all sexual activity between inmates and may discipline inmates for such activity. However, sexual activity between inmates/offenders may not be deemed to constitute sexual abuse for the purposes of this policy and reporting of sustained PREA sexual abuse incidents if it is determined that the activity was not coerced. (PREANS 115.78.g)
- c.** Disciplinary sanctions for PREA violations shall be in accordance with WDOC Policy and Procedure #3.101, *Code of Inmate Discipline*, WDOC Policy and Procedure



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#3.102, *Inmate Disciplinary Procedures*, and Prison Rape Elimination Act National Standards.

- d. When circumstances otherwise indicate, inmates may be charged with inappropriate contact when they have unnecessary, unauthorized, or unwanted personal interaction with a staff member, a staff member's family or significant other, or private citizen, not constituting sexual misconduct with staff.
- e. Inmates may be disciplined for sexual misconduct with staff upon a finding that the staff member did not consent to such contact. (PREANS 115.78.e)

**B. Reporting of Allegations and Incidents of Sexual Misconduct**

**1. Offender Reporting**

- i. The agency shall provide multiple internal ways for offenders to report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. (PREANS 115.51.a)
- ii. Initial reporting by inmates, offenders, or their families of alleged instances of sexual misconduct may be made by any of the following means: (ACA 4-4281-7)
  - a. Verbal reports to any staff member, including but not limited to medical, mental health, treatment or religious staff;
  - b. Reports in writing to any staff member, including but not limited to medical, mental health, treatment or religious staff;
  - c. Inmates may correspond directly with the WDOC Investigations Unit; or
  - d. Inmates may call the designated toll free number and leave a voice message.





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- iii. Staff may report directly to IU whenever they feel that following the chain of command would jeopardize the investigation. However, staff may be asked to justify why the chain of command was superseded for the particular incident.
- iv. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. (PREANS 115.61.b)
- v. Unless otherwise precluded by federal, state or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (2) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. (PREANS 115.61.c)
- vi. Regardless of any non-statutory confidentiality obligation (*e.g.* privileged communication such as therapist-client, doctor-patient, clergyman-penitent; *etc.*), all staff have an affirmative obligation to report any offender who has reported to them a sexual assault allegation. The staff member must report the relevant information, including who, what, when and where, of the allegation. The staff member must report it to their chain of command and a staff report must be completed.
- vii. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the agency's designated investigators. (PREANS 115.61.e)
- viii. The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of offenders. (PREANS 115.51.d)

### **3. Third Party Reporting**

- i. The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an offender. (PREANS 115.54)



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- a. The WDOC utilizes a confidential hotline number that is monitored by the Central Office.
- b. Posters indicating the procedures are to be posted in all institutions where inmates and visitors can see them.

**4. Reporting to Other Confinement Facilities.** Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate official of the agency where the alleged abuse occurred. (PREANS 115.63.a)

- i. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. (PREANS 115.63.b)
- ii. The agency shall document that it has provided such notification. (PREANS 115.63.c)
- iii. The WDOC facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with this policy. (PREANS 115.63.d)
  - a. If the alleged incident occurred within a WDOC facility other than the one at which it was reported, the facility where the alleged incident occurred shall be responsible for the investigation following notification.
  - b. Other WDOC facilities may be requested to assist in an investigation of an alleged sexual misconduct.

**C. Responding to Incidents of Sexual Misconduct**

**1. Staff First Responder Duties.** Upon learning of an allegation that an inmate was sexually abused, the first staff member to respond to the report shall be required to take these steps.

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



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- ii.** The first security staff to respond to the report shall be required to: (PREANS 115.64.a)
  - a.** Separate the alleged victim and abuser, if they have not already been separated;
  - b.** Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
  - c.** If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and
  - d.** If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating.

**2. Access to Emergency Medical and Mental Health Services**

- i.** Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by the medical and mental health practitioners according to their professional judgment. (PREANS 115.82.a)
- ii.** If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take the preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners. (PREANS 115.62 and PREANS 115.82.b)
- iii.** Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. (PREANS 115.82.c)



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

3. **Referral of Allegations for Investigations.** The agency shall ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. (PREANS 115.22.a)

4. **Incident Reporting Requirements.** Alleged actions of sexual misconduct between inmates/offenders and staff, and sexual abuse of any type between inmates/offenders will be considered a Priority I (*i.e.*, serious) incident in accordance with WDOC Policy and Procedure #1.013, *Incident Reporting*. Suspected sexual contact between inmates or ACC residents which does not involve force or coercion, if known, will be considered Priority II in accordance with WDOC Policy and Procedure #1.013, *Incident Reporting*. For Priority I incidents staff shall initiate at least the following:

i. The appropriate CEO shall contact local law enforcement immediately when appropriate. All verified incidents of sexual abuse of an inmate/offender by a staff member, contractor, or volunteer and sexual abuse between inmates ~~sexual misconduct~~ shall be referred to the local law enforcement agency of jurisdiction for investigation and consideration of criminal prosecution. (PREANS 115.22.c)

a. To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investing agency to follow the requirements listed under paragraphs IV.C.3.ii.a. thru IV.C.3.ii.e., below. (PREANS 115.21.f)

b. When outside agencies investigate sexual abuse the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. (PREANS 115.71.1)

ii. The appropriate CEO shall contact the WDOC Investigations Unit in all cases where allegations are made for investigation and documentation in accordance with WDOC Policy and Procedure #1.014, *Investigations*. (ACA 4-4281-3)

a. When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall



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do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (PREANS 115.71.a)

- b.** To the extent the agency is responsible for investigating allegations of sexual abuse the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. (PREANS 115.21.a)

  - (1)** The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011. (PREANS 115.21.b)
  
- c.** The agency shall offer all victims of sexual abuse access to forensic medical examinations at an outside facility, under appropriate security provisions, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioner. The agency shall document its efforts to provide SAFEs or SANEs. (PREANS 115.21.c)

  - (1)** In communities where SAFEs and SANEs are not immediately available, inmates claiming sexual assault shall be referred immediately, under appropriate security provisions, to a community medical facility for initial treatment and gathering of evidence in cases that are believed to have occurred within seventy-two (72) hours. Facility medical staff may provide emergency medical care prior to transport. If the incident is reported after



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the first seventy-two (72) hours, medical staff should determine if the victim needs treatment, but no evidence should be collected by facility medical staff.

- (2) With the inmate’s consent, the examination at the community medical facility shall include the collection of evidence from the victim, using a rape kit approved for this purpose.
  
- d.** The agency shall attempt to make available to the victim a victim’s advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. The agency shall document efforts to secure services from a rape crisis center. For the purposes of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. (PREANS 115.21.d)
  
- e.** As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals. (PREANS 115.21.e)
  
- f.** For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. (PREANS 115.21.h)



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- iii.** Any necessary procedures for evidence collection or security of crime scene shall be followed in accordance with WDOC Policy and Procedure #3.009, *Evidence Handling and Storage*.

  - a.** In order to prevent cross contamination of evidence, no staff member should have physical contact with the alleged inmate and alleged perpetrator in any potential case of sexual misconduct, prior to completion of a medical examination conducted on the alleged victim and/or the alleged perpetrator for purposes of gathering evidence.
  - b.** First responders should make every attempt to ensure that the crime scene is protected from cross-contamination while ensuring that all emergent needs of staff and inmates are met first.
  
- iv.** Appropriate housing decisions shall be made in order to ensure that inmates are not subjected to further victimization. A TRO shall be initiated, pursuant to WDOC Policy and Procedure #3.305, *Temporary Restrictions Order*.
  
- v.** The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible. (PREANS 115.53.a)

  - a.** Inmates are hereby notified that such communications will be monitored in accordance with WDOC Policy and Procedure #5.401, *Inmate Mail*, and WDOC Policy and Procedure #5.402, *Inmate Telephone Access*. Reports of sexual abuse will be investigated and forwarded to authorities in accordance with mandatory reporting laws. (PREANS 115.53.b)
  - b.** The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The agency shall maintain copies



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of agreements or documentation showing attempts to enter into such agreements. (PREANS 115.53.c)

- vi. All offenders not incarcerated, shall be referred to appropriate services within the community.
- vii. The CEO should treat the matter as an allegation of either offender or staff misconduct and proceed accordingly

**D. Confidentiality**

- 1. All information and reports will be handled in a manner that protects the privacy and confidentiality of the offender victim and his/her medical and mental health records.
- 2. Institution and field service personnel will interact with the offender victim in an empathetic and professional manner and shall leave solicitation about the details of the incident to WDOC investigators and/or the appropriate local law enforcement authority until completion of the investigation.
- 3. Any information pertaining to an allegation will only be shared with WDOC staff or outside affiliations on a “need to know” basis.
- 4. As stated in this policy, medical staff have the affirmative obligation to report sexual assault allegations.

**E. Treatment and Follow-Up**

- 1. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse. (PREANS 115.83.a)
  - i. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. (PREANS 115.83.b)
  - ii. The facility shall provide such victims with medical and mental health services consistent with the community level of care. (PREANS 115.83.c)





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inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (PREANS 115.73.a)

2. If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. (PREANS 115.73.b)
3. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determine the allegation is unfounded) whenever: (PREANS 115.73.c)
  - i. The staff member is no longer posted within the inmate's unit;
  - ii. The staff member is no longer employed at the facility;
  - iii. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - iv. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
4. Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever: (PREANS 115.73d)
  - i. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - ii. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications shall be documented. (PREANS 115.73.e)
6. An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. (PREANS 115.73.f)

**G. Incident Reviews**

1. The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not



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been substantiated, unless the allegation has been determined to be unfounded. (PREANS 115.86.a)

2. Such review shall normally occur within thirty (30) days of the conclusion of the investigation. (PREANS 115.86.b)
3. The review team shall include upper-management officials, with input from line supervisors, investigators, and medical or mental health practitioners. (PREANS 115.86.c)
4. The review team shall: (PREANS 115.86.d)
  - i. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - ii. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - iii. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - iv. Assess the adequacy of staffing levels in that area during different shifts;
  - v. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  - vi. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (i) thru (v) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.
5. The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so. (PREANS 115.86.e)

**H. Data Collection, Review, Storage, Publication and Destruction.** There shall be a system in place to collect data on incidents of a sexual nature. Such



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data will be analyzed to determine possible corrective action or improved operations.

**1. Data Collection**

- i.** The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. (PREANS 115.87.a)
- ii.** The WDOC IU shall maintain logs and records of all allegations and investigations of sexual misconduct to include information on the outcome of any criminal or disciplinary charges. All initial reports of sexual misconduct shall contain information pursuant to WDOC Policy and Procedure #1.013, *Incident Reporting*.
- iii.** All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment and/or counseling shall be retained in accordance with the State Records Retention Schedule. (ACA 4-4281-8)
- iv.** The agency shall aggregate the incident-based sexual abuse data at least annually. (PREANS 115.87.b)
- v.** 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. (PREANS 115.87.c)
- vi.** The agency shall maintain, review, and collect data as needed from all available incident based documents, including reports, investigation files, and sexual abuse incident reviews. (PREANS 115.87.d)
- vii.** The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. (PREANS 115.87.e)
- viii.** It will be the duty of the WDOC PREA Coordinator to collect all necessary reports and information from completed investigations on sexual assaults and misconduct required by the U.S. Department of Justice, Bureau of Justice Statistics (BJS).



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- ix. The WDOC PREA Coordinator will report to the BJS on a yearly basis. The report shall include the specifications of the Survey on Sexual Violence required under PREA for BJS. Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30. (PREANS 115.87.f)

## **2. Data Review**

- i. The agency shall review data collected and aggregated pursuant to Section IV.H.1., above, in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: (PREANS 115.88.a)
  - a. Identifying problem areas;
  - b. Taking corrective action on an ongoing basis; and
  - c. Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- ii. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. (PREANS 115.88.b)
  - a. The agency's report shall be approved by the agency head and made readily available to the public through its Web site or, if it does not have one, through other means. (PREANS 115.88.c)
  - b. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. (PREANS 115.88.d)
- iii. **Data Storage, Publication, and Destruction**
  - a. The agency shall ensure that data collected pursuant to Section IV.H.1., above, are securely retained. (PREANS 115.89.a)



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- b. The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities 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. (PREANS 115.89.b)
- c. Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers. (PREANS 115.89.c)
- d. The agency shall maintain sexual abuse data collected pursuant to pursuant to Section IV.H.1., above, for at least ten (10) years after the date of the initial collection unless Federal, State, or local law requires otherwise. (PREANS 115.89.d)

I. **Audits.** The agency shall conduct audits pursuant to PREANS 115.401 thru PREANS 115.405. (PREANS 115.93)

**V. TRAINING POINTS**

- A. Who has a continuing affirmative duty to report any acts of sexual misconduct against offenders?
- B. TRUE OR FALSE? It is the policy of WDOC to protect offenders and staff who report sexual abuse or sexual harassment, or who cooperate with the investigation of them, from retaliation by other offenders or staff.
- C. Who should be trained on this policy and PREA?
- D. Who must staff notify when they receive information regarding sexual misconduct against an offender?
- E. What ways can inmates and offenders report sexual assault or misconduct?
- F. Can third parties report sexual abuse and sexual harassment on behalf of an inmate?
- G. TRUE OR FALSE? The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the



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allegation has not been substantiated, unless the allegation has been determined to be unfounded.