

STANDARDS FOR THE PREVENTION,
DETECTION, RESPONSE, AND
MONITORING OF SEXUAL ABUSE IN
ADULT PRISONS AND JAILS

**NATIONAL
PRISON
RAPE
ELIMINATION
COMMISSION**

STANDARDS FOR THE PREVENTION,
DETECTION, RESPONSE, AND
MONITORING OF SEXUAL ABUSE IN
ADULT PRISONS AND JAILS

INCLUDING SUPPLEMENTAL STANDARDS FOR
FACILITIES WITH IMMIGRATION DETAINEES

**NATIONAL
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PREFACE

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

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

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

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

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

A handwritten signature in black ink, appearing to read "Reggie B. Walton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

The Honorable Reggie B. Walton, Chair

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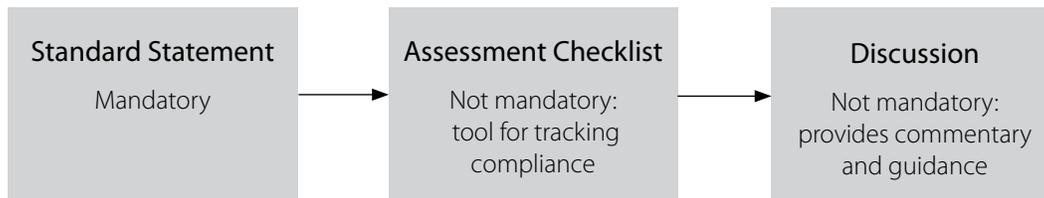
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INTRODUCTION

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

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

The standards developed by NPREC are organized as follows:



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

After each assessment checklist is a discussion of the standard. Discussion sections provide explanation for the rationale of the standard and, in some cases, offer guidance for achieving compliance with it. Although the discussion sections sometimes offer further clarification on the meaning of terms or phrases used in the standard, the glossary should be used as the primary source for the meaning of terms or phrases. The discussion sections do not contain any additional mandatory

requirements. When mandatory requirements are mentioned in a discussion section, they have been drawn directly from the standard statement.

In crafting these standards, NPREC has kept in mind the following overarching considerations: (1) agency and facility heads should retain the flexibility, responsibility, and authority to establish systems, practices, and protocols that will eliminate sexual abuse in their confinement facilities; (2) successful compliance with the standards and elimination of sexual abuse require ongoing systemic efforts to assess and adjust policies, practices, and the allocation of resources to address problems and improve safety; and (3) greater transparency of the agency's sexual abuse data and efforts to prevent, detect, and respond to sexual abuse will improve public trust and confidence in our Nation's prisons and jails and aid in the elimination of sexual abuse in confinement.

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

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

GLOSSARY

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

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

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

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

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

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

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

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

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

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

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

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

Facility head: The chief authority of an individual confinement facility operated by a Federal, State, or local correctional or law enforcement agency or by a private entity (whether for-profit or nonprofit).

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

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

Immigration detainee: Any person who is in the actual or constructive custody of the Department of Homeland Security's Immigration and Customs Enforcement (ICE), Customs and Border Protection, or the Office of Refugee Resettlement (ORR) pending conclusion of immigration proceedings. ICE houses some detainees in facilities that it owns and operates and contracts with local, State, Federal, and private facilities to hold others. Unaccompanied minors in immigration detention are under the care and custody of ORR and are housed in foster care, shelters, group homes, and secure juvenile detention centers. Customs and Border Protection detains both adults and youth for short periods of time in holding cells before they are moved into ICE custody.

Inmate: Any person incarcerated or detained in any adult facility.

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

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

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

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

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

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

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

PREA coordinator: A senior-level position that reports directly to the agency head. The PREA coordinator’s responsibilities include developing, implementing, and overseeing the agency’s plan to comply with the PREA standards. He or she is also responsible for ensuring the completion of the assessment checklists in this body of standards. The PREA coordinator is a full-time position in all State prison systems and agencies that operate large jails (more than 500 inmates) but may be a part-time position in agencies that operate medium (101–500 inmates) and small jails (100 inmates or fewer).

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

Protocol: Written instructions that guide the implementation of policies.

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

Security staff: Employees responsible for the supervision and control of inmates in housing units, recreational areas, dining areas, and other program areas of the facility.

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

(1) Inmate-on-inmate sexual abuse: Encompasses all incidents of inmate-on-inmate sexually abusive contact and inmate-on-inmate sexually abusive penetration.

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

Inmate-on-inmate sexually abusive penetration: Penetration by an inmate of another inmate without the latter's consent, or of an inmate who is coerced into sexually abusive penetration by threats of violence, or of an inmate who is unable to consent or refuse. The sexual acts included are:

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

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

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

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

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

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

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

Staff-on-inmate voyeurism: An invasion of an inmate's privacy by staff for reasons unrelated to official duties or when otherwise not necessary for safety and security reasons,

such as peering at an inmate who is using a toilet in his or her cell; 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 and distributing or publishing them.

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

Staff: Employees and volunteers.

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

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

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

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

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

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

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

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

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

I. PREVENTION AND RESPONSE PLANNING

Prevention Planning (PP)

PP-1 Zero tolerance of sexual abuse

The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its facilities comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards.

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

Discussion

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

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

PP-2 Contracting with other entities for the confinement of inmates

If public correctional agencies contract for the confinement of their inmates, they do so only with private agencies or other entities, including other government agencies, committed to eliminating sexual abuse in their facilities, as evidenced by their adoption of and compliance with the PREA standards. Any new contracts or contract renewals include the entity's obligation to adopt and comply with the PREA standards and specify that the public agency will monitor the entity's compliance with these standards as part of its monitoring of the entity's performance.

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

Discussion

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

PP-3 Inmate supervision

Security staff provides the inmate supervision necessary to protect inmates from sexual abuse. The upper management officials responsible for reviewing critical incidents must examine areas in the facility where sexual abuse has occurred to assess whether physical barriers may have enabled the abuse, the adequacy of staffing levels in those areas during different shifts, and the need for monitoring technology to supplement security staff supervision (DC-1). When problems or needs are identified, the agency takes corrective action (DC-3).

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

Discussion

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

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

PP-4 Limits to cross-gender viewing and searches

Except in the case of emergency, the facility prohibits cross-gender strip and visual body cavity searches. Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing inmates of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. Medical practitioners conduct examinations of transgender individuals to determine their genital status only in private settings and only when an individual's genital status is unknown.

Assessment Checklist	YES	NO
(a) Except in the case of emergency, does the facility prohibit cross-gender searches of the following types?		
• Strip		
• Visual body cavity		
(b) Except in the case of emergency or other extraordinary or unforeseen circumstances, does the facility restrict cross-gender viewing by nonmedical staff of inmates who are nude or performing bodily functions?		
(c) Except in the case of emergency or other extraordinary or unforeseen circumstances, does the facility restrict cross-gender pat-down searches?		
(d) Are examinations of transgender individuals to determine their genital status conducted only by medical practitioners in private settings and only when an individual's genital status is unknown?		

Discussion

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

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

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

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

In some facilities, employees conduct strip or body cavity searches of transgender individuals ostensibly to determine their genital status. All too frequently, such examinations are not necessary because the individual's genital status was already determined at an initial medical screening. To protect the privacy and dignity of transgender individuals, this standard prohibits examinations to determine genital status when that status has already been ascertained.

Additionally, this standard requires that examinations to determine genital status be conducted in private and by medical practitioners.

PP-5 Accommodating inmates with special needs

The agency ensures that inmates who are limited English proficient (LEP), deaf, or disabled are able to report sexual abuse to staff directly, through interpretive technology, or through non-inmate interpreters. Accommodations are made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to inmates who have limited reading skills or who are visually impaired.

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

Discussion

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

PP-6 Hiring and promotion decisions

The agency does not hire or promote anyone who has engaged in sexual abuse in an institutional setting or who has engaged in sexual activity in the community facilitated by force, the threat of force, or coercion. Consistent with Federal, State, and local law, the agency makes its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse; must run criminal background checks for all applicants and employees being considered for promotion; and must examine and carefully weigh any history of criminal activity at work or in the community, including convictions for domestic violence, stalking, and sex offenses. The agency also asks all applicants and employees directly about previous misconduct during interviews and reviews.

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

Discussion

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

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

PP-7 Assessment and use of monitoring technology

The agency uses video monitoring systems and other cost-effective and appropriate technology to supplement its sexual abuse prevention, detection, and response efforts. The agency assesses, at least annually, the feasibility of and need for new or additional monitoring technology and develops a plan for securing such technology.

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

Discussion

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

Response Planning (RP)

RP-1 Evidence protocol and forensic medical exams

The agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol must be adapted from or otherwise based on the 2004 U.S. Department of Justice's Office on Violence Against Women publication "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2004. As part of the agency's evidence collection protocol, all victims of inmate-on-inmate sexually abusive penetration or staff-on-inmate sexually abusive penetration are provided access to forensic medical exams performed by qualified forensic medical examiners. Forensic medical exams are provided free of charge to the victim. The facility makes available a victim advocate to accompany the victim through the forensic medical exam process.

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

Discussion

At the time of publication of this body of standards, the 2004 U.S. Department of Justice's Office on Violence Against Women publication "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" is considered the "gold standard" of sexual assault evidence protocols by both the law enforcement and the forensic medical examiner communities. The protocol can be found electronically at the following Web address: <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>. The agency head should review the national protocol or a subsequent updated edition and incorporate it into the agency's current protocol or use it to develop a new agency protocol by adapting the national protocol to fit the agency's needs, resources, and policies. The agency head may find it particularly helpful to consult Appendix A of the national protocol, which provides guidance on how jurisdictions can customize the national protocol to meet specific local needs, challenges, policies, and statutes.

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

Additionally, the forensic medical exam is an important element of both evidence collection and treatment for recent sexual abuse victims. When possible, it is considered best practice to transport victims to outside health care providers for forensic medical exams to avoid any conflict or appearance of conflict of interest regarding potential evidence or treatment of the victim. If a facility does not have access to any community providers able to perform forensic medical exams or if a specific inmate in need of an exam has been deemed a flight risk or too dangerous to transport out of the facility, it should take steps to contract with qualified independent medical practitioners to perform the forensic exams at the facility. When an individual inmate has been deemed a flight risk or too dangerous to transport out of the facility, the facility head should document in writing at the time the decision is made the factors that led to the decision not to transport the inmate off-site. Please see Appendix A for more on the responsibilities of forensic medical examiners.

RP-2 Agreements with outside public entities and community service providers

The agency maintains or attempts to enter into memoranda of understanding (MOUs) or other agreements with an outside public entity or office that is able to receive and immediately forward inmate reports of sexual abuse to facility heads (RE-1). The agency also maintains or attempts to enter into MOUs or other agreements with community service providers that are able to: (1) provide inmates with confidential emotional support services related to sexual abuse and (2) help victims of sexual abuse during their transition from incarceration to the community (RE-3, MM-3). The agency maintains copies of agreements or documentation showing attempts to enter into agreements.

Assessment Checklist	YES	NO
(a) Does the agency maintain an agreement or attempt to enter into an agreement with an outside public entity or office that is able to receive and immediately forward inmate reports of sexual abuse to facility heads?		
b) Does the agency maintain or attempt to enter into agreements with community service providers that are able to do the following?		
• Provide inmates with confidential emotional support services related to sexual abuse		
• Help victims of sexual abuse during their transition from incarceration to the community		
(c) Does the agency maintain copies of agreements or documentation showing attempts to enter into agreements?		

Discussion

Working to establish partnerships with outside public entities and community service providers will enable the agency to meet the requirements of standards RE-1, RE-3, and MM-3 most effectively. Forging these partnerships will allow the agency to provide the range of services available in the community and will give inmates the choice to speak to someone not affiliated with the agency if they feel more comfortable doing so. When an agency establishes an MOU with an outside public entity or office to receive inmate reports of sexual abuse, it should make clear that the outside public entity is responsible for forwarding those reports back to the agency immediately upon receipt, unless the inmate requests confidentiality (RE-1). For cases in which facilities are located in areas lacking adequate community service providers willing to provide transition services to inmates, the agency head should consider researching regional or national agencies or groups that inmates may be able to access by telephone or, if no other alternative is possible, by mail and provide inmates with that contact information. For cases in which facilities are located in areas lacking adequate community service providers willing to provide victim support services to inmates, the agency or facility head is required by RE-3 to identify regional and/or national agencies or groups that inmates may be able to access by telephone or, if no other alternative is possible, by mail and provide inmates with that contact information.

Although the Commission recognizes that correctional agencies may not be able to persuade outside public entities or community service providers to enter into agreements, it nonetheless requires agencies to try to enter into agreements. For correctional agencies that successfully enter into agreements with outside public entities and community service providers, the Commission recommends that agreements contain the following elements: (1) the purpose of the agreement; (2) the respective roles and responsibilities of the correctional agency and outside public entity or community service provider; (3) the procedures for how

and when community service providers are able to gain entry into a facility; (4) the level of security supervision community service providers will have while in a facility; (5) the safety precautions that community service providers should take when working with inmates; and (6) any laws, rules, and/or regulations relevant to the service being provided, including laws granting privilege and agency rules governing confidentiality for disclosures about sexual abuse made to community service providers.

RP-3 Agreements with outside law enforcement agencies

If an agency does not have the legal authority to conduct criminal investigations or has elected to permit an outside agency to conduct criminal or administrative investigations of staff or inmates, the agency maintains or attempts to enter into a written MOU or other agreement specific to investigations of sexual abuse with the law enforcement agency responsible for conducting investigations. If the agency confines inmates under the age of 18 or other inmates who fall under State and local vulnerable persons statutes, the agency maintains or attempts to enter into an MOU with the designated State or local services agency with the jurisdiction and authority to conduct investigations related to the sexual abuse of vulnerable persons within confinement facilities. When the agency already has an existing agreement or long-standing policy covering responsibilities for all criminal investigations, including sexual abuse investigations, it does not need to enter into a new agreement. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.

Assessment Checklist	YES	NO
(a) If the agency does not have the legal authority to conduct criminal investigations or has elected to permit an outside agency to conduct criminal or administrative investigations of staff or inmates, has the agency established or attempted to establish a written MOU or other agreement specific to investigations of sexual abuse with the law enforcement agency responsible for conducting investigations?		
(b) If the agency confines inmates under the age of 18 or other inmates who fall under State and local vulnerable persons statutes, has the agency established or attempted to establish an MOU with the designated State or local services agency with the jurisdiction and authority to conduct investigations related to the sexual abuse of vulnerable persons within confinement facilities?		
(c) Does the agency maintain a copy of the agreement or documentation showing attempts to enter into an agreement?		

Discussion

Standing agreements between correctional agencies and outside law enforcement agencies outlining how they will work together while investigating an incident of sexual abuse are important for ensuring that investigations into allegations of sexual abuse are timely and effective. Although the Commission recognizes that correctional agencies may not be able to persuade outside law enforcement agencies to enter into agreements, it nonetheless requires agencies to try to enter into agreements. For correctional agencies that successfully enter into agreements with outside law enforcement agencies, the Commission recommends that agreements contain the following elements: (1) the criteria, protocol, and timetables for referring an allegation of sexual abuse to the outside law enforcement agency for investigation; (2) the respective roles and responsibilities for conducting sexual abuse investigations; (3) the respective roles and

responsibilities of the correctional and law enforcement agencies for collecting evidence in accordance with the correctional or law enforcement agency’s evidence protocol; (4) detailed information on how criminal and administrative investigations will be coordinated between the agencies; (5) description of what information will and will not be shared between agencies; (6) the protocol for reporting progress on investigations to corrections officials; (7) the location where closed case files will be maintained; (8) the protocol for informing the victim of the progress and outcome of the investigation(s); and (9) a schedule of regular meetings between the agency and law enforcement supervisors to review the efficacy of the agreement and to recommend or make any changes, as necessary.

If the agency confines any inmates under the age of 18 or inmates who fall under State or local vulnerable persons statutes, an outside services agency will likely have the authority and jurisdiction to conduct separate investigations into allegations of sexual abuse committed against such vulnerable persons in confinement. If this is the case, the agency should enter or attempt to enter into an MOU with the State or local services agency, as it would with any law enforcement agency with the authority to conduct investigations, and follow the same recommendations listed above.

RP-4 Agreements with the prosecuting authority

The agency maintains or attempts to enter into a written MOU or other agreement with the authority responsible for prosecuting violations of criminal law. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.

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

Discussion

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

Although the Commission recognizes that correctional agencies may not be able to persuade prosecuting authorities to enter into agreements, it nonetheless requires agencies to try to enter into agreements. For correctional agencies that successfully enter into agreements with prosecutors, the Commission recommends that agreements contain the following elements: (1) the purpose of the agreement (e.g., to ensure effective prosecution of sexual abuse in confinement settings), (2) identification of the liaison position within each agency/office, (3) a schedule for joint training of investigators and prosecutors, (4) objective criteria for prosecution referral, (5) a description of the necessary evidence and relevant paperwork prosecutors will need from the agency to prosecute a case of sexual abuse, (6) timeframes for submission of criminal cases to prosecutors, (7) a requirement that prosecutors report back to correctional agencies after each

case is reviewed, (8) the respective roles and responsibilities of the correctional agency and the prosecuting authority if the prosecutor decides to prosecute, and (9) a schedule of regular meetings between the agency and prosecution supervisors to review the efficacy of the agreement and to recommend or make any changes, as necessary.

II. PREVENTION

Training and Education (TR)

TR-1 Employee training

The agency trains all employees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law. The agency trains all employees to communicate effectively and professionally with all inmates. Additionally, the agency trains all employees on an inmate's right to be free from sexual abuse, the right of inmates and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. Current employees are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all employees to ensure that they know the agency's most current sexual abuse policies and procedures. The agency maintains written documentation showing employee signatures verifying that employees understand the training they have received.

Assessment Checklist	YES	NO
(a) Do employees receive the training necessary to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law?		
(b) Does the agency train all employees to communicate effectively and professionally with all inmates?		
(c) Does the agency train all employees on the following topics?		
• An inmate's right to be free from sexual abuse		
• The right of inmates and employees to be free from retaliation for reporting sexual abuse		
• The dynamics of sexual abuse in confinement		
• The common reactions of sexual abuse victims		
(d) Does the agency provide periodic refresher training to ensure that all employees are educated on the agency's most current sexual abuse policies and procedures?		
(e) Following training, does the agency require employees to sign documentation stating that they understand the training they have received and maintain documentation of these signatures?		

Discussion

Under this standard, each agency must provide employees with the knowledge and skills to prevent sexual abuse from occurring, to identify signs that sexual abuse may be occurring, and to take the appropriate actions when they learn of recent or historical incidents of sexual abuse. Additionally, it is important that all employees are trained to communicate effectively and professionally with all inmates, including those of different races, ethnicities, cultural or religious backgrounds, ages, genders, and sexual orientations as well as inmates with differing cognitive abilities. Good communication encourages greater trust between employees and inmates, which may remove one of the obstacles to inmate reporting of sexual abuse.

Employee training can take place in multiple venues, including roll calls, on-the-job training, new employee orientations, and pre-service or in-service academies. It is recommended that

an agency’s sexual abuse training programs be accompanied by clear sexual abuse prevention policies developed with an eye toward overcoming any anticipated employee resistance to or concerns about such policies. When putting together a training plan, agency administrators and/or PREA coordinators may find it helpful to consult the many resources and training materials already available, including those developed by other local, State, and Federal correctional agencies; the National Institute of Corrections (NIC); and the Bureau of Justice Assistance (BJA).

A full list of suggested employee training topics and procedures is provided in Appendix B. Although Appendix B is not an exhaustive or exclusive list, agencies may wish to use these items as a starting point for developing their own employee training curriculum and programs.

TR-2 Volunteer and contractor training

The agency ensures that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency’s sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law. The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates must be notified of the agency’s zero-tolerance policy regarding sexual abuse. Volunteers must also be trained in how to report sexual abuse. The agency maintains written documentation showing volunteer and contractor signatures verifying that they understand the training they have received.

Assessment Checklist	YES	NO
(a) Does the agency ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency’s sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant Federal, State, and local law?		
(b) Does the agency tailor its training for volunteers and contractors based on the services they provide and the level of contact they have with inmates?		
(c) Are all volunteers and contractors who have contact with inmates notified of the agency’s zero-tolerance policy regarding sexual abuse?		
(d) Are all volunteers trained in how to report sexual abuse to security staff and/or other parties, when appropriate?		
(e) Following training, does the agency require volunteers and contractors to sign documentation stating that they understand the training they have received and maintain documentation of these signatures?		

Discussion

Because many volunteers have frequent contact with inmates, it is important that all volunteers for the agency receive basic training on the PREA standards, the agency’s zero-tolerance policy, and their responsibilities for reporting sexual abuse to security staff. Additionally, any contractors who have any contact with inmates, however minimal, will also need to be trained on the agency’s zero-tolerance policy. The agency may choose to provide more detailed training for all or some subset of volunteers in its facilities, including many of the same topics suggested for employee training in Appendix B.

Volunteers may be trained off-site by their volunteer organization as long as the organization’s training program meets the minimum requirements outlined in this standard. In these instances, the facility must verify that the off-site training meets the requirements of this standard and maintain documentation that volunteers have received and understand this training, as mandated by the standard. If the agency trains volunteers, agency administrators and/or PREA coordinators may find it helpful to consult the many resources and training materials already available, including those developed by other local, State, and Federal correctional agencies; NIC; and BJA.

TR-3 Inmate education

During the intake process, staff informs inmates of the agency’s zero-tolerance policy regarding sexual abuse and how to report incidents or suspicions of sexual abuse. Within a reasonably brief period of time following the intake process, the agency provides comprehensive education to inmates regarding their right to be free from sexual abuse and to be free from retaliation for reporting abuse, the dynamics of sexual abuse in confinement, the common reactions of sexual abuse victims, and agency sexual abuse response policies and procedures. Current inmates are educated as soon as possible following the agency’s adoption of the PREA standards, and the agency provides periodic refresher information to all inmates to ensure that they know the agency’s most current sexual abuse policies and procedures. The agency provides inmate education in formats accessible to all inmates, including those who are LEP, deaf, visually impaired, or otherwise disabled as well as inmates who have limited reading skills. The agency maintains written documentation of inmate participation in these education sessions.

Assessment Checklist	YES	NO
(a) During the intake process, does staff inform inmates of the agency’s zero-tolerance policy regarding sexual abuse?		
(b) During the intake process, does staff tell inmates how to report incidents or suspicions of sexual abuse?		
(c) Does the agency provide comprehensive education to inmates within a reasonably brief period of time following the intake process?		
(d) Does the comprehensive education for inmates include the following topics?		
• An inmate’s right to be free from sexual abuse and free from retaliation for reporting abuse		
• The dynamics of sexual abuse in confinement		
• The common reactions of sexual abuse victims		
• Agency sexual abuse response policies and procedures		
(e) Does the agency provide periodic refresher training to ensure that all inmates are educated on the agency’s most current sexual abuse policies and procedures?		
(f) Does the agency make training information available in formats accessible to all inmates, including those who are LEP, deaf, visually impaired, or otherwise disabled and inmates who have limited reading skills?		
(g) Does the facility verify inmate attendance at training sessions and maintain this written verification?		

Discussion

Inmates need to be educated about the agency's sexual abuse policies so they understand how to protect themselves against sexual abuse, how to report sexual abuse, what will happen following a report, and the consequences for committing sexual abuse. A strong inmate education program will send a message to inmates that sexual abuse is taken seriously and that the agency will protect inmates who report incidents of sexual abuse and refer investigations for disciplinary action and/or criminal prosecution. In addition to determining an appropriate timeframe for providing comprehensive education to new inmates, the agency should develop a plan for providing the inmate education program to current inmates to ensure that training is provided within a reasonable period of time after the adoption of the PREA standards, as required by this standard.

Staff conducting the training should consider using some of the following tools, depending on the learning needs of the population they are training: videos, written materials, and structured discussions. As with developing a staff or volunteer training program, when putting together an inmate training plan, agency administrators and/or PREA coordinators may find it helpful to consult the many resources and training materials already available, including those developed by other local, State, and Federal correctional agencies; NIC; and BJA.

Staff may need to train inmates in small groups and in settings with few distractions, due to the sensitive nature of the material. As this standard requires that all inmates receive the required education, the agency will need to ensure that it has an effective plan for providing education to inmates in solitary confinement or protective custody. In addition to training sessions provided at specific times, the agency should ensure key information is continually and readily available and/or visible to the inmate population through posters, inmate handbooks, or other written formats.

TR-4 Specialized training: Investigations

In addition to the general training provided to all employees (TR-1), the agency ensures that agency investigators conducting sexual abuse investigations have received comprehensive and up-to-date training in conducting such investigations in confinement settings. Specialized training must include techniques for interviewing sexual abuse victims, proper use of *Miranda*- and *Garrity*-type warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The agency maintains written documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.

Assessment Checklist	YES	NO
(a) Does the agency ensure that all agency investigators conducting sexual abuse investigations have received training in conducting such investigations in confinement settings?		
(b) Does specialized training for sexual abuse investigators include the following?		
• Techniques for interviewing sexual abuse victims		
• Proper use of <i>Miranda</i> - and <i>Garrity</i> -type warnings		
• Sexual abuse evidence collection in confinement settings		
• Criteria and evidence required to substantiate a case for administrative action or prosecution referral		
(c) Does the agency verify that investigators have completed specialized training in conducting sexual abuse investigations and maintain written verification?		

Discussion

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

Because the trauma of sexual abuse can be especially devastating to victims in custody who may already feel powerless and isolated, special care should be given to the quality and training of the investigator to ensure that victims and witnesses are treated in a manner that facilitates victims' recovery and cooperation. It is critically important for sexual abuse investigators to be trained in how to interview sexual abuse victims and witnesses, who may be reluctant to speak to investigators or generally uncooperative. Such training may include strategies for communicating effectively and professionally with all types of inmates, but may also include simple ideas like making sure that victims and witnesses are interviewed in locations where they feel comfortable talking about the incident. Additionally, all investigators should know how and when to administer *Miranda*- and/or *Garrity*-type warnings to subjects of investigations.

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

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

TR-5 Specialized training: Medical and mental health care

The agency ensures that all full- and part-time medical and mental health care practitioners working in its facilities have been trained in how to detect and assess signs of sexual abuse and that all medical practitioners are trained in how to preserve physical evidence of sexual abuse. All medical and mental health care practitioners must be trained in how to respond effectively and professionally to victims of sexual abuse and how and to whom to report allegations or suspicions of sexual abuse. The agency maintains documentation that medical and mental health practitioners have received this specialized training.

Assessment Checklist	YES	NO
(a) Does the agency ensure that all full- and part-time medical and mental health care practitioners working in its facilities have been trained in how to detect and assess signs of sexual abuse?		
(b) Does the agency ensure that all full- and part-time medical practitioners working in its facilities have been trained in how to preserve physical evidence?		
(c) Are all full- and part-time medical and mental health care practitioners trained in how to respond effectively and professionally to all victims of sexual abuse?		
(d) Does the agency provide training in how and to whom to report allegations or suspicions of sexual abuse?		
(e) Does the agency verify that all full- and part-time medical and mental health practitioners have received specialized training in detecting, assessing, and responding to sexual abuse victims and maintain this written verification?		

Discussion

Inmates are often more likely to report sexual abuse to medical or mental health practitioners rather than security staff. It is therefore critical that agencies provide training for medical and mental health practitioners on how to detect sexual abuse and how to elicit, receive, and forward reports of sexual abuse.

This standard requires that all full- and part-time practitioners who regularly work at a facility, whether contractors or staff, be specially trained. The Commission recognizes that there may be occasions in which a practitioner works at the facility on an extremely short, ad hoc basis. For example, a practitioner may be serving as an emergency substitute for a sick staff member. The standard does not require the agency to ensure such practitioners have received the special training, although it may want to do so to guarantee that at least one specially trained practitioner is on duty at all times.

In the event medical and mental health care practitioners have previously received the training described above, the agency does not need to re-train the medical and mental health care staff. In such instances, the agency will need to verify the staff members' preexisting knowledge and understanding of the requirements listed in this standard and their responsibilities under agency policy; the PREA standards; and Federal, State, or local law.

Screening for Risk of Sexual Victimization and Abusiveness (SC)

SC-1 Screening for risk of victimization and abusiveness

All inmates are screened during intake, during the initial classification process, and at all subsequent classification reviews to assess their risk of being sexually abused by other inmates or sexually abusive toward other inmates. Employees must conduct this screening using a written screening instrument tailored to the gender of the population being screened. Although additional factors may be considered, particularly to account for emerging research and the agency's own data analysis, screening instruments must contain the criteria described below. All screening instruments must be made available to the public upon request.

- At a minimum, employees use the following criteria to screen male inmates for risk of victimization: mental or physical disability, young age, slight build, first incarceration in prison or jail, nonviolent history, prior convictions for sex offenses against an adult or child, sexual orientation of gay or bisexual, gender nonconformance (e.g., transgender or intersex identity), prior sexual victimization, and the inmate's own perception of vulnerability.
- At a minimum, employees use the following criteria to screen male inmates for risk of being sexually abusive: prior acts of sexual abuse and prior convictions for violent offenses.
- At a minimum, employees use the following criteria to screen female inmates for risk of sexual victimization: prior sexual victimization and the inmate's own perception of vulnerability.
- At a minimum, employees use the following criteria to screen female inmates for risk of being sexually abusive: prior acts of sexual abuse.

Assessment Checklist	YES	NO
(a) Are all inmates screened during intake, the initial classification process, and at all subsequent classification reviews to assess their risk of being sexually abused by other inmates and/or their risk of being sexually abusive toward other inmates?		
(b) Does the facility provide employees with a written screening instrument tailored to male or female populations, depending on the makeup of the facility's population?		
(c) Do screening instruments for risk of sexual victimization for male inmates include the following criteria?		
• Mental or physical disability		
• Young age		
• Slight build		
• First incarceration in prison or jail		
• Nonviolent history		
• Conviction for sex offenses against an adult or child		
• Sexual orientation of gay or bisexual		
• Gender nonconformance (e.g., transgender or intersex identity)		
• Prior sexual victimization		
• Inmate's own perception of vulnerability		
(d) Do screening instruments for risk of being sexually abusive for male inmates include the following criteria?		
• Prior acts of sexual abuse		
• Prior convictions for violent offenses		
(e) Do screening instruments for risk of sexual victimization for female inmates include the following criteria?		
• Prior sexual victimization		
• Inmate's own perception of vulnerability		
(f) Do screening instruments for risk of being sexually abusive for female inmates include the following criteria?		
• Prior acts of sexual abuse		
(g) Are screening instruments available to the public upon request?		

Discussion

In developing this standard, the Commission consulted social science research studies, resources developed in conjunction with NIC, and existing screening instruments from State departments of correction. However, because research in this area continues to evolve, the Commission strongly recommends that agency heads consult emerging research periodically and tailor their screening instruments to the latest research as well as to the culture, makeup, and geographical regions of the facilities they operate. Agency heads should also consult their collected data (DC-2) to identify any patterns or similar characteristics among sexual abusers and victims in their facilities. In particular, at the time of publication of this body of standards, relatively little is known about predicting heightened risk for sexual victimization or abusiveness for female inmates. Similarly, less research has been undertaken to identify risk factors for engaging in sexual abuse for male inmates. The Commission urges researchers to examine these and other relatively unexplored areas, such as screening of non-English speakers and youth in adult facilities, to provide more guidance and direction to corrections practitioners.

Further research is also needed to identify characteristics that may make male or female inmates more susceptible to sexual abuse by staff.

Inmates should be screened for risk of sexual victimization or abusiveness as soon as possible following their arrival at a facility. Although the timing of this initial screening may vary slightly depending on whether inmates are housed at a jail or prison, it is incumbent upon facility heads to ensure that this screening occurs before an inmate is housed in a cell or unit without direct supervision. Equally important, however, is ensuring that employees review initial screening results on a periodic basis. It is highly likely that more inmates will be identified as potentially vulnerable or abusive during the initial screening than are actually vulnerable or abusive. For example, there will be many male inmates with histories of violent felonies who are not actually prone to being sexually abusive. Therefore, the standard requires that screenings be reviewed during the initial classification process and at periodic classification reviews. For jails, the Commission recommends that employees review the screening results no later than 60 days after the initial screening and every 90 days thereafter. For prisons, employees should review screening results no later than six months after the initial screening and every year thereafter. Inmates should have a number of opportunities to be removed from high-risk lists based on their behavior and record over time.

When screening inmates for their risk of being sexually abused or abusive, the agency must use the minimum criteria listed in the standard and determine how best to weigh those criteria, depending on the culture and makeup of the facility. The agency will need to decide how to evaluate the impact of the passage of time on the predictive utility of prior convictions for sex offenses or other violent crimes and prior incidents of victimization or abusiveness. For example, an inmate with a single incident of sexual victimization that occurred more than 20 years ago may not be at a greater risk for sexual victimization today. The agency may find it helpful to use other criteria as well. As mentioned above, additional criteria should be developed based on emerging research and the facility's culture, makeup, geographic region, and collected data. Another factor that may be useful for predicting high risk of sexual victimization for male inmates includes being in the racial minority within a given facility characterized by marked racial tension. Additionally, having effeminate features or mannerisms and not being street smart may also put male inmates at greater risk for sexual victimization. Finally, having an overtly aggressive or intimidating attitude or having a particular gang affiliation may be associated with increased risk for sexually abusing other inmates.

When asking screening questions related to sexual orientation, it is critical that employees show sensitivity and discretion. It is equally important that employees tell inmates before they begin the screening that they are not required to answer any of the questions if they would prefer not to. Not all inmates will feel comfortable answering questions about their sexual orientation, and employees should respect refusals to answer those questions and not press for answers. Inmates who openly identify as gay or bisexual should be asked if they feel that they need heightened protection while incarcerated. Inmates who are transgender or intersex should also be asked if they feel that they need heightened protection. Employees should carefully consider and endeavor to respect the views of gay, bisexual, transgender, and intersex inmates who request or do not want heightened protection.

SC-2 Use of screening information

Employees use information from the risk screening (SC-1) to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. The facility makes individualized determinations about how to ensure the safety of each inmate. Lesbian, gay, bisexual, transgender, or other gender-nonconforming inmates are not placed in particular facilities, units, or wings solely on the basis of their sexual orientation, genital status, or gender identity. Inmates at high risk for sexual victimization may be placed in segregated housing only as a last resort and then only until an alternative means of separation from likely abusers can be arranged. To the extent possible, risk of sexual victimization should not limit access to programs, education, and work opportunities.

Assessment Checklist	YES	NO
(a) Do employees use information from the risk screening to inform housing, bed, work, education, and program assignments?		
(b) Does the facility make individualized determinations about how to ensure the safety of each inmate, including lesbian, gay, bisexual, transgender, or other gender-nonconforming inmates?		
(c) Does the facility ensure that lesbian, gay, bisexual, transgender, or other gender-nonconforming inmates are not placed in particular facilities, units, or wings solely on the basis of their sexual orientation, genital status, or gender identity?		
(d) Does the facility separate those at high risk of being victimized from those at high risk of being abusive?		
(e) Are inmates at high risk of sexual victimization placed in segregated housing only as a last resort and only until other means of separation are arranged?		
(f) To the extent possible, do inmates at high risk of being sexually victimized have access to the same programs, education, and work opportunities as the general population?		

Discussion

For the sexual abuse screening information to be meaningful, it must be used to inform housing, bed, work, education, and program assignments for each inmate. Because of the inherent risk in assigning inmates to double-occupancy cells, as is the case with many facilities, employees should consider the results of the screening with particular care and draw on appropriate professional common sense and judgment to determine appropriate pairings of individuals within double-occupancy cells. The facility should strive to keep inmates safe without relying on the use of segregated housing, except for brief periods of time until alternatives can be arranged. When a facility lacks safe housing for an inmate at high risk of victimization other than segregation, the facility should consider transfers to other facilities. Changes in housing assignments as well as transfers should also be considered for inmates who request them for safety reasons.

Under this standard, the agency will need to consider each inmate on a case-by-case basis when determining the appropriate placements for housing, work, programs, and education, rather than using blanket policies based on particular elements of an inmate's screening assessment. Preconceived notions, stereotypes, or bias should have no place in the housing decisions made for lesbian, gay, bisexual, transgender, and other gender-nonconforming inmates. Additionally, lesbian, gay, bisexual, transgender, and other gender-nonconforming inmates should never be placed permanently in particular facilities, units, or wings solely because of their sexual orientation, genital status, or gender identity. Given that many corrections officials are

particularly perplexed about how to house transgender inmates safely and properly, the Commission also strongly urges agencies to give careful thought and consideration to the placement of each transgender inmate and not to automatically place transgender individuals in male or female housing based on their birth gender or current genital status.

Although this standard mandates using information from the risk screening to inform housing, bed, work, education, and program assignments, best correctional practice requires integrating the screening information into a more comprehensive internal classification process that helps employees determine how to separate inmates to keep them safe according to their needs, overall behavioral and criminal history, and security levels. Therefore, in addition to ensuring that inmates are screened appropriately for risk of sexual victimization or abusiveness, the Commission recommends that agency and facility heads work together to develop or strengthen internal classification systems. Strong internal classification systems promote a positive institutional culture that values and promotes safety and security for all inmates and staff and go a long way toward eliminating random and systemic sexual abuse and aggression. The most effective internal classification systems are ones that are fully integrated with other systems used to manage and protect inmates, including security and technology systems, and are tested periodically to make sure that they are valid and reliable in protecting inmate safety and supporting a culture of safety and security.

If an agency is responsible for the confinement of individuals under the age of 18, a strong effort should be made to house these individuals separately from the general population. Although young inmates in general may be victimized more often, inmates under the age of 18 are not fully emotionally or physically developed and therefore may be particularly susceptible to abuse if housed with older inmates.

III. DETECTION AND RESPONSE

Reporting (RE)

RE-1 Inmate reporting

The facility provides multiple internal ways for inmates to report easily, privately, and securely sexual abuse, retaliation by other inmates or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. The facility also provides at least one way for inmates to report the abuse to an outside public entity or office not affiliated with the agency that has agreed to receive reports and forward them to the facility head (RP-2), except when an inmate requests confidentiality. Staff accepts reports made verbally, in writing, anonymously, and from third parties and immediately puts into writing any verbal reports.

Assessment Checklist	YES	NO
(a) Does the facility provide multiple internal ways for inmates to report easily, privately, and securely sexual abuse, retaliation by other inmates or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse (e.g., locked drop boxes in common areas for reports or requests; grievance procedures; sick-call systems; access to a central or headquarters office)? (Please attach documentation explaining the specific internal reporting mechanisms the facility has in place.)		
(b) Does the facility provide at least one way for inmates to report sexual abuse to an outside public entity or office not affiliated with the agency that has agreed to receive reports and forward them to the facility head, except when the inmate requests confidentiality (e.g., ombudsperson; outside law enforcement agency; inspector general's office; attorney general's office) (RP-2)? (Please attach documentation explaining the specific outside reporting mechanism(s) the facility has made available to inmates.)		
(c) Does staff accept reports made verbally, in writing, anonymously, and by third parties?		
(d) Does staff immediately put into writing any verbal reports?		

Discussion

The agency should make reporting sexual abuse as easy, private, and secure as possible. The more the agency demonstrates through policy, practice, and staff behaviors its commitment to protecting sexual abuse victims and punishing abusers, the more victims will feel safe coming forward. Although a potential increase in disclosures and investigations may initially tax correctional resources, increased reporting may also signal that inmates are becoming more trustful of the system, which, in turn, may deter potential abusers from engaging in sexually abusive behaviors. Over time, the agency's initial investment in efforts to make reporting easier and to conduct thorough investigations will serve everyone's interests. Victims will be better supported, abusers will be held accountable, and staff and inmates will ultimately be able to live and work in safer, more secure environments.

The facility should take seriously all reports of sexual abuse, regardless of the form or format in which they were conveyed. Although the facility may choose to provide different mechanisms for internal reporting, including locked drop boxes in common areas for inmates to drop reports, requests, or grievances or dedicated phones or programmed phones with toll-free hotline numbers to internal investigative departments, staff should be prepared to accept and respond to all types of reports and manners of reporting. For example, an inmate who scrawls a

note and passes it to an officer should be treated the same way as an inmate who files a formal grievance.

The standard's requirement that the agency enable inmates to report to at least one outside public entity or office not affiliated with the agency will signal to inmates that the agency's chief concern is making sure that inmates feel safe and comfortable reporting sexual abuse. If the agency has established an MOU with an outside public entity or office that has agreed to accept and forward inmate reports of sexual abuse, the outside public entity should be prepared to send those reports to the facility head immediately upon receipt, unless the inmate requests confidentiality (RP-2). If the agency confines inmates under the age of 18 or other inmates who fall under State or local vulnerable persons statutes, the agency may allow such inmates to report directly to the designated State or local services agency that has the authority to conduct investigations into allegations of sexual abuse involving victims who fall under vulnerable persons statutes (RP-3). In addition to developing numerous avenues for receiving reports, staff should be trained and expected to take proactive steps to talk to inmates periodically about any unwanted sexual behaviors or threats they may be experiencing from other inmates or staff.

RE-2 Exhaustion of administrative remedies

Under agency policy, an inmate has exhausted his or her administrative remedies with regard to a claim of sexual abuse either (1) when the agency makes a final decision on the merits of the report of abuse (regardless of whether the report was made by the inmate, made by a third party, or forwarded from an outside official or office) or (2) when 90 days have passed since the report was made, whichever occurs sooner. A report of sexual abuse triggers the 90-day exhaustion period regardless of the length of time that has passed between the abuse and the report. An inmate seeking immediate protection from imminent sexual abuse will be deemed to have exhausted his or her administrative remedies 48 hours after notifying any agency staff member of his or her need for protection.

Assessment Checklist	YES	NO
(a) Does agency policy reflect that an inmate has exhausted administrative remedies with regard to a claim of sexual abuse under the following circumstances?		
<ul style="list-style-type: none"> When the agency makes a final decision on the merits of the report of abuse (regardless of whether the report was made by the inmate, made by a third party, or forwarded from an outside official or office) or 		
<ul style="list-style-type: none"> When 90 days have passed since the report was made, whichever occurs sooner 		
(b) Does agency policy reflect that an inmate seeking immediate protection from imminent sexual abuse has exhausted administrative remedies 48 hours after notifying any agency staff member of his or her need for protection?		

Discussion

Currently, under the Federal Prison Litigation Reform Act (PLRA), correctional agencies are able to raise an inmate's "failure to exhaust administrative remedies" as an affirmative defense against an inmate's legal claims brought in Federal court. The purpose of this requirement in PLRA is to ensure that agencies have an opportunity to respond to an inmate's complaint before that inmate files a lawsuit. Agencies are free to determine the procedures by which an inmate

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

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

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

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

RE-3 Inmate access to outside confidential support services

In addition to providing on-site mental health care services, the facility provides inmates with access to outside victim advocates for emotional support services related to sexual abuse. The facility provides such access by giving inmates the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national victim advocacy or rape crisis organizations and enabling reasonable communication between inmates and these organizations. The facility ensures that communications with such advocates are private, confidential, and privileged, to the extent allowable by Federal, State, and local law. The facility informs inmates, prior to giving them access, of the extent to which such communications will be private, confidential, and/or privileged.

Assessment Checklist	YES	NO
(a) In addition to providing on-site mental health care services, does the facility provide inmates with the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national victim advocacy or rape crisis organizations and enable reasonable communication between inmates and these organizations? (Please attach documentation explaining how the facility provides inmates with access to outside confidential support services related to sexual abuse.)		
(b) Are inmates able to communicate with outside victim advocates privately in settings in which conversations cannot be overheard?		
(c) To ensure privacy of communication, is staff prohibited from reading correspondence to or from victim advocates?		
(d) Does the facility explain to inmates, prior to giving them access to outside support services, the rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant Federal, State, or local law?		

Discussion

Victims of sexual abuse, whether confined or not, often require the support of an advocate. Working with these advocates, such as rape crisis counselors, is not only an essential part of treatment for some victims, but can also help victims overcome any reluctance to report the incident to the appropriate officials. Although the agency might have qualified mental health practitioners on staff who can treat sexual abuse victims, some victims may be reluctant to confide in those practitioners because they see them as part of the institution that failed to protect them from abuse. By giving inmates the option to communicate with outside advocates, the agency will ensure that victims have the greatest access to necessary care.

To meet the requirements of this standard, an agency may need to enter an MOU with a community service provider and may find it useful to provide regular opportunities for inmates to meet face-to-face with advocates (RP-2). In addition to these opportunities, free hotlines that connect inmates to rape crisis service groups and/or other victim advocacy groups are encouraged. Agencies that have limited community resources to draw from should at a minimum provide inmates with contact information for regional and/or national human rights, advocacy, and/or counseling organizations. Telephone use to contact outside advocates and/or letters sent to service organizations should not be subject to any rules or restrictions governing telephone use or mail. Administrators need to make certain that inmates are able to access outside confidential support services as easily and as privately as possible. Inmates should never have to explain to staff members their reasons for wanting to speak or write to outside advocates before being allowed to communicate with those providers.

RE-4 Third-party reporting

The facility receives and investigates all third-party reports of sexual abuse (IN-1). At the conclusion of the investigation, the facility notifies in writing the third-party individual who reported the abuse and the inmate named in the third-party report of the outcome of the investigation. The facility distributes publicly information on how to report sexual abuse on behalf of an inmate.

Assessment Checklist	YES	NO
(a) Does the facility receive and investigate all third-party reports of sexual abuse?		
(b) At the conclusion of the investigation, does the facility notify in writing the third-party individual who reported the abuse and the inmate named in the third-party report of the outcome of the investigation?		
(c) Does the facility distribute publicly information on how to report sexual abuse on behalf of an inmate?		

Discussion

Information about how to report sexual abuse on behalf of an inmate should be available in multiple languages and in a convenient, easily accessible format. Information may be made available by phone, on a Web site, as part of any preliminary information provided verbally to visitors, in brochures, in flyers, or on posters in visiting areas. Regardless of how the facility chooses to distribute the information, the information itself should convey: (1) the contact information for the corrections official, department, or unit responsible for receiving and responding to third-party allegations; (2) instructions for what information to include when reporting sexual abuse; (3) notice that the allegation will be discussed with the victim named in the report; (4) a statement explaining the allegation will be disclosed only to those who need to know to ensure victim safety and to investigate the allegation; and (5) notice that the facility will inform the individual who reported the abuse of the outcome of the investigation. The facility should periodically review and update, if necessary, the information distributed regarding third-party reporting.

Official Response Following an Inmate Report (OR)

OR-1 Staff and facility head reporting duties

All staff members are required to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an institutional setting; retaliation against inmates or staff who reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. Apart from reporting to designated supervisors or officials, staff must not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment, investigation, and other security and management decisions. Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners are required to report sexual abuse and must inform inmates of their duty to report at the initiation of services. If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the facility head must report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

Assessment Checklist	YES	NO
(a) Has the agency notified staff members that they are required to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an institutional setting, including any knowledge of retaliation against inmates or staff who reported abuse and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation?		
(b) Has the agency notified staff members that they are required to limit information related to any incident of sexual abuse to those who need to know, as specified in agency policy, to make treatment, investigation, and other security and management decisions?		
(c) Has the agency notified medical and mental health practitioners of their reporting duties, including their duty to inform inmates of the practitioners' duty to report at the initiation of services?		
(d) If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the facility head report the allegation to the designated State or local services agency under applicable mandatory reporting laws?		

Discussion

Attaining compliance with this standard will require that facility leadership effectively convey to staff that they are mandatory reporters with no discretion to decide whether to report sexual abuse allegations or any other knowledge or suspicion of sexual abuse or harassment. They should make it clear through policy and practice that the agency tolerates neither a staff code of silence nor the mishandling or inappropriate sharing of information (i.e., spreading rumors or conveying information to individuals who have no need to know), and staff should be trained on the difference between spreading rumors and proper reporting. Additionally, it is critical that all staff members understand exactly what, when, how, and to whom they are required to report, including whether their responsibilities differ based on the type of offense or the persons involved. The facility head should know exactly how and to whom he or she is required to report if the incident involves a victim under the age of 18 or a victim considered a vulnerable adult under a State or local vulnerable persons statute (e.g., statutes that address the mentally ill, mentally or physically disabled, or the elderly).

Unless otherwise precluded by Federal, State, or local law, the standard requires medical and mental health practitioners to report sexual abuse and to inform inmates of their duty to report at the initiation of services. Informing inmates of their duty to report at the initiation of services is critical so that inmates know up front what they can expect to be kept confidential and what they can expect will be reported. Although the Commission recognizes that some medical and mental health practitioners may be reluctant to report because of fears that victims will not seek treatment, it nonetheless requires medical and mental health practitioners to report to protect the overall safety and security of the facility as well as the safety of the individual being abused or threatened with abuse.

OR-2 Reporting to other confinement facilities

When the facility receives an allegation that an inmate was sexually abused while confined at another facility, the head of the facility where the report was made notifies in writing the head of the facility where the alleged abuse occurred. The head of the facility where the alleged abuse occurred ensures the allegation is investigated.

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

Discussion

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

OR-3 Staff first responder duties

Upon learning that an inmate was sexually abused within a time period that still allows for the collection of physical evidence, the first security staff member to respond to the report is required to (1) separate the alleged victim and abuser; (2) seal and preserve any crime scene(s); and (3) instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing his or her clothes, urinating, defecating, smoking, drinking, or eating. If the first staff responder is a non-security staff member, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and then notify security staff.

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

Discussion

In addition to reporting the abuse according to agency policy, the first security staff member who learns of an inmate being sexually abused is responsible for ensuring that the victim is safe and any physical evidence is preserved until an investigator arrives. At the time of publication of this body of standards, the commonly accepted time period for collecting physical evidence is 96 hours. To carry out their duties effectively, security staff members will need to be able to counsel victims who may be in distress while maintaining security and control over the

crime scene(s). In the event that a non-security staff member is the first staff responder, he or she needs to be prepared to instruct victims not to take any actions that could destroy physical evidence and then immediately notify security staff.

OR-4 Coordinated response

All actions taken in response to an incident of sexual abuse are coordinated among staff first responders, medical and mental health practitioners, investigators, and facility leadership. The facility's coordinated response ensures that victims receive all necessary immediate and ongoing medical, mental health, and support services and that investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.

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

Discussion

In the community, coordinated sexual assault response teams (SARTs) are recognized as a best practice for responding to incidents of rape and other sexual abuse because they enable key responders from the medical, advocacy, and law enforcement fields to coordinate their actions and share information, helping the victim receive the best care and providing the investigator with the best chance to find the perpetrator. SARTs are generally composed of representatives from the medical and mental health fields, victim advocacy groups (usually from local or regional rape crisis centers), and law enforcement agencies. Although some correctional agencies already use some version of a SART or specialized first response team, or they participate in an existing specialized community response team, the Commission recognizes that not all agencies are equipped to organize a specialized team or spearhead a community SART. The Commission urges those agencies to work toward developing such a team by working with community or regional law enforcement agencies, outside medical and mental health providers, and sexual abuse advocacy groups to establish a coordinated plan to address victims' needs and improve sexual abuse investigation outcomes. At the time of publication of these standards, the Commission recommends agencies consult the 2004 U.S. Department of Justice's Office on Violence Against Women publication "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" for guidance and ideas on developing an approach to a coordinated response to sexual abuse.

Regardless of whether or not the agency uses a designated response team or participates in a community SART, the standard requires that all actions taken in response to an incident of sexual abuse be coordinated among staff first responders, medical and mental health practitioners, investigators, and facility leadership. To ensure the best treatment for victims and the greatest likelihood of holding perpetrators accountable, a number of actions should be coordinated, including: (1) assessing the victim's acute medical needs to determine if he or she needs to be stabilized and/or treated for injuries, conditions, or potential risks; (2) informing the victim

of his or her rights under relevant Federal and/or State crime victims' rights laws; (3) giving the victim the option of undergoing a forensic medical exam for the purpose of collecting and documenting physical evidence of abuse; (4) having a victim advocate available to the inmate victim during the forensic medical exam; (5) providing crisis intervention counseling for the victim before and after the forensic medical exam; (6) interviewing victims and witnesses; (7) collecting evidence; and (8) providing for any special needs a victim might have.

OR-5 Agency protection against retaliation

The agency protects all inmates and staff who report sexual abuse or cooperate with sexual abuse investigations from retaliation by other inmates or staff. The agency employs multiple protection measures, including 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 cooperating with investigations. The agency monitors the conduct and/or treatment of inmates or staff who have reported sexual abuse or cooperated with investigations, including any inmate disciplinary reports, housing, or program changes, for at least 90 days following their report or cooperation to see if there are changes that may suggest possible retaliation by inmates or staff. The agency discusses any changes with the appropriate inmate or staff member as part of its efforts to determine if retaliation is taking place and, when confirmed, immediately takes steps to protect the inmate or staff member.

Assessment Checklist	YES	NO
(a) Does the agency employ the following measures to protect inmates and staff from retaliation for reporting sexual abuse?		
• Housing changes or transfers for inmate victims or abusers		
• Removal of alleged staff or inmate abusers from contact with victims		
• Employee assistance services or other resources for staff who may need psychological or emotional support		
• Available support services for inmates who may need psychological or emotional support		
(b) Does the agency monitor the conduct and/or treatment of inmates or staff who have reported sexual abuse or cooperated with investigations, including any inmate disciplinary reports, housing changes, or program changes, for at least 90 days following their report or cooperation to see if there are changes that may suggest possible retaliation by inmates or staff?		
(c) When changes have been identified, does the agency discuss those changes with the appropriate inmate or staff member as part of its efforts to determine if retaliation is taking place?		
(d) When retaliation has been confirmed, does the agency immediately take steps to protect the inmate or staff member?		

Discussion

Fear of retaliation, such as being subjected to harsh or hostile conditions, being attacked by other inmates, or suffering harassment from staff, prevents many inmates and staff from reporting sexual abuse and impedes the ability of the agency to protect the safety and security of its facilities. Retaliation can take many forms. For example, one or more inmates may assault another inmate for “snitching.” An accused staff member or his or her staff allies may suddenly

start giving disciplinary tickets to the inmate who made the allegation. A staff member who reports may find that he or she is being snubbed or isolated by other staff. The agency should use every means possible, from information conveyed in training sessions to strict reporting policies to strong disciplinary sanctions for retaliation, to discourage retaliation in any form.

The agency should be alert to the possibility of retaliation from the outset and should initiate and maintain protective measures for as long as it deems necessary. The agency will have to weigh a number of circumstances when deciding how best to protect inmates and staff members who report sexual abuse. When collective bargaining agreements limit an agency’s ability to remove accused staff members from contact positions with inmates who have alleged staff-on-inmate sexual abuse or sexual harassment, the agency should develop and implement alternative protective measures. In general, agencies should try to secure collective bargaining agreements that do not limit their ability to protect inmates or staff from retaliation.

The agency’s protective measures can be adjusted throughout the investigation as necessary, but this does not obviate the agency’s obligation to take immediate and continuing steps to guard against retaliation. Although addressing the situation may require a housing transfer, facility officials should make every reasonable effort to minimize the disruption caused to the inmate’s daily life, including access to programs and other privileges.

Investigations (IN)

IN-1 Duty to investigate

The facility investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and/or other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the facility.

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

Discussion

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

Carrying investigations through to completion means making sure that an investigation continues even if an alleged staff perpetrator transfers, resigns, or retires or if an alleged inmate perpetrator or victim is transferred or released from custody during an investigation. Consistent application of these practices helps assure the reporting party and others who may be considering reporting sexual abuse or cooperating with the investigation that reports and cooperation will not be fruitless. This assurance is critical given the risks often inherent to reporting sexual abuse and cooperating in an investigation of sexual abuse, both for staff and inmates. Continuing investigations after the alleged perpetrator has left the facility helps ensure that an abuser does not escape accountability and will not remain undetected in another facility or in another jurisdiction and thus can be critical to preventing further abuse. This should be an important risk management consideration for any agency.

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

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

IN-2 Criminal and administrative agency investigations

Agency investigations into allegations of sexual abuse are prompt, thorough, objective, and conducted by investigators who have received special training in sexual abuse investigations (TR-4). When outside agencies investigate sexual abuse, the facility has a duty to keep abreast of the investigation and cooperate with outside investigators (RP-3). Investigations include the following elements:

- Investigations are initiated and completed within the timeframes established by the highest-ranking facility official, and the highest-ranking official approves the final investigative report.
- Investigators gather direct and circumstantial evidence, including physical and DNA evidence when available; interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- When the quality of evidence appears to support criminal prosecution, prosecutors are contacted to determine whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- Investigative findings are based on an analysis of the evidence gathered and a determination of its probative value.
- The credibility of a victim, suspect, or witness is assessed on an individual basis and is not determined by the person’s status as inmate or staff.

- Investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur.
- Administrative investigations are documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments.
- Criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits.
- Substantiated allegations of conduct that appears to be criminal are referred for prosecution.

Assessment Checklist	YES	NO
(a) Are investigations of allegations of sexual abuse conducted only by investigators who have received special training in sexual abuse investigations (TR-4)?		
(b) When outside agencies investigate sexual abuse, does the facility keep abreast of the investigation and cooperate with outside investigators (RP-3)?		
(c) Are investigations of allegations of sexual abuse initiated and completed within prompt timeframes established by the facility?		
(d) Do investigations include a review of all direct and circumstantial evidence, including physical and DNA evidence when available; interviews of alleged victims, suspected perpetrators, and witnesses; and prior complaints and reports of sexual abuse or misconduct involving the suspected perpetrator?		
(e) Does the facility contact prosecutors when the quality of evidence appears to support criminal prosecution to determine whether compelled interviews may be an obstacle for subsequent criminal prosecution?		
(f) Are investigative findings based on the analysis of the evidence gathered and a determination of its probative value?		
(g) Do investigators assess the credibility of a victim, suspect, or witness on an individualized basis, rather than using the person's status as inmate or staff to assess credibility?		
(h) Do investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur?		
(i) Are administrative investigations documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments?		
(j) Are criminal investigations documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits?		
(k) Are substantiated allegations of conduct that appear to be criminal referred for prosecution?		

Discussion

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

The standard requires that effective investigations be initiated and completed promptly so that physical evidence is available and usable and before memories have faded. Prompt investigations also give credence to an agency's zero-tolerance commitment to end sexual abuse. Prompt investigations improve facility safety and morale by ensuring that wrongly accused subjects are exonerated as quickly as possible and that abusers are detected and removed and/or disciplined as quickly as possible. Agencies or facilities should ensure that established timelines provide sufficient time for investigators to complete the investigation and for the review process

to be completed. However, investigations and their reviews should be completed within the constraints imposed by statutes of limitation or terms and conditions of collective bargaining agreements so as to ensure that the facility has the ability to impose discipline when allegations are substantiated.

This standard also reflects the importance of investigations being conducted by investigators with the skills, objectivity, and sensitivity to resolve allegations credibly and with well-documented evidence. As the standard reflects, investigators must always be trained in conducting sexual abuse investigations (TR-4).

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

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

The type of direct and circumstantial evidence that can be gathered and analyzed will vary depending on the nature of the allegation. When forced intercourse or similar abuse is alleged, for example, properly conducted forensic exams may yield DNA evidence. When staff-inmate relationships are alleged, investigators should search for potentially corroborating evidence, such as telephone records, gifts, letters, and similar items. Investigators should also conduct a review of prior complaints of sexual abuse as well as disciplinary findings in those cases—including from other facilities or jurisdictions, whenever possible—as such information may suggest repeated patterns of behavior that bear on the credibility of the suspected abuser. Unless State law specifies otherwise, agencies or facilities should maintain those records for the duration of the inmate's sentence or staff member's employment.

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

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

As do several other standards, this standard recognizes the importance of coordinating with prosecuting authorities in cases involving sexual abuse allegations. This standard does not advocate delaying the initiation of the administration investigation until the decision of whether to prosecute has been made. However, to avoid compromising criminal investigations,

investigators must contact prosecuting authorities before taking any compelled statements of subjects in potentially criminal cases. Agencies also must refer criminal cases for prosecution whenever the evidence indicates that the abuse appears to be criminal.

IN-3 Evidence standard for administrative investigations

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

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

Discussion

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

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

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

Discipline (DI)

DI-1 Disciplinary sanctions for staff

Staff is subject to disciplinary sanctions up to and including termination when staff has violated agency sexual abuse policies. The presumptive disciplinary sanction for staff members who have engaged in sexually abusive contact or penetration is termination. This presumption does not limit agency discretion to impose termination for other sexual abuse policy violations. All terminations for violations of agency sexual abuse policies are to be reported to law enforcement agencies and any relevant licensing bodies.

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

Discussion

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

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

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

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

DI-2 Disciplinary sanctions for inmates

Inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative ruling that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions meted out for comparable offenses by other inmates with similar histories. The

disciplinary process must consider whether an inmate’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Possible sanctions also include interventions designed to address and correct underlying reasons or motivation for the abuse, such as requiring the offending inmate to participate in therapy, counseling, or other programs.

Assessment Checklist	YES	NO
(a) When there has been an administrative ruling of inmate-on-inmate sexual abuse or a criminal finding of guilt for inmate-on-inmate sexual abuse, is the inmate perpetrator subject to disciplinary sanctions that are commensurate with the nature of the abuse committed, the inmate’s disciplinary history, and sanctions meted out for comparable offenses by other inmates with similar histories?		
(b) Does the disciplinary process include consideration of any mental disabilities or mental illness that may have contributed to the abuse in determining the appropriate disciplinary sanction?		
(c) Do possible sanctions include interventions designed to address and correct underlying reasons or motivation for the abuse, such as therapy, counseling, or other programs?		

Discussion

Holding inmates accountable for sexually abusing other inmates is essential to deter abuse and to demonstrate to inmates and staff that the agency takes seriously its zero-tolerance policy. Unlike abusive staff, abusive inmates cannot simply be “fired” and removed from a correctional setting. This standard recognizes that inmate accountability and the likely reduction in recidivism may be best achieved by using various kinds of sanctions, including not just punitive ones (e.g., loss of privileges) but positive interventions that may help an inmate learn to better control his or her own behavior (e.g., counseling, participation in group programs, or other therapeutic interventions). All sanctions and interventions should send a clear message that the agency does not tolerate sexual abuse of any sort.

When imposing disciplinary sanctions, the facility should take care to ensure that inmates are not placed for prolonged periods in disciplinary segregation if the conditions in segregation have the potential to cause or aggravate symptoms of mental illness and/or limit access to needed mental health services.

The Commission strongly urges agencies to refrain from imposing disciplinary sanctions on inmates solely because they have participated in apparently consensual sex or romantic relationships with staff. Disciplinary sanctions for such inmates will discourage them from reporting abuse. Additionally, some inmates may fail to report abuse because of larger safety concerns in the facility and therefore should not be punished for concealing sexual activity. Staff should always be held responsible for such abuse. On the other hand, the Commission recognizes that inmates may engage in relationships with staff to obtain contraband or break other facility rules without being punished. The Commission believes inmates should be held responsible for such other rules violations, but not for the sexual relationship that allowed for such violations.

Medical and Mental Health Care (MM)

MM-1 Medical and mental health screenings—history of sexual abuse

Qualified medical or mental health practitioners ask inmates about prior sexual victimization and abusiveness during medical and mental health reception and intake screenings. If an inmate discloses prior sexual victimization or abusiveness, whether it occurred in an institutional setting or in the community, during a medical or mental health reception or intake screening, the practitioner provides the appropriate referral for treatment, based on his or her professional judgment. Any information related to sexual victimization or abusiveness that occurred in an institutional setting must be strictly limited to medical and mental health practitioners and other staff, as required by agency policy and Federal, State, or local law, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments. Medical and mental health practitioners must 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 18.

Assessment Checklist	YES	NO
(a) Do qualified medical or mental health practitioners ask questions about prior sexual victimization and abusiveness during medical and mental health reception and intake screenings?		
(b) If an inmate discloses prior sexual victimization or abusiveness, whether it occurred in an institutional setting or in the community, during a medical or mental health reception or intake screening, does the practitioner provide appropriate referral for treatment based on his or her reasonable professional judgment?		
(c) Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff, as determined by agency policy and Federal, State, or local law, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments?		
(d) Do medical and mental health practitioners 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 18?		

Discussion

Facilities typically perform a brief health screening of each inmate upon his or her arrival, followed by a more comprehensive assessment 7 to 14 days after admission. Under this standard, these screenings must include questions about previous sexual victimization and abusiveness, whether in a confinement setting or in the community. Before asking these questions, medical and/or mental health practitioners should inform inmates that they are not required to answer any of the questions pertaining to sexual victimization or abusiveness if they would prefer not to. Not all inmates will feel comfortable answering such questions, and practitioners should respect refusals to answer those questions and not press for answers. During these screenings, an inmate may disclose information about victimization that occurred recently or historically. Incidents of abuse that happened many years ago may still require treatment, and medical and mental health practitioners should exercise their professional judgment to determine what treatment to recommend. Similarly, mental health practitioners should exercise their professional judgment to determine whether an inmate who discloses prior sexually abusive behavior could benefit from counseling, treatment, or other therapeutic interventions.

If an inmate discloses an incident of sexual abuse that occurred within a time period in which physical evidence may still be collected, the medical and/or mental health practitioner is required to provide access to emergency medical treatment and crisis intervention services (MM-2) and follow the agency’s evidence protocol (RP-1). At the time of publication of this body of standards, 96 hours is the timeframe commonly accepted and used by medical and mental health practitioners, corrections professionals, and criminal investigators.

The information obtained during medical and mental health reception and intake screenings can be vital to keeping inmates safe, in the same way as information obtained during the risk assessment screening (SC-1). By asking these questions during medical and mental health screenings, the facility can ensure that all inmates receive the medical and mental health treatment they need. Additionally, as captured in standards SC-1 and SC-2, prior sexual victimization or prior sexually abusive behavior, especially in an institutional setting, is an important factor to consider when making security and management decisions, including housing, program, education, and work placements for inmates. However, if an inmate discloses to a medical or mental health practitioner prior sexual victimization that occurred in the community, rather than in an institutional setting, this standard requires that the practitioner obtain informed consent before sharing this information with staff making such housing, program, education, and work decisions. Although standard OR-1 requires medical and mental health practitioners to report allegations or incidents of sexual abuse that occurred or may occur in a facility, unless precluded by Federal, State, or local law, the situation in which an inmate discloses previous sexual victimization in the community to a medical or mental health practitioner is different. In that situation, the inmate has a right to determine how or if the medical or mental health practitioner may share that information with other staff.

MM-2 Access to emergency medical and mental health services

Victims of sexual abuse have timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Treatment services must be provided free of charge to the victim and regardless of whether the victim names the abuser. 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 take preliminary steps to protect the victim (OR-3) and immediately notify the appropriate medical and mental health practitioners.

Assessment Checklist	YES	NO
(a) Do inmates have timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?		
(b) Are treatment services provided free of charge to the victim?		
(c) Are treatment services provided regardless of whether the victim names the abuser?		
(d) If no qualified medical or mental health practitioners are on duty at the time a report is made, do security staff first responders take preliminary steps to protect the victim (OR-3) and immediately notify the appropriate medical and mental health practitioners?		

Discussion

Under this standard, the facility is required to provide emergency medical treatment and crisis intervention services free of charge to victims of sexual abuse. Such services may include, but are not limited to: (1) assessing the victim's acute medical and mental health needs as soon as possible, (2) obtaining consent for treatment from the victim, unless the victim is under 18, (3) treating the victim's acute medical and mental health needs as soon as possible, (4) documenting the victim's acute medical and mental health needs and treatment provided as soon as possible, (5) providing support and crisis intervention services, and (6) providing access to a forensic medical exam and, if the victim agrees to an exam, ensuring agency protocol is followed whenever there may be physical evidence of sexual abuse (RP-1).

The standard's requirement that medical and mental health services be provided even when the victim refuses to name the abuser means that victims must be able to meet with medical or mental health practitioners without having to disclose details of the abuse to an officer or other security staff member. As such, agencies may need to adapt their sick-call policies to allow inmates to access medical and mental health care practitioners without having to describe their victimization.

MM-3 Ongoing medical and mental health care for sexual abuse victims and abusers

The facility provides ongoing medical and/or mental health evaluation and treatment to all known victims of sexual abuse. The evaluation and treatment of sexual abuse victims must include appropriate follow-up services, treatment plans, and, when necessary, referrals for continued care following their release from custody. The level of medical and mental health care provided to inmate victims must match the community level of care generally accepted by the medical and mental health professional communities. The facility conducts a mental health evaluation of all known abusers and provides treatment, as deemed necessary by qualified mental health practitioners.

Assessment Checklist	YES	NO
(a) Does the facility provide ongoing medical and/or mental health evaluation and treatment to all known victims of sexual abuse?		
(b) Does the evaluation and treatment of victims include the following?		
• Appropriate follow-up services		
• Treatment plans		
• When necessary, referrals for continued care for sexual abuse victims following their release from custody		
(c) Does the level of medical and mental health care provided to inmate victims match the level of care generally accepted by the medical and mental health professional communities?		
(d) Does the facility conduct a mental health evaluation of all known abusers?		
(e) Does the facility provide treatment for abusers, as deemed necessary by qualified mental health practitioners?		

Discussion

Victims of sexual abuse can experience a range of physical injuries and emotional reactions, even long after the abuse has occurred, that require medical or mental health attention. As required by this standard, the facility must be able to ensure that all victims receive the

appropriate medical and/or mental health services recommended by qualified practitioners. Follow-up evaluations and assessments may include the following actions: (1) reviewing any medical and mental health treatment provided immediately following the incident, including whether a forensic medical exam was performed, (2) diagnosing any lingering acute or non-acute physical injuries, including oral trauma, and (3) assessing the psychological impact of the victimization, including the risk of suicide or self-harm and any resulting mental health treatment needs. These follow-up evaluations and assessments will enable mental health and medical practitioners to determine and provide the most appropriate treatment for the inmate, which could include mental health treatment, medical treatment, or both. Reviewing and adjusting victim treatment plans at regular, clinically appropriate intervals will allow the agency to provide the most comprehensive and appropriate care for as long as treatment is required.

Victims and perpetrators of sexual abuse, whether recent or historical, are at risk for sexually transmitted infections (STIs), including HIV. Regardless of whether an inmate has accepted prevention or treatment for STIs, medical practitioners ought to offer and strongly encourage him or her to be tested for HIV and viral hepatitis six to eight weeks following the sexual abuse.

In accordance with this standard's requirement to provide victims with the level of care generally accepted in the medical and mental health professional communities, if there has been vaginal penetration, female victims who have been recently abused should be offered pregnancy tests at the time of the medical evaluation and, if the test is negative, should be offered retesting approximately six weeks thereafter. Victims who have positive tests should receive counseling and have access to all pregnancy-related medical services that are lawful in the community.

Additionally, this standard requires mental health evaluations and treatment, when appropriate, of all known abusers. Mental health practitioners may find that ongoing mental health treatment, including counseling, group programs, or other therapeutic interventions, may be beneficial to abusers. Mental health treatment may help abusers develop better control over their actions and improve their conduct; in doing so, such treatment may help reduce the likelihood of recidivism and thereby improve facility safety. As noted in the standard, the agency's mental health practitioners must use their professional judgment to determine the appropriate treatment and services for individuals with a recent or previous history of sexual abusiveness.

Inmates over the age of 18 have the right to refuse medical and/or mental health care after receiving counseling about the potential value of the services they would receive. As a risk management measure, the agency should require inmates to sign refusals of care and document such refusals in the inmate's medical file.

IV. MONITORING

Data Collection and Review (DC)

DC-1 Sexual abuse incident reviews

The facility treats all instances of sexual abuse as critical incidents to be examined by a team of upper management officials, with input from line supervisors, investigators, and medical/mental health practitioners. The review team evaluates each incident of sexual abuse to identify any policy, training, or other issues related to the incident that indicate a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse. The review team also considers whether incidents were motivated by racial or other group dynamics at the facility. When incidents are determined to be motivated by racial or other group dynamics, upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems. The sexual abuse incident review takes place at the conclusion of every sexual abuse investigation, unless the allegation was determined to be unfounded. The review team prepares a report of its findings and recommendations for improvement and submits it to the facility head.

Assessment Checklist	YES	NO
(a) Does a team of upper management officials, with input from line supervisors, investigators, and medical/mental health practitioners, review the details of each incident of sexual abuse following every sexual abuse investigation, unless the allegation was determined to be unfounded?		
(b) Does the team use the review of each incident of sexual abuse to identify any policy, training, or other issues related to the incident that indicate a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse?		
(c) Does the review team consider whether incidents were motivated by racial dynamics or any existing racial tensions at the facility?		
(d) When incidents are determined to be motivated by racial dynamics or tensions, do upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems?		
(e) Does the review team prepare a report of its findings and recommendations for improvement and submit it to the facility head?		

Discussion

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

Comprehensive sexual abuse incident reviews should include the following: (1) an analysis of any security failures that may have contributed to the incident, (2) an examination of the timeliness and quality of the response, (3) the various interventions provided to the victim and/or perpetrator, including medical and mental health care, and (4) the quality of the administrative and/or criminal investigation. Additionally, the review team should determine whether victim(s) or witness(es) faced any obstacles to prompt and safe reporting of the incident. Finally, the team should review the files of the perpetrator(s) and victim(s) to determine

whether changes to the facility’s process for screening inmates for risk of sexual victimization or abusiveness may be appropriate. Having identified underlying problems, the facility can then make the necessary changes to policies or practices that endanger staff and inmates.

DC-2 Data collection

The agency collects accurate, uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence. Data are obtained from multiple sources, including reports, investigation files, and sexual abuse incident reviews. The agency also obtains incident-based and aggregated data from every facility with which it contracts for the confinement of its inmates.

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

Discussion

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

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

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

DC-3 Data review for corrective action

The agency reviews, analyzes, and uses all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. Using these data, the agency identifies problem areas, including any racial dynamics underpinning patterns of sexual abuse, takes corrective action on an ongoing basis, and, at least annually, prepares a report of its findings and corrective actions for each facility as well as the agency as a whole. The annual report also includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the agency's progress in addressing sexual abuse. The agency's report is approved by the agency head, submitted to the appropriate legislative body, and made readily available to the public through its Web site or, if it does not have one, through other means. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but it must indicate the nature of the material redacted.

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

Discussion

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

Comparing the current year's aggregated data to previous years' data will also yield valuable information about progress, including validation of implemented preventive measures. For example, the agency may observe a decrease in the number of allegations in an area where additional security measures were implemented and monitoring was enhanced. The agency must include incident-based and aggregated data from all facilities with which it contracts for the

confinement of its inmates in its review and analysis as part of its overall efforts to monitor the safety of inmates in contracted facilities (PP-2).

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

DC-4 Data storage, publication, and destruction

The agency ensures that the collected sexual abuse data are properly stored, securely retained, and protected. The agency makes all aggregated sexual abuse data, from facilities under its direct control and those with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers from the data. The agency maintains sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law allows for the disposal of official information in less than 10 years.

Assessment Checklist	YES	NO
(a) Does the agency ensure that the collected sexual abuse data are properly stored, retained, protected, and destroyed?		
(b) Does the agency make all aggregated sexual abuse data, from facilities under its direct control and those with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means?		
(c) Are all personal identifiers removed from the aggregated data before it is made publicly available?		
(d) Does the agency maintain sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law allows for the disposal of official information in less than 10 years?		

Discussion

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

The public has a legitimate interest in the data collected by agencies that serve the public. The data agencies are required to collect and publish under these standards will enable the public to understand the nature and level of safety in confinement facilities. Agency sexual abuse data may also inform research and efforts to improve safety. Aggregated data with personal identifiers removed should thus be readily available to the public. Publishing the data on the agency’s

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

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

Audits (AU)

AU-1 Audits of standards

The public agency ensures that all of its facilities, including contract facilities, are audited to measure compliance with the PREA standards. Audits must be conducted at least every three years by independent and qualified auditors. The public or contracted agency allows the auditor to enter and tour facilities, review documents, and interview staff and inmates, as deemed appropriate by the auditor, to conduct comprehensive audits. The public agency ensures that the report of the auditor's findings and the public or contracted agency's plan for corrective action (DC-3) are published on the appropriate agency's Web site if it has one or are otherwise made readily available to the public.

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

Discussion

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

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

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

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

V. SUPPLEMENTAL STANDARDS FOR FACILITIES WITH IMMIGRATION DETAINEES

Compliance with PREA Standards

Adult immigrants detained pending determination of whether their presence in the United States is legal are in the custody of Immigration and Customs Enforcement (ICE), but they are held in a wide variety of settings, including local jails, State and Federal prisons, privately run prisons, facilities run by ICE called detention facilities and service processing centers, and short-term detention settings run by Customs and Border Protection. At the time of publication of this body of standards, families with children detained together are held in one of two family facilities that operate under contract with ICE.

Unaccompanied immigrant and refugee minors are the only group of immigration detainees who are not in ICE custody, but rather under the care and custody of the Department of Health and Human Services' (HHS') Office of Refugee Resettlement (ORR) Division of Unaccompanied Children's Services. ORR places these minors in a variety of settings, including foster care, shelters, group homes, and secure juvenile detention facilities.

These supplemental standards for facilities with immigration detainees must be enforced on behalf of all people detained solely by ICE, regardless of where they are detained. In other words, they must be enforced in any facility that is run by ICE or contracts with ICE to hold immigration detainees. They must also be enforced on behalf of all unaccompanied children in ORR custody. These standards do not apply to inmates in lockups, jails, or prisons who also happen to have an immigration detainer or warrant lodged by ICE. As long as an inmate is being held on criminal charges or is serving a sentence for a criminal charge, he or she will not be considered an immigration detainee for purposes of the standards. However, these standards do apply to persons in the custody of ICE due to ICE's commencement of removal proceedings on the basis of their past criminal conduct.

Standards developed pursuant to the Prison Rape Elimination Act (PREA) must be enforced on behalf of immigration detainees according to the settings in which they are detained. As a starting point, the standards that apply to inmates in lockups, jails, and prisons must be applied to all immigration detainees as well. These supplemental standards create additional requirements that must be met along with the requirements laid out in the inmate standards. So, ICE-run detention facilities and service processing centers must comply with the standards for adult prisons and jails as well as these supplemental standards. Customs and Border Protection facilities must comply with the standards for lockups as long as detainees are held there for less than 72 hours, but they must comply with standards for adult prisons and jails whenever detainees are held beyond 72 hours. Customs and Border Protection facilities also must comply with these supplemental standards. Shelters under contract with ORR to house unaccompanied minors must comply with the standards for community corrections, which include some special provisions for juveniles in a community corrections setting, along with these supplemental standards. Secure juvenile detention facilities that house unaccompanied minors for ORR must comply with the juvenile detention standards, along with these supplemental standards. Finally, the two family facilities must comply with the adult prison and jail standards, along with the supplemental standards for

immigration detainees and those supplements and one modification laid out specifically for family facilities in IDFF-1 through IDFF-4.

Standards Compliance Grid	
Detention setting	PREA standards that apply
Adult prison (Federal, State, or private), adult jail, or other pretrial detention setting (Federal, State, or private)	Adult prison and jail standards and supplemental standards for immigration detainees
Police lockup	Lockup standards and supplemental standards for immigration detainees
ICE detention facilities and service processing centers	Adult prison and jail standards and supplemental standards for immigration detainees
Customs and Border Protection facilities that house detainees for less than 72 hours	Lockup standards and supplemental standards for immigration detainees
Customs and Border Protection facilities that house detainees for 72 hours or more	Adult prison and jail standards and supplemental standards for immigration detainees
ICE family facilities	Adult prison and jail standards, supplemental standards for immigration detainees, and supplemental standards for family facilities
ORR contract shelters	Community corrections standards and supplemental standards for immigration detainees
ORR juvenile detention facilities	Juvenile detention standards and supplemental standards for immigration detainees

Supplemental Standards

Although immigrants are detained in many different settings, preventing and responding to sexual abuse of immigration detainees in confinement requires special attention to the particular vulnerabilities of this population in any setting. In addition to meeting the appropriate standards for a given confinement setting, facilities that house immigration detainees must meet the following supplemental standards.

ID-1 Supplement to RP-2: *Agreements with outside public entities and community service providers*

Any facility that houses immigration detainees maintains or attempts to enter into memoranda of understanding (MOUs) or other agreements with one or more local or, if not available, national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime (RE-3, MM-3). The agency maintains copies of agreements or documentation showing attempts to enter into agreements.

Assessment Checklist	YES	NO
(a) Does the facility maintain or attempt to enter into at least one MOU or other agreement with a local or national organization that provides legal advocacy and confidential emotional support services for immigration detainees or immigrant victims of crime?		
(b) Does the agency maintain copies of agreements or documentation showing attempts to enter into agreements?		

Discussion

Immigration detainees face a unique set of challenges when they are victims of a crime in custody. They do not have access to legal representation, they very often have been cut off from family support, and they are being prosecuted for removal from the country by ICE, which is also responsible for their care in custody. Furthermore, they may be linguistically and culturally isolated in the detention setting. Although special training requirements for employees who interact with immigration detainees, including medical and mental health practitioners, are intended to ensure that employees have some understanding of the attitudes and perceptions that people from different cultures have toward sexual abuse, it is still very likely that detainees who are victims of sexual abuse will not feel comfortable talking about the abuse to anyone inside the facility. Providing interpretive services can overcome language barriers, but mental health practitioners in the facility will not be able to communicate adequately with detainees if they must rely on an interpreter and if they do not share similar cultural understandings about sex and sexual abuse. It is also likely that prisoner advocacy groups in the community do not have the cultural competency to adequately assist and counsel immigration detainees. For these reasons, it is essential that any facility housing immigration detainees have an existing agreement with an organization that has experience providing legal advocacy and support for immigration detainees or immigrants who are victims of crime.

For correctional agencies that successfully enter into agreements with outside agencies, the Commission recommends that agreements contain the following elements: (1) the purpose of the agreement; (2) the respective roles and responsibilities of the detaining agency and outside organization; (3) the means by which detainees will be able to contact the outside agency; (4) the procedures for how and when outside advocates or service providers are able to gain entry into a facility; (5) the level of security supervision outside advocates or service providers will have while in a facility; and (6) any laws, rules, and/or regulations relevant to the service being provided, including laws granting privilege and agency rules governing confidentiality for disclosures about sexual abuse made to outside advocates or service providers.

ID-2 *Supplement to TR-1, TR-4, and TR-5: Employee training and specialized training of investigators and medical and mental health care*

Any facility that holds immigration detainees provides special additional training to employees, including medical and mental health practitioners and investigators. This additional training includes the following topics: cultural sensitivity toward diverse understandings of acceptable and unacceptable sexual behavior, appropriate terms and concepts to use when discussing sex and sexual abuse with a culturally diverse population, sensitivity and awareness regarding past trauma that may have been experienced by immigration detainees, and knowledge of all existing resources for immigration detainees both inside and outside the facility that provide treatment and counseling for trauma and legal advocacy for victims.

Assessment Checklist	YES	NO
(a) Does employee training, as well as specialized training for medical and mental health practitioners and investigators, include a component that addresses the following topics?		
• Cultural sensitivity toward diverse understandings of acceptable and unacceptable sexual behavior		
• Appropriate terms and concepts to use when discussing sex and sexual abuse with a culturally diverse population		
• Sensitivity and awareness regarding past traumas that may have been experienced by immigration detainees		
• Knowledge of all existing resources for immigration detainees both inside and outside the facility that provide treatment and counseling for trauma and legal advocacy for victims		

Discussion

Although language is a significant barrier to communication with many immigration detainees, it can be easier to overcome than the cultural differences in perceptions about sexual abuse, understandings about what kinds of behavior are acceptable or unacceptable, and even the terminology and concepts that are used to describe different kinds of sexual behavior. In addition, many immigrants in detention have fled war or persecution or have suffered some kind of trauma in their travels to this country. The combination of cultural isolation with the impact of previous traumas can make it extremely unlikely that immigration detainees will feel comfortable reporting or discussing sexual abuse that happens to them in custody. Employees who interact with immigration detainees should receive training developed by someone who has experience working with people from the cultures represented among detainees. The training should provide explicit guidance about the appropriate terms and concepts to use and ways of communicating when discussing sex and sexual abuse with immigration detainees. It is particularly important that medical and mental health practitioners and investigators who interact with immigration detainees receive this special training because communication is essential to their ability to do their jobs. Employees who are culturally competent and have access to appropriate interpretive or language translation services will be better equipped to protect the safety of immigration detainees.

ID-3 Supplement to TR-3: Inmate education

Sexual abuse education (TR-3) for immigration detainees is provided at a time and in a manner that is separate from information provided about their immigration cases, in detainees' own languages and in terms that are culturally appropriate, and is conducted by a qualified individual with experience communicating about these issues with a diverse population.

Assessment Checklist	YES	NO
(a) Does the facility provide sexual abuse education for immigration detainees at a time and in a manner that is separate from information it provides about their immigration cases?		
(b) Are immigration detainees educated on the topics listed in the compliance checklist for TR-3 in their own language and using terms that are culturally appropriate?		
(c) Is the sexual abuse education component for immigration detainees developed and conducted by a qualified individual with experience communicating about these issues with a diverse immigrant population?		

Discussion

The education that is provided to immigration detainees should be tailored to this population, not only through interpretation of the languages spoken by detainees but through adaptation to appropriate terminology and concepts that address cultural differences in understanding about sex and sexual abuse. Immigration detainees should be informed of the support services that are available to them in the event they become victims of a crime in custody and given explicit instructions on how to access those services. The facility should be very clear about its zero-tolerance policy toward sexual abuse. Many immigration detainees are disoriented when they first enter custody and focused on learning about their immigration case, so it is important that notification about the zero-tolerance policy and more detailed education about sexual abuse be provided at times and in a manner that they can absorb and appreciate.

ID-4 Detainee handbook

Every detainee is provided with an ICE Detainee Handbook upon admission to the facility, and a replacement is provided whenever a detainee's handbook is lost or damaged. The Detainee Handbook contains notice of the agency's zero-tolerance policy toward sexual abuse and contains all the agency's policies related to sexual abuse, including information about how to report an incident of sexual abuse and the detainees' rights and responsibilities related to sexual abuse. The Detainee Handbook will inform immigration detainees how to contact organizations in the community that provide sexual abuse counseling and legal advocacy for detainee victims of sexual abuse. The Detainee Handbook will also inform detainees how to contact the Office for Civil Rights and Civil Liberties, the Office of the Inspector General (OIG) for the Department of Homeland Security (DHS), and diplomatic or consular personnel.

Assessment Checklist	YES	NO
(a) Does the facility provide every detainee with an ICE Detainee Handbook upon admission and provide a replacement whenever a detainee's handbook is lost or damaged?		
(b) Does the ICE Detainee Handbook contain the following?		
• Notice of the agency's zero-tolerance policy toward sexual abuse		
• All of the agency's policies related to sexual abuse, including information about how to report an incident of sexual abuse and the detainees' rights and responsibilities related to sexual abuse		
• Information about how to contact organizations in the community that provide counseling and legal advocacy for detainee victims of sexual abuse		
• Information about how to contact the Office for Civil Rights and Civil Liberties, the DHS OIG, and diplomatic or consular personnel from the detainee's country of citizenship		

Discussion

ICE's National Detention Standards, most recently updated in 2008, require that all immigration detainees be provided with a Detainee Handbook at the facility where they are detained. This handbook is the best means to convey important information about detainees' rights and responsibilities and the best means to convey information detainees need to remain safe from sexual abuse during their detention. Therefore, this standard requires that all information that is relevant to protect detainees from sexual abuse and all information

detainees should know in the event that sexual abuse occurs be provided in the Detainee Handbook. This requires that the facility’s zero-tolerance policy toward sexual abuse be provided, along with any other policies that pertain to the prevention of or response to sexual abuse in the facility. The Detainee Handbook must contain information about how to report sexual abuse, how to access confidential legal and counseling services outside of the facility, how to contact the Office for Civil Rights and Civil Liberties and the DHS OIG, and how to contact diplomatic or consular personnel from detainees’ countries of origin.

ID-5 Supplement to *SC-1: Screening for risk of victimization and abusiveness*

The facility makes every reasonable effort to obtain institutional and criminal records of immigration detainees in its custody prior to screening for risk of victimization and abusiveness. Screening of immigration detainees is conducted by employees who are culturally competent.

Assessment Checklist	YES	NO
(a) Has the facility made every reasonable effort to obtain institutional or criminal records of all immigration detainees in its custody?		
(b) Is screening of immigration detainees conducted by an employee who is culturally competent?		

Discussion

Standard ID-6 requires that all immigration detainees be housed separately from the general inmate population. This separation should happen at intake, and standard SC-2 requires that the screening process be used to make more specific housing assignments within the area of the facility where immigration detainees are held. Often there are few or no records of an immigration detainee’s history, including criminal history, available to the facility. Immigration detainees can have extremely different backgrounds and experiences, none of which may be immediately obvious to employees who conduct the screening. For instance, asylum seekers likely have no criminal history and may have suffered terrible violence or other trauma in their countries of origin. Other immigration detainees who have been in this country for a period of time may have significant criminal histories and spent time in prison or jail. ICE separates immigration detainees based on its own security classifications. However, it is important that employees who screen immigration detainees at the facility that receives them complete their own thorough assessment of the likelihood that a particular detainee is vulnerable to sexual abuse or likely to engage in sexually abusive behavior.

Facilities that house immigration detainees should make every effort to gather information about detainees’ histories by requesting records from any institutions where they are known to have been previously detained or incarcerated. Currently, validated criteria to determine vulnerability to sexual abuse or likelihood of engaging in sexually abusive behavior that are specific to immigration detainees do not exist, so employees will have to base their determinations about potential victimization or abusiveness on generally established criteria. However, it is important that employees be educated about cultural differences in the ways that people perceive and express their experiences, and employees should learn how to communicate effectively with a culturally diverse population. Employees should know how to ask immigration detainees about experiences with past sexual abuse in a manner that is culturally appropriate and with an understanding of the types of abuse that are more commonly experienced by immigrants who may have fled war or persecution or have been trafficked for sex work.

ID-6 Supplement to SC-2: Use of screening information

Any facility that houses both inmates and immigration detainees houses all immigration detainees separately from other inmates in the facility and provides heightened protection for immigration detainees who are identified as particularly vulnerable to sexual abuse by other detainees through the screening process (SC-1). To the extent possible, immigration detainees have full access to programs, education, and work opportunities.

Assessment Checklist	YES	NO
(a) Does the facility house all immigration detainees separately from other inmates?		
(b) Does the facility provide heightened protection for immigration detainees identified as particularly vulnerable to sexual abuse by other detainees?		
(c) Do immigration detainees have full access to programs, education, and work opportunities?		

Discussion

Immigration detainees are a particularly vulnerable group in confinement settings. Many have no criminal history, some are refugees seeking asylum from war or persecution, and those with criminal histories may be vulnerable due to cultural and linguistic isolation within the confinement setting. Furthermore, fear of removal and the uncertainty surrounding their immigration cases can make many immigration detainees, with or without criminal histories, reluctant to speak out about any abuse they experience in custody. ICE currently classifies immigration detainees into three security categories and does not house the highest security detainees, those with significant criminal histories, with the lowest security detainees. Although it is appropriate to make security distinctions among immigration detainees, it is not appropriate to house any immigration detainees with general population inmates. This does not mean that immigration detainees cannot be housed in a facility with inmates, but that the facility houses immigration detainees in cells or areas of the facility that allow for no unsupervised contact between immigration detainees and inmates. As with any vulnerable population within the facility, it is important that separate housing for immigration detainees does not lead to isolation or a lack of access to the privileges that would be available to them in the general population.

Those detainees who have been classified by ICE as the lowest security risk should not be placed in settings with the least surveillance or supervision, which may put them at greater risk for abuse. When employees identify vulnerable detainees, they should take additional steps to provide heightened protection for these detainees. When feasible, they should place them in single cells or areas where security staff can provide continuous direct sight and sound supervision.

ID-7 Supplement to RE-1: Inmate reporting

The agency provides immigration detainees with access to telephones with free, preprogrammed numbers to ICE's Office for Civil Rights and Civil Liberties and the DHS OIG. In addition, the agency must provide immigration detainees with a list of phone numbers for diplomatic or consular personnel from their countries of citizenship and access to telephones to contact such personnel.

Assessment Checklist	YES	NO
(a) Does the facility or agency provide all immigration detainees with access to free, pre-programmed telephone lines to the Office for Civil Rights and Civil Liberties and the OIG, which are prepared to receive and investigate reports of sexual abuse in custody?		
(b) Does the facility or agency provide a list of phone numbers to diplomatic or consular personnel from detainees' countries of citizenship and access to telephones to contact such personnel?		

Discussion

Immigration detainees must be able to report sexual abuse directly to ICE's Office for Civil Rights and Civil Liberties and to DHS OIG. Although immigration detainees are held by a wide variety of facilities all over the country, both the Office for Civil Rights and Civil Liberties and OIG have authority to investigate abuse in the operations of DHS. This does not preclude immigration detainees from reporting sexual abuse through any of the internal avenues provided by the adult prison and jail standards. However, the standards require that every facility give inmates the ability to report sexual abuse to an outside public entity or office not affiliated with the agency or facility, and the Office for Civil Rights and Civil Liberties, as well as DHS OIG, are the appropriate entities to receive and respond to reports by immigration detainees. Providing immigration detainees with a direct telephone line to the Office for Civil Rights and Civil Liberties and OIG will ensure that when they do not feel safe using other reporting mechanisms within the facility, they will have the ability to report directly to a centralized governmental office with direct authority to investigate the report. For this reporting mechanism to be effective, both the Office for Civil Rights and Civil Liberties and OIG will need to be prepared to receive such reports and initiate investigations immediately upon receiving them.

In addition, immigration detainees should have access to diplomatic or consular personnel from their country of citizenship in the event they wish to report sexual abuse during detention. Facilities are required by this standard to provide phone numbers to immigration detainees upon admission and access to telephones at all times that would allow them to call the appropriate diplomatic or consular personnel.

ID-8 Supplement to RE-3: *Inmate access to outside confidential support services*

All immigration detainees have access to outside victim advocates who have experience working with immigration detainees or immigrant victims of crime for emotional support services related to sexual abuse. The facility provides such access by giving immigration detainees the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national organizations that provide these services and enabling reasonable communication between immigration detainees and these organizations. The facility ensures that communications with such advocates is private, confidential, and privileged to the extent allowable by Federal, State, and local law. The facility informs immigration detainees, prior to giving them access, of the extent to which such communications will be private, confidential, and/or privileged.

Assessment Checklist	YES	NO
(a) Does the facility provide immigration detainees with the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national victim advocacy or rape crisis organizations that have experience working with immigration detainees or immigrant victims of crime and enable reasonable communication between inmates and these organizations? (Please attach documentation explaining how the facility provides immigration detainees with access to outside confidential support services related to sexual abuse.)		
(b) Are immigration detainees able to communicate with outside victim advocates privately in settings in which conversations cannot be overheard?		
(c) To ensure privacy of communication, is staff prohibited from reading correspondence to or from victim advocates?		
(d) Does the facility explain to immigration detainees, prior to giving them access to outside support services, the rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant Federal, State, or local law?		

Discussion

Immigration detainees should have access to the same outside advocacy and/or rape crisis organizations for confidential emotional support that are available to inmates, and for this to be meaningful, the facility must identify local, State, or national organizations that have experience working with immigration detainees or immigrant victims of crime. Once the facility has identified an appropriate advocacy organization to work with immigration detainees, it may need to enter an MOU with that organization and may find it useful to provide regular opportunities for immigration detainees to meet face-to-face with advocates (ID-2).

Telephone use to contact outside advocates and/or letters sent to service organizations should not be subject to any rules or restrictions governing telephone use or mail. Administrators need to make certain that immigration detainees are able to access outside confidential support services as easily and as privately as possible. Immigration detainees should never have to explain to staff members their reasons for wanting to speak or write to outside advocates before being allowed to communicate with those providers.

ID-9 Protection of detainee victims and witnesses

ICE never removes from the country or transfers to another facility immigration detainees who report sexual abuse before the investigation of that abuse is completed, except at the detainee victim's request. ICE considers releasing detainees who are victims of or witnesses to abuse and monitoring them in the community to protect them from retaliation or further abuse during the course of the investigation.

Assessment Checklist	YES	NO
(a) Does ICE have a plan for ensuring immigration detainees who report sexual abuse are never transferred to other facilities or deported before the investigation into the abuse has been completed, except at the detainee victim's request?		
(b) Has ICE established objective criteria for determining when protecting the safety of an immigration detainee victim or witness requires release from custody and community monitoring?		

Discussion

Immigration detainees can be in detention for short periods of time before they are removed from the country and, during that time, they are often transferred from one facility to another. Investigators need to be able to speak in person with victims and witnesses to complete a thorough investigation into the alleged sexual abuse. Furthermore, although transfer may seem necessary to protect a detainee victim, immigration detainees generally cannot defend their immigration case if they are moved at a distance from their lawyers. Removal proceedings against detainees who report sexual abuse should be halted at least until the investigation has been completed and a finding has been made. Immigrants who are victims of certain sex crimes may be eligible for a special visa that allows them to remain in the country, so it is important that an investigative finding be made while the victim still has an opportunity to apply for such a visa.

It may be very difficult for ICE officials to ensure the safety of detainee victims or witnesses of sexual abuse in custody, particularly because the majority of detainees are held in local jails and private contract facilities and are not under ICE's direct control. ICE should make a case-by-case determination about whether to release victims and witnesses by balancing the danger the detainee may face in custody, the ability of the facility to protect that detainee without transferring or isolating him or her, the potential threat the detainee poses to the community, and the burden of monitoring the individual in the community as an alternative. In many cases, it may be safer and less burdensome to the facility to release the detainee who has been a victim of or witnessed sexual abuse in custody and for ICE to monitor him or her in the community. ICE has the capacity to make such determinations on a case-by-case basis, and the merits of the detainee's immigration case should not be taken into consideration when doing so.

ID-10 Supplement to MM-3: *Ongoing medical and mental health care for sexual abuse victims and abusers*

All immigration detainees are counseled about the immigration consequences of a positive HIV test at the time they are offered HIV testing.

Assessment Checklist	YES	NO
(a) Are immigration detainees counseled about the immigration consequences of a positive HIV test at the time they are offered HIV testing?		

Discussion

In July 2008, Congress repealed the statutory ban against visits or migration to the United States by HIV-positive individuals. However, at the time these standards were drafted, HHS had yet to rewrite its regulations to comply with the change in the law. The result is that a de facto ban remains in place. There is every expectation that this will change. However, even when HHS changes its policies, immigrants seeking legal status in the United States who are known to be HIV-positive will have to seek a waiver from HHS to do so, as all people with communicable diseases are required to do. Standard MM-3 calls for all victims of sexual abuse to be counseled and tested for sexually transmitted infections, including HIV. Because of the potential consequences of a positive test for an immigration detainee, it is important that detainees make an informed decision about whether to be tested or not. Medical practitioners should be informed of the most current state of the law regarding HIV

status and its consequences for immigration detainees and inform immigration detainees of these consequences whenever an HIV test is offered.

ID-11 Supplement to DC2: Data collection

The facility collects additional data whenever an immigration detainee is the victim or perpetrator of an incident of sexual abuse in custody. The additional incident-based data collected indicate whether the victim and/or perpetrator was an immigration detainee, his or her status at the initiation of the investigation, and his or her status at the conclusion of the investigation.

Assessment Checklist	YES	NO
(a) Do the incident-based data include the following information?		
• Whether the victim and/or perpetrator was an immigration detainee		
• If the victim and/or perpetrator was an immigration detainee, his or her status at the initiation of an investigation (e.g., in custody, released, or removed from the country)		
• If the victim and/or perpetrator was an immigration detainee, his or her status at the conclusion of an investigation (e.g., in custody, released, or removed from the country)		

Discussion

Victimization of and by immigration detainees must be tracked as part of a facility's data collection efforts pursuant to PREA.

Supplemental Standards for Family Facilities

The following standards must be followed in ICE family facilities.

IDFF-1 Screening of immigration detainees in family facilities (This standard replaces rather than supplements SC-1 and SC-2)

Family facilities develop screening criteria to identify those families and family members who may be at risk of being sexually victimized that will not lead to the separation of families. Housing, program, educational, and work assignments are made in a manner that protects families and in all cases prioritizes keeping families together.

Assessment Checklist	YES	NO
(a) Has the family facility developed screening criteria to identify those families and family members who may be at risk of being sexually victimized that will not lead to the separation of families?		
(b) Are housing, program, educational, and work assignments made in a manner that protects families and places the priority on keeping families together?		

Discussion

Much of the criteria that are used to screen adult and juvenile detainees in prison and detention settings and used to make housing and other assignments within those facilities are entirely inappropriate for making housing or other decisions within family facilities. The purpose of family facilities is to keep families together, so separation cannot be

accomplished on the basis of age, gender, or sexuality. There is little or no research to suggest the appropriate criteria family facilities should use to assure that families or family members who are particularly vulnerable to sexual abuse are not housed in areas of the facility, or pods, with people who are more likely to be abusive. Children in family facilities attend school, and families participate in recreational activities together. It is not clear what criteria should be used to determine how to separate potentially vulnerable children and families from potential abusers. Those agencies that run family facilities should develop appropriate criteria to identify families and family members who are more vulnerable within the facility, but in all cases, the priority when making assignments should be to strengthen the family, keep family members together, and empower parents to protect their children.

IDFF-2 Reporting of sexual abuse in family facilities

The facility provides parents with the ability to report sexual abuse in a manner that is confidential from their children. The facility also provides children with the ability to report abuse by a parent confidentially to staff.

Assessment Checklist	YES	NO
(a) Does the facility provide parents with the ability to report sexual abuse in a manner that is confidential from their children?		
(b) Does the facility provide children with the ability to report abuse by a parent confidentially to staff?		

Discussion

Because parents and children are held together in a locked setting, it may be difficult for them to have confidential conversations with staff. However, it is essential that opportunities for confidential reporting of sexual abuse be made available both to parents and to their children.

IDFF-3 Investigations in family facilities

Parents are questioned confidentially by investigators about any incident of sexual abuse, away from their children. A parent or parents are present when a child is questioned by investigators about any incident of sexual abuse, unless (1) the child has alleged abuse by the parent or (2) staff suspects abuse by the parent. The decision to exclude a parent from an interview based on staff suspicion of abuse by that parent is always made by a qualified mental health practitioner.

Assessment Checklist	YES	NO
(a) Do investigators always question a parent about sexual abuse in a confidential manner away from the parent's children?		
(b) Are parents allowed to be present whenever a child is questioned about an incident of sexual abuse, except in the following circumstances?		
• The child has alleged abuse by the parent		
• Staff suspects abuse by the parent		
(c) In the event that staff suspects abuse by a parent, is the decision to exclude that parent from an interview by an investigator always made by a qualified mental health practitioner?		

Discussion

Family facilities should be sensitive to a family’s need to protect children from learning about sexual abuse that has occurred as well as parents’ need to be able to protect children who have been victims of sexual abuse or witnesses to sexual abuse. Investigations should be conducted in a manner that allows parents to protect their children from learning unnecessarily about sexual abuse that has occurred in the facility. When children are victims or witnesses, investigations should be conducted in a manner that respects the parents’ right to protect their children during the course of an investigation. Parents and children are held together in a locked setting. Therefore, accomplishing this requires extreme care and discretion on the part of investigators and other staff. Incidents of sexual abuse should not be discussed around children unless absolutely necessary because that child has been victimized or witnessed an incident of sexual abuse. When a child alleges that a parent has been sexually abusive, investigators should handle the matter differently, and the suspected parent cannot be present during questioning of the child. Similarly, if staff suspects that a parent has been sexually abusive, a qualified mental health practitioner should make a determination as to whether the suspicion warrants confidential communication with the child outside of the presence of a parent.

IDFF-4 Access to medical and mental health care in family facilities

All family members are offered mental health counseling (as required in MM-2 and MM-3) when one family member is a victim of sexual abuse in the facility. Following an incident of sexual abuse, parents and adult family members are examined confidentially by medical and mental health practitioners and away from children. Following an incident of sexual abuse, a parent or parents are allowed to be present during all medical and mental health examinations of a minor child, unless (1) that child has alleged sexual abuse by the parent or (2) staff suspects abuse by the parent. The decision to exclude a parent from an examination based on staff suspicion of abuse by that parent is always made by a qualified mental health practitioner. In the event that a child is sexually abused, a qualified mental health practitioner interviews the child to determine whether either parent was present or aware of the abuse and whether the parent or parents were threatened in connection with the abuse.

Assessment Checklist	YES	NO
(a) Are all family members offered mental health counseling (as required in MM-2 and MM-3) when one family member is a victim of sexual abuse in the facility?		
(b) Following an incident of sexual abuse, are parents allowed to be present during all medical and mental health examinations of a minor child, except in the following circumstances?		
• The child has alleged sexual abuse by the parent		
• Staff suspects abuse by the parent		
(c) In the event that staff suspects abuse by a parent, is the decision to exclude that parent from a medical or mental health examination always made by a qualified mental health practitioner?		
(d) In the event that a child is sexually abused, has a qualified mental health practitioner interviewed the child to determine whether either parent was present or aware of the abuse and whether the parent or parents were threatened in connection with the abuse?		

Discussion

Family members may be traumatized by sexual abuse of another family member and therefore should be offered mental health counseling along with the victim. As explained in the discussion of IDFF-3, above, family facilities should be sensitive to a family's need to protect children from learning about sexual abuse that has occurred as well as parents' need to be able to protect children who have been victims of or witnesses to sexual abuse. Therefore, as with investigations, medical and mental health examinations should be conducted in a manner that protects adult family members' confidentiality and protects children from learning unnecessarily about sexual abuse that has occurred in the facility. When children are victims of or witnesses to sexual abuse, parents must be able to observe all medical and mental health examinations. The only circumstance under which it would be inappropriate for a parent to be present during a medical or mental health examination is if the child has alleged sexual abuse by the parent or a qualified mental health practitioner has determined that there is reason to believe that the parent has been sexually abusive. Finally, in the event that a child is sexually abused in a family facility, it is the job of a qualified mental health practitioner to try to determine whether either parent was aware of the abuse and whether either parent was threatened by the abuser or others in connection with the abuse.

APPENDIX A: RESPONSIBILITIES OF FORENSIC MEDICAL EXAMINERS

The Commission directs all agency and facility heads to the U.S. Department of Justice's national protocol for extensive information on the appropriate qualifications and responsibilities of forensic medical examiners.¹ However an agency decides to adapt the national protocol, the Commission strongly recommends that the agency use the following description of responsibilities of the forensic medical examiner as a blueprint for the qualifications an agency should be considering when developing memoranda of understanding or entering into contracts with forensic medical examiners.

Forensic medical examiner responsibilities

1. Obtain forensic histories from victims.
2. Use sexual assault evidence collection kits that are standardized and meet or exceed minimum guidelines for contents.
3. Use the proper equipment and supplies to perform the exam (e.g., anoscope, colposcope with photographic capability, microscope, toluidine blue dye, in addition to standard exam room equipment and supplies).
4. Take initial and follow-up photographs of injuries, as appropriate, according to jurisdictional policy.
5. Maintain evidence integrity according to jurisdictional policies for drying, packaging, labeling, and sealing the evidence.
6. Maintain the chain of custody for all evidence collected.
7. Follow jurisdictional protocol for transferring the evidence in the custody of an authorized agent from the exam site to a crime laboratory or a secure storage area with the proper climate control.
8. Document all services provided, including recommendations for continued care regarding sexually transmitted infection examinations, testing, immunizations, post-exposure prophylaxis, and treatment.
9. Transfer copies of the inmate's medical file back to the facility/agency, if the exam is conducted off-site.

¹U.S. Department of Justice, Office on Violence Against Women, A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents (NCJ 206554), Washington, DC: U.S. Department of Justice, September 2004. This protocol is available electronically at <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>.

APPENDIX B: TRAINING TOPICS AND PROCEDURES

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

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

I. Recommended training topics

A. General education and awareness topics

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

B. Sexual abuse reporting duties

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

C. Medical and mental health care

1. The range of victims' services available to inmates, including free medical and mental health care for injuries and/or trauma resulting from sexual abuse, and how inmates gain access to those services.
2. Rules governing forensic medical exams.
3. How to detect sexual abuse during medical and mental health exams.

D. Investigations and discipline

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

II. Recommended procedures for delivering training

A. General guidance

1. Train existing staff prior to training inmates.
2. Train new staff members before they have contact with inmates.
3. Prohibit staff members from working with inmates until they can demonstrate knowledge of the agency's sexual abuse policies and procedures.
4. Ensure that staff members, contractors, and inmates have access to copies of the agency's sexual abuse policies.
5. Use multiple mechanisms for presenting the information, including lectures, dialogues, role-play/scenario-based training, and other interactive techniques.

6. Ensure training materials are up to date by reviewing them at least annually and making revisions, if necessary, to address changes in laws, policies, or protocols.
7. Provide refresher training to staff, contractors, and inmates following any changes to law or policy.
8. Provide annual continuing education on sexual abuse that includes a review of the agency's sexual abuse data from the previous year.

B. Testing and evaluation

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

APPENDIX C: INCIDENT-BASED DATA COLLECTION

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

I. Victim information

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

II. Perpetrator information

A. Inmate perpetrator

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

B. Staff perpetrator

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

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

III. Other incident information

A. Reporting

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

B. Medical and/or mental health care

1. Whether the victim received medical and/or mental health care.
2. Any injuries sustained by the victim.

C. Investigations

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

APPENDIX D: NPREC STANDARDS DEVELOPMENT EXPERT COMMITTEE MEMBERS

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

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

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Jason Ziedenberg, Consultant; Former Director, Justice Policy Institute

APPENDIX E: STANDARDS IMPLEMENTATION NEEDS ASSESSMENT

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

Pilot Site

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

Jails

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

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

Juvenile Facilities

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

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

Prisons for Men

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

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

Prisons for Women

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

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

Community Corrections Facilities

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

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

