GEORGIA DEPARTMENT OF CORRECTIONS **Standard Operating Procedures**		
Policy Name: PRISON RAPE ELIMINATION ACT – PREA **SEXUALLY ABUSIVE BEHAVIOR PREVENTION AND INTERVENTION PROGRAM**		
Policy Number: 208.06	**Effective Date:** 08/14/15	**Page Number** 1 of 37
Authority: Bryson/Dozier	**Originating Division:** Executive Division – Office of Professional Standards	**Access Listing:** Level II: Required Offender Access

I. Introduction and Summary:

The Department of Corrections has a zero tolerance policy toward all forms of sexual abuse, sexual harassment and sexual activity among offenders. The purpose of this policy directive is to further strengthen the Department's efforts to prevent all forms of sexual abuse, sexual harassment and sexual activity among offenders by implementing key provisions of the U.S. Department of Justice's standards for the prevention, detection, and response to sexual abuse in confinement facilities, in accordance with the Prison Rape Elimination Act of 2003 (PREA).[1]

This document clarifies the Department's zero tolerance policy and provides guidelines to address the following prohibited and/or illegal sexually abusive behavior involving:

- Offender perpetrator against staff victim.
- Offender perpetrator against offender victim.
- Staff perpetrator against offender victim.

These guidelines are provided to:

- Help **detect** incidents, perpetrators, and offender victims of sexually abusive behavior.
- Help **prevent** sexually abusive behavior.
- Educate staff to **intervene** properly and in a timely manner.
- **Document, report,** and **investigate** reported incidents.
- **Discipline** and/or **prosecute** perpetrators.

II. Authority:

This policy 208.06 replaces IIA21-0001 Prison Rape Elimination Act (PREA)-Sexual Assault of/Sexual Misconduct with Offenders

[1] The U.S. Department of Justice PREA standards are published at 28 CFR Part 115, et seq.

O.C.G.A. § 16-6-5.1
28 CFR Part 115 Prison Rape Elimination Act National Standards
203.03 (IIA04-0002) Incident Report
209.01 (IIB02-0001) Offender Discipline
227.02 (IIB05-0001) Statewide Grievance Procedure
209.06 (IIB09-0001) Administrative Segregation
103.10 (IK01-0005) Evidence Handling and Crime Scene Preservation
103.06 (IK01-0006) Investigation of allegations of sexual contact, Sexual Abuse, and Sexual Harassment of Offenders
508.22 (VG55-0001) Mental Health Management of Suspected Sexual Abuse, Contact or Harassment
508.18 (VG34-0001) MH/MR Discipline Procedures
508.19 (VH25-0001) Receiving Screening
507.04.19 (VH25-0003) Health Assessment and Medical Diagnostics
507.04.21 (VH30-0001) Health Screening Offender Transfers
507.04.69 (VH50-0001) Women's Health Services
507.02.02 (VH78-0002) Confidentiality of Health Record and Release of Information
507.04.84 (VH81-0001) Medical Management of Suspected Sexual Abuse
507.04.91 (VH85-0002) Medical Management of Suspected Sexual Assault, Abuse, Harassment
101.04 (ID01-0001) Records Management
104.09 (IVO03-0001) Filling A Vacancy

III. Definitions:

A. **Community confinement facility** for purposes of the Department includes Transitional Centers.
B. **Direct staff supervision** means that security staff is in the same room with, and within reasonable hearing distance of, the resident or offender.
C. **Exigent circumstance** means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
D. **Gender nonconforming** means a person whose appearance or manner does not

conform to traditional societal gender expectations.

E. **Intersex** means a person who's 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.

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

G. **Sexual abuse** of an offender, detainee, or resident by another offender, detainee, or resident 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 anal 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.

H. **Sexual abuse** of an offender, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the offender, detainee, or resident:
   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 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;
   5. 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;

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 definition;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident.
8. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties.

I. **Sexual harassment** includes:
   1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender, detainee, or resident directed toward another; and
   2. Repeated verbal comments or gestures of a sexual nature to an offender, detainee, or resident 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.

J. **Substantiated allegation** means an allegation that was investigated and determined to have occurred.

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

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

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

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

IV. Statement of Policy and Applicable Procedures:

The Department hereby adopts, implements, and follows the standards outlined in the Prison Rate Elimination Act (PREA) Standards found at 28 CFR Part 115. Through

the adoption of the PREA Standards, the Department seeks to eliminate sexual abuse and sexual harassment of offenders in custody. The Department tolerates no form of sexual abuse or sexual harassment of any offender.

Offenders who engage in consensual sexual contact with another offender, attempt to engage in or solicit such contact, or help another engage in sexual contact with an offender will be disciplined in a progressive manner with each occurrence. An offender who engages in sexual contact with another offender without that offender's consent will be disciplined progressively and referred for criminal prosecution.

Staff members who engage in sexual abuse or sexual harassment with an offender will be subject to disciplinary action, up to and including termination and banishment from all Georgia correctional institutions, whichever action is applicable. Additionally, staff members who engage in sexual abuse with an offender will be subject to criminal prosecution. Pursuant to O.C.G.A. § 16-6-5.1, it is a felony for correctional staff to have sexual contact with an offender.

A. **PREVENTION PLANNING**

1. The Department shall employ or designate an upper-level, Department PREA Coordinator with sufficient time and authority to develop, implement, and oversee Department efforts to comply with the PREA standards in all of its facilities.

   The Warden/Superintendent at each institution must ensure that all aspects of this policy are implemented. Each facility shall have an assigned PREA Compliance Manager, who has sufficient time and authority to develop, implement and oversee the facility efforts to comply with PREA standards.

   The Warden/Superintendent shall maintain a current written Local Procedure Directive (see Attachment 9 for template) to provide instruction for response to sexual allegations. This Local Procedure Directive shall reflect that institution's unique characteristics and specifies how that institution will respond to sexual allegations and the notification procedures to be followed for reports of sexual

allegations. At a minimum it will include:

a) Specification of Staff Member(s) responsible for:
   1. Staff training activities to ensure a coordinated response to a report of sexual abuse.
   2. Offender education regarding issues pertaining to sexual abuse.
   3. Notification Procedures to be followed when sexual abuse occurs.

b) Responding to the Offender Victim:
   1. Providing security to any offender who alleges that he/she is the victim of sexual abuse; and,
   2. Identifying entities responsible for providing medical assessment and treatment of the victim of sexual abuse.

c) Monitoring the Offender Perpetrator:
   1. Monitoring or managing the perpetrator in a way that minimizes the risk of future predation;
   2. Describing the system in place to ensure that the institutional staff is notified of offenders with a serious sexual predation history or who are "at risk" of engaging in sexual abuse or offenders who are "at risk" of sexual victimization while in GDC custody.

2. The Department will ensure that contracts for the confinement of its offenders with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards and that any new contract or contract renewal shall provide for Department contract monitoring to ensure that the contractor is complying with the PREA standards.

3. The Warden/Superintendent at each facility shall develop a written Staffing Plan (reference attachment 12). To enhance the supervision and monitoring of offenders, each facility shall document and make its best efforts to comply on a regular basis with the established staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect offenders against

sexual abuse. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations on the daily Post Roster. Facility management staff will review these deviations on a regular basis, no less than annually, to identify the most common reasons for deviations. This information shall be used to make adjustments, as necessary, to the facility staffing plan.

4. Each facility shall, in consultation with the Department's PREA Coordinator, assess, determine, and document whether adjustments are needed to the established staffing plan and the deployment of video monitoring systems. This review will be conducted on an annual basis. All new or existing facility designs and modifications and upgrades of technology will include consideration of how they could enhance the Department's ability to protect offenders against sexual abuse. The Department's PREA Coordinator shall be consulted in the planning process.

5. Unannounced rounds by supervisory staff conducted with the intent of identifying and deterring sexual abuse and sexual harassment are required to be conducted every week, including all shifts and all areas. These rounds will be documented in the area log books. In addition, the institutional Duty Officer is required to conduct and document unannounced rounds at least once per week in all areas. These rounds will be documented in the local Duty Officer Log book.

6. **Youthful offenders**

   a. A youthful offender shall not be placed in a housing unit in which the youthful offender will have sight, sound, or physical contact with any adult offender through use of a shared dayroom or other common space, shower area, or sleeping quarters.
   b. In areas outside of housing units, either:
      1. Maintain sight and sound separation between youthful offenders and adult offenders, or
      2. Provide direct staff member supervision when youthful offenders and

adult offenders have sight, sound, or physical contact.

c. Efforts shall be made by the assigned institution to avoid placing youthful offenders in isolation to comply with this provision. Absent exigent circumstances, youthful offenders shall not be denied daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful offenders shall also have access to other programs and work opportunities to the extent possible.

7. **Limits to cross-gender viewing and searches.**

a. The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
b. The facility shall not conduct cross-gender pat searches of female offenders, absent exigent circumstances. This requirement shall not restrict female offender's access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
c. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female offenders by incident report.
d. The facility shall implement procedures that enable offenders to shower, perform bodily functions, and change clothing without nonmedical staff members of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Offenders should only shower, perform bodily functions, and change clothing in designated areas (e.g. cells, shower rooms, bathrooms).
e. Staff members of the opposite gender shall announce their presence when entering an offender housing unit; this includes the officer assigned to the housing unit. Staff members are not required to make announcements when responding to temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility, or when incidental to routine cell checks, to include circumstances

such as responding to alarms, contraband detection, or detecting behavior which would constitute an offender prohibited acts, for example.

Offenders will be notified of the presence of opposite-gender staff members in several ways:

- Offenders are advised of the requirement to remain clothed, and the presence of cross-gender staff members generally, during the Intake Screening process and the Admission and Orientation process;
- The following notice will be posted **"NOTICE TO OFFENDERS: Male and female staff members routinely work and visit housing areas."**
- For staff members with offices in the housing units, the most recent schedule is posted in the unit so offenders are aware of when opposite-gender staff is present;
- An announcement shall be made each time when an opposite-gender staff member comes into a housing unit area;
- Nothing in this section should preclude opposite-gender staff members from viewing live or recorded video, or participating in an offender suicide watch.

f. The facility shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. The provision does not limit searches of offenders to ensure the safe and orderly running of the institution.

g. The Department shall train security staff members on how to conduct cross-gender pat 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 and consistent with the population gender of their assigned institution.

8. **Offenders with disabilities and offenders who are limited English proficient.**
   a. The local PREA Compliance Manager shall ensure the appropriate resources are made available to ensure the facility is providing effective communication accommodations when a need for such an accommodation is known. Staff shall take reasonable action to ensure that available methods of communication are provided to all offenders with disabilities and offenders who are limited English proficient for complete access to its efforts of preventing, detecting, and responding to sexual abuse and sexual harassment. Internal staff resources will be used where available.
   b. The facility 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 under 28 CFR § 115.64, or the investigation of the offender's allegations.

9. **Hiring and promotion decisions.**
   a. The Department 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:
      1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
      2. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
      3. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a) (2) of this section.
   b. The Department 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.

c. Before hiring new employees who may have contact with offenders, the Department shall:
   1. Ask all applicants and employees who may have contact with offenders directly about previous misconduct described in SOP 104.09, *Filling a Vacancy*, in written applications or interviews for hiring and promotions and any written interview or written self-evaluations conducted as part of reviews of current employees. Every employee has a continuing affirmative duty to disclose any such misconduct.
   2. Perform a Criminal History Record checks on all employees and volunteers prior to start date and again within at least every five years. A tracking system shall be implemented at each local facility to ensure the criminal history checks are conducted within the appropriate time frames, according to policy, for each person with access to that facility.
   3. Perform a Criminal History Record check before enlisting the services of any contractor who may have contact with offenders and at least every five years thereafter.

d. Unless prohibited by law, the Department shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The Department complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.

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

B. RESPONSIVE PLANNING

1. Evidence protocol and forensic medical examinations.
   a. Each facility shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Reference SOP 103.10, *Evidence Handling and Crime Scene Processing* and SOP 103.06, *Investigations of Allegations of Sexual Contact, Sexual Abuse, Sexual Harassment of Offenders.*

b. The Department's response to sexual assault follows the U.S. Department of Justice's Office on Violence Against Women publication, *"A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,"* dated April 2013, or the most current version.

c. When there is a report of a recent incident of sexual abuse, or there is a strong suspicion that a recent serious assault may have been sexual in nature, a physical examination of the alleged victim should be conducted and the SANE protocol should be initiated, (Attachment 7 – SANE Nurse Evaluation). The physical examination shall be provided at no cost to the offender, and he or she must give consent for the examination. The Department stands *in loco parentis* for youthful offenders in its custody and can authorize a physical examination of such youthful offender without consulting his or her parent(s) so long as the youthful offender consents to the examination. No examination shall be performed of any offender who refuses to be examined. For those offenders that are unable to consent or are incapacitated, the Department may authorize the collection of forensic evidence based on the Department's standing in loco parentis or as a guardian of the offender, whichever may be applicable. Physical evidence collection may also include an examination of and collection of physical evidence from the suspected perpetrator(s).

d. The Institution PREA Compliance Manager, under the direction of the Warden/Superintendent, shall attempt to enter into agreement with a rape crisis center to make available a victim advocate to offenders being evaluated for the collection of forensic evidence. **Any agreement must be approved through the Legal Office prior to implementation.** If an agreement is not reached, efforts must be documented and local staff shall be identified to provide this service. Identified employee(s) must provide evidence of receiving specialized training in rape crisis and victim advocacy. Documentation of training must be maintained by employee's manager and made available to the local PREA Compliance Manager upon request.

e. Victim advocates from the community used by the facility shall be pre-approved through the appropriate screening process and subject to the same requirements of contractors and volunteers who have contact with

offenders. The victim advocate serves as emotional and general support, navigating the offender through the treatment and evidence collection process. The victim advocate has access to the offender similar to that of medical staff at the facility. He/she is not authorized to make decisions regarding offender care, or interfere with escort procedures.

f. If an external agency is responsible for investigating the allegations of sexual abuse the Department shall request that the investigating agency follow the requirements of (a) through (d) of this section.

g. The requirements of paragraphs (a) through (e) of this section shall also apply to any entity outside of the Department that is responsible for investigating allegations of sexual abuse in prisons or jails.

h. An administrative and/or criminal investigation shall be completed for all allegations of sexual abuse and sexual harassment. Allegations that involve potentially criminal behavior will be referred for investigation to the OIC Criminal Investigations Division (CID).

i. In the event the investigation is referred to an outside entity that entity shall have in place a policy governing the conduct of such investigations.

C. TRAINING AND EDUCATION

1. Participation in training must be documented through employee signature or electronic verification. Participation documentation will note that employees understood the training they have received by signing Attachment 1, Employee Acknowledgement Statement. This form shall be retained in the employee's local personnel file. At the conclusion of the training, employees are asked to seek additional supervisory direction, if necessary, to ensure understanding of the training.

2. **Employee training.**
   a. All Departmental employees shall be required to attend training annually on:
      1. The Department's zero-tolerance policy for sexual abuse and sexual harassment;
      2. How to fulfill their responsibilities under the Department's sexual abuse

and sexual harassment prevention, detection, reporting, and response policies and procedures;

3. Offenders' right to be free from sexual abuse and sexual harassment;
4. The right of offenders and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
5. The dynamics of sexual abuse and sexual harassment in confinement;
6. The common reactions of sexual abuse and sexual harassment victims;
7. How to detect and respond to signs of threatened and actual sexual abuse;
8. How to avoid inappropriate relationships with offenders;
9. How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders; and
10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

b. In-service training shall include gender specific reference and training to staff as it relates to the specific population supervised. Staff members transferring in to a facility of different gender from prior institution shall receive gender-appropriate training, as needed.

c. New employees shall receive PREA training during Pre-Service Orientation.

d. Specialized Training shall be required for members of Sexual Abuse Response Team (SART) and any other staff members who are likely to be most involved in the management and treatment of sexually abused victims and the perpetrators (Health Services staff members, Lieutenants, etc.). SART Training shall be required for all team members.

3. **Volunteer and contractor training.**

a) The Department shall ensure that all volunteers and contractors who have contact with offenders have been trained on their responsibilities under the Department's PREA policies and procedures.

b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with

offenders, but all volunteers and contractors who have contact with offenders shall be notified of the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed on how to report such incidents.

c) Participation must be documented through volunteer and contractor signature or electronic verification, and will indicate that the volunteer and contractor understood the training they have received by signing Attachment 3, Contractor/Volunteer Acknowledgement Statement. At the conclusion of the training, volunteers and contractors are asked to seek additional direction from Department staff members, if necessary, to ensure understanding of the training.

4. **Offender education.**
Notification of the GDC Zero-Tolerance Policy for Sexual Abuse and Harassment and information on how to report an allegation at the receiving facility shall be provided to every inmate upon arrival to the facility; in addition to verbal notification, offenders will be provided a GDC PREA pamphlet; **AND,** within 15 days of arrival, PREA education will be conducted by the assigned staff members to all inmates which will include the gender appropriate *Speaking Up* video on sexual abuse. Both the initial notification and the education will be documented in writing by signature of inmate.

In the case of exigent circumstances, such training may be delayed, but no more than 30 days, until such time as is appropriate for delivery (i.e. Tier Program, medical issues, etc.). This education is documented in the same manner as for offenders who participated during the regularly scheduled orientation.

a. The PREA education will be provided by designated staff members and the presentation must include:
   - The Department's zero tolerance of sexual abuse and sexual harassment;
   - Definitions of sexually abusive behavior and sexual harassment;
   - Prevention strategies the offender can take to minimize his/her risk of

sexual victimization while in Department custody;

- Methods of reporting an incident of sexual abuse against oneself, and for reporting allegations of sexual abuse involving other offenders;
- Methods of reporting an incident of sexual harassment against oneself, and for reporting allegations of sexual harassment involving other offenders;
- Treatment options and programs available to offender victims of sexual abuse and sexual harassment;
- Monitoring, discipline, and prosecution of sexual perpetrators; and
- Notice that male and female staff routinely work and visit housing areas;

Offender PREA education shall be provided in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.

b. The facility shall maintain documentation of offender participation in these education sessions in the offender's institutional file.
c. In each housing unit, the following will be posted:
   1. A notice to offenders stating, "Male and female staff members routinely work and visit housing areas."
   2. A poster reflecting the Department's zero tolerance for sexual abuse and harassment and contact information for offender reporting of sexual abuse allegations.
d. Posters reflecting the Department's zero tolerance shall be posted in common areas throughout the facility, including entry, visitation, and staff areas.

5. **Specialized training: Investigations.**
   a. OIC shall ensure its agents and investigators are appropriately trained in conducting investigations in confinement settings.
   b. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence

required to substantiate a case for administrative action or prosecution referral.

c. The Department shall maintain documentation that agents and investigators have completed the required specialized training in conducting sexual abuse investigations.

d. Any outside entity that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

6. **Specialized training: Medical and Mental Health Care.**
GDC medical and mental health staff members and Georgia Correctional HealthCare (GCHC) staff members will be trained using the National Institute of Corrections (NIC) Specialized Training PREA Medical and MH Standards curriculum. Certificate of completion will be printed and maintained in the employee training file. In addition to the specialized training, these same employees are required to attend GDC's annual PREA in-service training.

D. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND SEXUAL ABUSIVENESS

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

2. Counseling staff members will conduct a screening for risk of victimization and abusiveness, in SCRIBE, through use of the Victim/Aggressor Classification Instrument (Attachment 4). This screening will be conducted within 72 hours of arrival at the facility. Information from this assessment will be used to determine housing, bed assignment, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. A SCRIBE case note will be entered reflecting the assessment outcome.

3. Offenders should be encouraged to disclose as much information as possible for the Department to provide the most protection possible under this policy. If an offender chooses not to respond to questions relating to his or her level of risk, he or she may not be disciplined.
    a. The intake screening shall consider, at a minimum, the following criteria to assess offenders risk of sexual victimization:
        1. Whether the offender has a mental, physical, or developmental disability;
        2. The age of the offender;
        3. The physical build of the offender;
        4. Whether the offender has previously been incarcerated;
        5. Whether the offender's criminal history is exclusively nonviolent;
        6. Whether the offender has prior convictions for sex offenses against an adult or child;
        7. Whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
        8. Whether the offender has previously experienced sexual victimization; and
        9. The offender's own perception of vulnerability.

Note: Some offenders are "at risk" for victimization due to one or a combination of factors such as physical appearance (small in stature, effeminate, etc.); demeanor (weak, nonassertive, anxious, depressed); special situations (e.g., high-profile, sexual activity with a child, first-time offender); or special needs (cognitive limitations, social inadequacy, developmental disability, etc.).

4. For assessing an offender for risk of being sexually abusive, the screening shall consider:
    a. prior acts of sexual abuse;

b. prior convictions for violent offenses; and
c. a history of prior institutional violence or sexual abuse, as known to the Department.

5. Offenders whose risk screening indicates a risk for victimization or abusiveness shall be reassessed whenever warranted and within 30 days of arrival at the institution, based upon any additional information. A review of the screening conducted at arrival of institution along with consideration of any additional information obtained since arrival during the classification process will suffice. A case note shall be entered in SCRIBE to indicate this review has been conducted. Should additional information be presented, a new assessment shall be conducted.

6. Staff members shall reassess offender's risk level when warranted due to a referral, report incident of sexual abuse, or receipt of additional information that bears on the offender's risk of sexual victimization or abusiveness.

7. Offenders may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs D.1, D.7, D.8 or D.9 of this section.

   Any information related to sexual victimization or abusiveness, including the information entered into the comment section of the Intake Screening Form, is limited to a need-to-know basis for staff, only for the purpose of treatment and security and management decisions, such as housing and cell assignments, as well as work, education, and programming assignments.

8. The facility shall use information from the risk screening to determine housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive.

9. The Warden/Superintendent shall designate a safe dorm(s) or safe beds for those offenders identified as highly vulnerable to sexual abuse. Location(s) shall be identified in the Local Procedure Directive, Attachment 9 and the Staffing Plan, Attachment 12.

10. The facility shall make individualized determinations about how to ensure the safety of each offender.

11. 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 Department 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.

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

13. Offenders at high risk for sexual victimization shall not be placed in involuntary segregation unless an assessment of all available alternatives have been made, and determination has been made that there is no available alternative means of separation from likely abusers. If an assessment cannot be conducted immediately, the offender may be held in involuntary segregation no more than 24 hours while completing the assessment. This placement, including the concern for the offender's safety must be noted in SCRIBE case notes documenting the concern for the offender's safety and the reason why no alternative means of separation can be arranged.
    a. Offenders placed in segregation will receive services in accordance with SOP 209.06, Administrative Segregation.
    b. The facility shall assign such offenders to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily

exceed a period of 30 days.

c. If offenders placed in segregated housing for this purpose have restricted access to programs, privileges, education, or work opportunities, then the facility shall document: 1) the opportunities that have been limited; 2) the duration of the limitation; and 3) the reasons for such limitations.

d. Every 30 days, the facility shall afford each such offender a review to determine whether there is a continuing need for separation from the general population.

E. REPORTING

1. **Offender reporting.**

a. Offenders may make a report of sexual abuse, sexual harassment, or retaliation by any of the following methods: in writing, verbally, through the offender PREA hotline, and by mail to the Department Ombudsman Office. Offenders shall be encouraged to report allegations immediately and directly to staff members at all levels. All reports will be promptly documented.

b. The Department will maintain a **sexual abuse hotline**, currently known as the "PREA" hotline (*7732 from any offender telephone in state facilities; *80 from transitional center payphones; 888-992-7849, toll-free from non-department system phones). This call will not require the use of the offender's PIN number. Monitoring of this line will be the responsibility of the Office of Investigations and Compliance, with immediate oversight by the Department's PREA Coordinator, or designee.

c. Offenders who wish to remain anonymous or choose to report to an outside entity may do so in writing to State Board of Pardons and Paroles, Office of Victim Services, 2 Martin Luther King, Jr. Drive, S.E., Balcony Level, East Tower, Atlanta, Georgia 30334.

d. Staff members shall accept reports made verbally, in writing, and from third parties and shall promptly document any verbal reports. The staff member receiving a report of sexual abuse or sexual harassment must divulge the name of the person from whom they received the report, if known.

e. Staff members shall forward all reports or observations of sexual assault or sexual harassment to their immediate supervisor or the designated SART member promptly.

2. **Offender Grievances**
The facility shall allow offenders a full and fair opportunity to file grievances regarding sexual abuse so as to preserve their ability to seek judicial redress after exhausting administrative remedies. This procedure shall be conducted in accordance with SOP 227.02, *Statewide Grievance Procedure*. All grievances received shall be immediately forwarded to the local SART for handling in accordance with the local response protocol as outlined in the Local Procedure Directive.

3. **Offender access to outside confidential support services.**
   a. Appropriately trained local staff members will be identified to provide advocate services to victims of sexual assault.
   b. "Confidential" communications under this section are distinguished from privileged communications, such as in attorney-client relationships. Communications are monitored in a manner consistent with the Department's security practices, and should be addressed in any memorandum of understanding with the outside victim advocacy organization.

4. **Third party reports** may be made to the Ombudsman's Office at 478-992-5358 or in writing to the State Board of Pardons and Paroles, Office of Victim Services, 2 Martin Luther King, Jr. Drive, S.E., Balcony Level, East Tower, Atlanta, Georgia 30334.

F. OFFICIAL RESPONSE FOLLOWING AN OFFENDER REPORT

1. **Staff and Department reporting duties.**
   a. Staff members who witness or receive a report of sexual assault, sexual harassment, or who learn of rumors or allegations of such conduct, must report information concerning incidents or possible incidents of sexual abuse or

sexual harassment to the supervisor on duty and write a statement, in accordance with the Employee Standards of Conduct.

b. The highest-ranking supervisor on duty at an institution who receives a report of sexual assault or sexual harassment, shall report it to the appointing authority or his or her designee immediately.
c. The supervisor in charge shall notify the PREA Compliance Manager and/or SART Leader, as designated by the Local Procedure Directive (Attachment 9).
d. Appointing authorities or his or her designee may make an initial inquiry to determine if a report of sexual assault, sexual harassment, is a rumor or an allegation. Allegations of sexual assault, sexual harassment, are considered major incidents and must be reported in accordance with this policy and SOP 203.03, *Incident Reports*.
e. Once reported, an evaluation by the SART Leader/Team of whether a full response protocol is needed will be made (see section 28 CFR § 115.65).
f. PREA incident reports will be coded as one of four categories: 1) Offender-on- Offender Sexual Abuse; 2) Offender-on-Offender Sexual Harassment; 3) Staff-on-Offender Sexual Abuse; 4) Staff-on-Offender Sexual Harassment. Assigned SART shall make category assignment and shall use definitions found in SOP Section III of this policy to make the appropriate category assignment.
g. Appointing authorities or his or her designee shall report all allegations of sexual assault with penetration to the CID Regional Special Agent-in-Charge (SAC) and the Department's PREA Coordinator immediately upon receipt of the allegation. The Regional SAC shall determine the appropriate response.
h. Staff members shall not disclose any information concerning sexual abuse, sexual assault, sexual harassment, or sexual misconduct of an offender, including the names of alleged victims or perpetrators, except to report the information as required by this policy or the law, or to discuss such information as a necessary part of performing their job.
i. Staff members who fail to comply with the reporting provisions of this policy may be banned from correctional facilities, or will be subject to disciplinary action, up to and including termination, whichever is applicable.

j. If the alleged victim is under the age of 18, the Field Operations Manager in conjunction with the Director of Investigations, or designee, shall report the allegation to the Department of Family and Children Services, Child Protective Services Section, reference O.C.G.A §19-7-5.
k. If the alleged victim is considered a vulnerable adult under O.C.G.A. §30-5-4, then the Director of Investigations, or designee, will make notification to the appropriate outside law enforcement agency.
l. In addition to reporting information, staff members shall intervene as appropriate, by observing and reporting behaviors that may subsequently lead to an incident of sexual abuse.
    1. Staff members should be aware of the following in determining what information to report:
        a. Detection requires an awareness by staff members of institution or unit climate and the reputations and behaviors of offenders – through actively paying attention to the following, for example:
            1. Offender communications.
            2. Comments to staff members.
            3. Offender interactions.
            4. Changes in offender behavior (eating, sleeping, hygiene, work habits, etc.).
            5. Isolated or vulnerable areas of the institution.
    2. By observing factors such as these, staff members are able to better detect sexually abusive behavior, and possibly deter problems before they can occur, or before they escalate.

2. **Facility protection duties.**
    a. Separate the alleged victim and abuser.
        1. Ensure the alleged victim has been placed in safe housing which may be protective custody in accordance with SOP 209.06, *Administrative Segregation*;
            a. If placed in Administrative Segregation, ensure that a SCRIBE case note indicating the reason for placement has been completed.

b. If the offender remains in Administrative Segregation for 72 hours, ensure that SART has again evaluated the victim within 72 hours. Ensure that SCRIBE case note indicating the reason for continued placement in Administrative Segregation has been completed. *The Care and Treatment member of SART is responsible for completing the SCRIBE case note.

2. If the alleged perpetrator is an offender, ensure that the alleged perpetrator has been placed in Administrative Segregation in accordance with SOP 209.06, *Administrative Segregation*.
   a. If placed in Administrative Segregation, ensure that a SCRIBE case note indicating the reason for placement has been completed.
   b. If the offender remains in Administrative Segregation for 72 hours, ensure that SART has again evaluated the perpetrator within 72 hours. Ensure that a SCRIBE case note indicating the reason for continued placement in Administrative Segregation has been completed. *The Care & Treatment member of SART has responsibility for completing the SCRIBE case note.
3. If the alleged perpetrator is a staff member, separate the staff member from the alleged victim during the period of investigation by reassigning the staff member to other duties or another work area, transferring the staff member to another institution, suspending the staff member with pay "pending investigation into allegations of misconduct," or temporarily banning the individual from the institution, whichever option the appointing authority deems appropriate.
4. If applicable, consult with the SART, the Field Operations Manager, the Department's PREA Coordinator, or the Regional SAC within 72 hours of the reported incident to determine how long the alleged victim or perpetrator should remain segregated from the general population, and document the final decision in the offender's file with specific reasons for returning the offenders to the general population or keeping the offenders segregated; Ensure the SART has evaluated the victim within 24 hours of the report.

5. Once the Regional SAC or Legal Services has advised that there is sufficient evidence of sexual assault, ensure closure of the matter by serving notice of adverse action or banning the staff member from all institutions if the perpetrator is a staff member, making housing and classification changes if the perpetrator is an offender, and update the victim's offender file with the incident information.

3. **Reporting to other confinement facilities.**
   a. In cases where there is an allegation that sexual abuse occurred at another Department facility, the Warden/Superintendent (or his/her designee) of the victim's current facility will provide notification to the Warden/Superintendent of the identified institution and the Department's PREA Coordinator. In cases alleging sexual abuse by staff at another institution, the Warden/Superintendent of the offender's current facility refers the matter directly to the Regional SAC. For non-Department facilities, the Warden/Superintendent will notify the appropriate office of the facility where the abuse allegedly occurred and the Department's PREA Coordinator.
   b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
   c. The facility shall document that it has provided such notification.
   d. The facility head or Department office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

4. **Staff first responder duties.**
   a. Each facility shall have a written procedure to explain directly, concisely the duties of a first responder for sexual abuse as indicated in this policy, but to include specifics related to that facility. Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report shall be required to:
      1. Separate the alleged victim and abuser;
      2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence in accordance with SOP 103.10, *Evidence*

Handling and Crime Scene Preservation;

3. If the abuse occurred within 72 hours, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
4. If the abuse occurred within 72 hours 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, smoking, drinking, or eating.
5. If the first staff responder is not a security staff member, the responder shall follow steps 1-3 and then notify security staff immediately.
6. SART will be notified and will implement the local protocol in accordance with section V.F.5., Coordinated Response, of this policy.

5. **Coordinated Response.**
   a. Each facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. This plan will be kept current and include names and telephone numbers of coordinating parties and be a part of the Local Procedure Directive (Attachment 9). In addition to the information directed in Section A.1. of this policy, this plan shall include the following:

1. SART shall evaluate the victim within 24 hours of the report;
2. SART shall arrange for an immediate medical examination of the alleged victim (in accordance with SOP 507.04.84, *Medical Management of Suspected Sexual Abuse* and SOP 507.04.91, *Medical Management of Suspected Sexual Assault*, Abuse or Harassment), followed by a mental health evaluation within 24 hours, (in accordance with SOP 508.22, *Mental Health Management of Suspected Sexual Abuse, Contact or Harassment*).
3. Medical staff members shall contact the appropriate Sexual Assault Nurse

Examiner (SANE), who will respond as soon as possible, but within 72 hours of the time the alleged assault occurred to collect forensic evidence. This procedure shall be handled in accordance with Attachment 7, SANE Nurse Protocol.

4. If the SANE is not available within a reasonable time frame, the Appointing Authority, in consultation with the Regional SAC, shall coordinate with the Office of Health Services (OHS) to arrange for the offender to be transported to a hospital for collection of the forensic evidence. If applicable, ensure that security staff members escorting an alleged sexual assault victim for medical attention take custody of the rape kit or other physical evidence from medical personnel, document the contents, and store the evidence in a secure place until it can be turned over to an OIC agent or investigator.
5. The incident report and supporting documentation must been completed before leaving the institution for the day and is completed in accordance with SOP 203.03, *Incident Reports*, and is entered accurately and timely into the SCRIBE database.
6. Allegations of sexual abuse and sexual harassment are considered major incidents and must be reported in accordance with this policy and SOP 203.03, *Incident Reports*.

b) Wardens/Superintendents or their designees shall take the following actions anytime they learn of an allegation of sexual abuse or sexual assault:
   - Separate the alleged victim and abuser.
   - Ensure Local Institutional Sexual Abuse Response Plan is enacted;
   - Contact the Field Operations Manager;
   - Notify the appropriate Regional SAC;
   - Subsequently, submit a written notification via email to the Office of Investigations and Compliance Senior Investigator and the Department's PREA Coordinator. This reporting should follow any and all established notification procedures in place by the Facilities Division Director.

6. **Protection against retaliation.**

a. Anyone who retaliates against a staff member or an offender who has reported in good faith an allegation of sexual abuse or sexual harassment or who has participated in a subsequent investigation shall be subject to disciplinary action.

b. The Department shall protect offenders and staff members who report sexual abuse, sexual misconduct, or sexual harassment from retaliation. **The Warden/Superintendent shall identify a Retaliation Monitor and list in the Local Procedure Directive (Attachment 9) to monitor for retaliation.** Multiple protection measures include offender housing changes or transfers, removal of alleged staff members or offender abusers from contact with victims, and emotional support services for offenders or staff members who fear retaliation for reporting or for cooperating with investigations.

c. The designated Retaliation Monitor shall, for at least 90 days following a report of abuse, monitor the conduct and treatment of offenders or staff members who reported the sexual abuse or who participated in an investigation, to see if there are any changes that may suggest possible retaliation, and will act promptly to remedy any such retaliation.

    1. This monitoring will include review of any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff members. Periodic status checks shall be made by the monitor as well. Attachment 10, 90 Day Offender Sexual Abuse Review Checklist, shall be completed for each offender monitored. The original shall be kept in a master file by the monitor and a copy placed with the SART incident report upon completion.
    2. This monitoring will include negative performance reviews or reassignments of staff members. Attachment 11, 90 Day Staff Sexual Abuse Review Checklist, shall be completed for each employee monitored. The original shall be kept in a master file by the monitor.
    3. Such monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need. The obligation for monitoring will terminate if the allegation is unfounded.

G. INVESTIGATIONS

1. Appointing authorities or their designees may make an initial inquiry to determine if a report of sexual abuse or sexual harassment is a rumor or an allegation.

2. The local SART is responsible for the initial inquiry and subsequent administrative investigation of all allegations of sexual abuse or sexual harassment with limitations. In cases where allegations are made against staff members and the SART inquiry deems the allegation is unfounded or unsubstantiated by evidence of facility documentation, video monitoring systems, witness statements, or other investigative means, the case can be closed at the facility level. No interview shall be conducted, nor a statement be collected from the accused staff member without first consulting the Regional SAC.

3. Appointing authorities or their designees shall report all allegations of sexual assault with penetration and those with immediate and clear evidence of physical contact, to their Regional SAC and the Department's PREA Coordinator immediately upon receipt of the allegation.
   a) Where sexual assault is alleged and cannot be cleared at the local level (as indicated in G.2. of this section), the Regional SAC shall determine the appropriate response upon notification. If this appropriate response is to open an official investigation, the Regional SAC shall dispatch an agent or investigator who has received special training in sexual abuse investigations.
   b) Agents and investigators shall gather and preserve direct and circumstantial evidence including any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
   c) When the criminal investigation is completed pertaining to an employee, the investigation will be turned over to the Office of Professional Standards (OPS) to conduct any necessary compelled administrative interviews.
   d) The credibility of the victim, suspect, or witness shall be assessed on an individual basis and will not be determined by the person's status as offender or staff member. An offender who alleges sexual abuse shall not be required

to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

4. At the conclusion of each SART investigation, all SART investigations shall be referred to the Office of Investigations and Compliance (OIC) for an administrative review.

5. For investigations of allegations of sexual abuse, the Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution in accordance with SOP 103.06, *Investigations of Allegations of Sexual Contact, Sexual Abuse, and Sexual Harassment of Offenders*.

6. Investigations, criminal and administrative, into allegations of sexual abuse shall be prompt, thorough, and objective for all allegations, including those reported by third-party and anonymously.

7. Administrative investigations shall include an effort to determine whether staff member actions or failures to act contributed to the abuse. This shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind the credibility assessments, and investigative facts and findings.

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

9. Substantiated allegations of conduct that appears criminal shall be referred for prosecution.

10. OPS shall maintain all such written reports for as long as the alleged abuser is incarcerated or employed by the Department, plus five years.

11. The departure of the alleged abuser or victim from the employment or control of the Department shall not provide a basis for terminating the investigation.

12. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

13. When outside agencies investigate sexual abuse, the Department shall cooperate with the outside investigators and shall endeavor to remain informed about the progress of the investigations.

14. There shall be no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

15. Following the close of an investigation into an offender's allegation that he or she suffered sexual abuse in a Department facility, the facility shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. This will be completed by a member of the local SART unless appointing authority delegates to another designee under certain circumstances. Such notifications or attempted notifications shall be documented on Attachment 5, Notification to Offender. The Department's obligation to report under this standard shall terminate if the offender is released from the Department's custody.

H. DISCIPLINE

1. **Disciplinary Sanctions for Staff Members.**
   a. Staff members that engage in sexual misconduct with an offender shall be banned from correctional institutions or subject to disciplinary action, up to and including termination, whichever is appropriate, and may also be referred for criminal prosecution when appropriate.
   b. Termination will be the presumptive disciplinary sanction for staff members who

have engaged in sexual touching.

c. Disciplinary sanctions for violations of Department policy related to sexual abuse or sexual harassment (other than engaging in sexual abuse) will 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 members with similar histories.

d. All terminations for violations of the Department sexual abuse or sexual harassment policies, or resignations by staff members that would have been terminated if not for their resignation shall be reported to law enforcement agencies, unless the activity was clearly not criminal. These shall also be reported, as required, to the Georgia Peace Officers Standards and Training Council (POST).

e. OPS shall refer all substantiated cases of nonconsensual sexual contact between offenders or sexual contact between a staff member and an offender for criminal prosecution.

2. **Contractors and Volunteers.**

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. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any other violation of Department sexual abuse or sexual harassment policies by a contractor or volunteer.

3. **Disciplinary sanctions for offenders.**

a. The Department prohibits all consensual sexual activity between offenders, and offenders may be subject to disciplinary action for such activity. Consensual (non-coerced) sexual activity between offenders does not constitute sexual abuse, but is considered a disciplinary issue.

b. Offenders shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender

engaged in offender-on-offender sexual abuse or a criminal finding of guilt for offender-on-offender sexual abuse. These sanctions shall be imposed in accordance with SOP 209.01, *Offender Discipline*.

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

d. The disciplinary process shall consider whether the offender's mental disabilities or mental illness contributed to behavior when determining what type of sanction, if any, will be imposed. See SOP 508.18, *MH/MR Discipline Procedures*.

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

f. An offender may be disciplined for sexual contact with a staff member only upon a finding that the staff member did not consent to such contact.

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

h. Following an administrative finding of malicious intent on behalf of the offender making a false report then the offender shall be subject to disciplinary sanctions pursuant to a formal disciplinary process in accordance with SOP 209.01, *Offender Discipline*.

I. MEDICAL AND MENTAL HEALTH CARE

The Department shall provide prompt and appropriate medical and mental health services in compliance with 28 CFR § 115 and in accordance with the Department SOPs.

J. DATA COLLECTION AND REVIEW

1. **Monthly Sexual Abuse and Sexual Assault Program Review**
   a. Each facility shall meet once per month to review and assess the facility's PREA prevention, detection, and response efforts. During this meeting an incident review shall be conducted for each sexual abuse allegation that has been concluded within the past 30 days. This review shall be conducted on all abuse allegations deemed substantiated and unsubstantiated. Reviews are not necessary for unfounded allegations.
   b. The review team shall include the PREA Compliance Manager, SART and representatives from upper management, line supervisors and other staff members, as designated by the Warden/Superintendent of the facility.

2. **The review team shall:**
   a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
   b. Consider whether the allegation or incident was motivated or otherwise caused by the perpetrator's or victim's race, ethnicity, gender identity, gay, lesbian, bisexual, transgender, or intersex identification, status or perceived status; or gang affiliation, or was motivated by other group dynamics at the facility.
   c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area enabled the abuse.
   d. Assess the adequacy of staffing levels in the area during different shifts.
   e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff members.
   f. Prepare a report of its findings including, but not limited to, determinations regarding all of the above, and any recommendations for improvement, and submit such report to the Warden/Superintendent and PREA Compliance Manager.

g. Attachment 13, Sexual Abuse Incident Review Checklist shall be used to conduct these reviews.

3. Each facility shall submit a report to the Department's PREA Analyst each month using the electronic spreadsheet provided from the PREA Coordinator's office (Attachment 2). This form shall be submitted by e-mail by the fifth calendar day of the month following the reporting month. All allegations occurring within the month shall be included on this report along with the appropriate disposition. The monthly report shall be completed in accordance with the Facility PREA Log User Guide.

K. <u>AUDITS</u>

The Department shall conduct audits pursuant to 28 C.F.R. §115.401-405. Each facility operated by the Department shall be audited every three years on a schedule determined by the Department's PREA Coordinator.

County facilities and Private facilities operated on behalf of the Department (housing state offenders) must meet the same audit requirements. These entities are responsible for scheduling and funding their audits. All auditors shall be certified by the Department of Justice. Each facility shall bear the burden of demonstrating compliance with the federal standards. A copy of the final report shall be submitted to the Department's PREA Coordinator upon completion of the audit and must be conducted every three years.

V. <u>Attachments:</u>

Attachment 1 – 208.06 ATT1, Employee Acknowledgement Statement
Attachment 2 – 208.06 ATT2, Electronic Monthly Report (The electronic version shall be obtained from the PREA Coordinator's Office. A .pdf copy of this report is attached to the policy in PolicyHub for posting in the Offender Legal Reference Library and for Open Records purposes.)
Attachment 3 – 208.06 ATT3, Contractor/Volunteer Acknowledgement Statement

Attachment 4 – 208.06 ATT4, Sexual Victim/Sexual Aggressor Screening Instrument
Attachment 5 – 208.06 ATT5, Offender Notification Letter
Attachment 6 – 208.06 ATT6, Sexual Abuse Response Checklist
Attachment 7 – 208.06 ATT7, SANE Nurse Evaluation
Attachment 8 – 208.06 ATT8, Receiving Health Screening Form
Attachment 9 – 208.06 ATT9, Local Procedure Directive
Attachment 10- 208.06 ATT10, 90 Day Offender Sexual Abuse Review Checklist
Attachment 11- 208.06 ATT11, 90 Day Staff Sexual Abuse Review Checklist
Attachment 12 – 208.06 ATT12, Staffing Plan Template
Attachment 13 – 208.06 ATT13, Sexual Abuse Incident Review Checklist

VI. Record Retention of Forms Relevant to this Policy:

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on CAPTIVA.

Retention of PREA related documents and investigations shall be securely retained and made in accordance with the following schedule:

1. Sexual abuse data, files, and related documentation – at least 10 years from the date of the initial report.
2. Criminal investigation data, files, and related documentation – for as long as the alleged abuser is incarcerated or employed by the agency, plus five years; or 10 years from the date of the initial report, whichever is greater.

Administrative investigation data, files, and related documentation – for as long as the alleged abuser is incarcerated or employed by the agency, plus five years; or 10 years from the date of the initial report, whichever is greater.