



COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT

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``Changing Offender Behavior with Appropriate Resources to Help Create a Safer Community``

Prison Rape Elimination Act

Policies and Procedures

I Purpose:

The Nueces County Community Supervision and Corrections Department (C.S.C.D.) Substance Abuse Treatment Facility (S.A.T.F.) is committed providing a safe and healthy environment for residents, staff, visitors, contractors and volunteers. Nueces County C.S.C.D. is committed to protecting residents from sexual abuse and sexual harassment. Sexual abuse and sexual harassment compromises the safety of everyone in our facility and will not be tolerated. This policy provides Nueces County S.A.T.F. with a mechanism for complying with the Prison Rape Elimination Act (PREA) and the PREA National Standards.

II Policy:

Nueces County S.A.T.F. has mandated zero-tolerance towards all forms of sexual abuse and sexual harassment. Such conduct is prohibited by this policy and will not be tolerated; to include resident-on-resident sexual abuse or harassment and employee-on-resident sexual abuse or harassment. When it is learned that a resident is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the resident. It is Nueces County S.A.T.F.'s policy to aggressively investigate all allegations, regardless of the source, and prosecute those who are involved in incidents of sexual abuse. Alleged victims of sexual abuse or harassment will be provided a supportive and protective environment (115.211 (a), 115.262)). Sexual activity between residents or employee/volunteers/contractors and residents, regardless of consensual status, is strictly prohibited and subject to administrative and criminal disciplinary sanctions.

Definitions:

Agency means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency Head means the principal official of an agency.

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Civilian – A person who is not a paid S.A.T.F. Employee. Such individuals may include visitors, volunteers, interns, delivery truck drivers, or service personnel repairing equipment in the facility.

Contractor – A person who provides services at the facility on a recurring basis pursuant to a contractual agreement with Nueces County C.S.C.D. Such individuals may include the contractor’s employees who manage and operate facility departments such as health and/or food services, construction workers who are temporarily working on projects within the facility.

Employee – A person employed by Nueces County C.S.C.D. in an approved full-time or part-time position that is designated as such in the authorized staffing pattern.

Exigent Circumstances – Temporary unforeseen circumstance(s) that require immediate action in order to combat a threat to the security or institutional order of the facility.

PREA Team – A committee comprised of senior management, human resources, investigators and mental health professionals who review issues related to PREA reporting, incident response, investigation, and prevention.

PREA Coordinator – An upper-level management employee with sufficient time and authority to develop, implement and oversee Nueces County S.A.T.F.’s efforts to comply with the PREA National Standards. PREA Coordinator provides supervisory oversight to S.A.T.F. ensuring coordination in the prevention, detection, intervention, investigation and discipline / prosecution of sexual abuse as specified in this policy. (115.211 (b))

Gender Non-Conforming – A person whose appearance or manner does not conform to traditional societal gender expectations.

Resident – Any adult, male or female, housed in the S.A.T.F. facility. Residents may also be referred to as defendants or offenders.

Residential Monitors – Employees who monitor and track the whereabouts of residents both inside the facility, outside (on facility grounds) and off premises.

LGBTI – Lesbian, Gay (Homosexual), Bisexual, Transgender, and Intersex. This acronym will include the term Gender Non-confirming.

Intersex – A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Miranda and Garrity Warnings – Instructions provided at the start of an interview informing the interviewee of rights and liabilities outlined by the court decisions *Miranda v. Arizona* and *Garrity v. New Jersey*.

PREA – The Prison Rape Elimination Act 42 USC 15601 et seq.

PREA Compliance Manager – An Administrative level manager (Operations Manager) appointed by the Facility Director who maintains responsibility for the facility’s Sexual Abuse Response and Prevention Program (115.11 (c))

PREA National Standards – Part 115 of Title 28 of the code of Federal Regulations, the Prison Rape Elimination Act National Standards specific to Community Confinement Facilities.

Staff means employees.

Pat-down search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breasts, buttocks, or genitalia.

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

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

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

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

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

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

Youthful detainee means any person under the age of 18 who is under adult court supervision and detained in a lockup.

PREA Staffing Plan – An approved plan for staffing the facility in accordance with PREA guidelines developed by the facility in conjunction with the PREA Coordinator.

PREA Staffing Plan Deviation – When any position designated as a part of the PREA Staffing Plan is vacant for the period of an entire shift.

PREA Team – A group comprised of the Facility Director, PREA Compliance Manager, PREA Coordinator and PREA Investigator(s).

Preponderance of the Evidence Standard – An evidentiary standard under which an allegation is deemed substantiated if the weight of the available evidence indicates that the allegation is more likely than not to be truthful or correct.

Medical practitioner means 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 means 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.

Qualified Health Care Professional (QHCP) – Includes physicians, physician assistants, nurse practitioners, nurses, dentists, mental health professionals, and others who, by virtue of their education, credentials, and experience are permitted by law within the scope of their professional practice to evaluate and care for patients.

Qualified Mental Health Professionals (QMRP) – Includes psychiatrists, psychologists, psychiatric social workers, psychiatric nurses and others who, by virtue of their education, credentials, and experience are permitted by law within the scope of their professional practice to evaluate and care for the mental health needs of patients.

Rape Crisis Center – An entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(c), to victims of sexual assault.

SAFE/SANE Provider – A sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE) is a specifically trained registered nurse, physician assistant, or physician who provides comprehensive care, and timely collection of forensic evidence and testimony in sexual assault cases.

Sexual Abuse of a Resident by another Resident – Any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
2. Contact between the mouth and the penis, vulva or anus;
3. Penetration of the anal or genital opening of another person, whoever slight, by a hand, finger, object or other instrument; and
4. Any other intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual Abuse of a Resident by an Employee, Contractor or Civilian – Any of the following acts, with or without consent of the resident:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.

2. Contact between the mouth and the penis, vulva or anus;
3. Contact between the mouth and any body part where the employee, contractor, or civilian has the intent to abuse, arouse, or gratify sexual desire;
4. Penetration of the anal or genital opening, however slight, by the hand, finger, object or other instrument that is unrelated to official duties or where the employee, contractor, or civilian has the intent to abuse, arouse, or gratify sexual desire;
5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to the official duties or where the employee, contractor, or civilian has the intent to abuse, arouse, or gratify sexual desire.
6. Any attempt, threat, or request by an employee, contractor, or civilian to engage in the activities outlined above in 1-5 of this section.
7. Any display by an employee contractor, or civilian of his or her uncovered genitalia, buttocks, or breast in the presence of a resident; and
8. Voyeurism by an employee, contractor, or civilian.

Sexual Abuse Response Team (SART) – A team comprised of four (4) or more individuals having a primary role in responding to reported incidents of sexual abuse, victim assessment and support needs, and ensuring policy and procedures are carried out that ensure resident safety.

Sexual Harassment – Includes any of the following acts:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and
2. Repeated verbal comments or gestures of a sexual nature to a resident by an employee, contractor or civilian, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Transgender – A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's gender at birth.

Voyeurism – An invasion of privacy of a resident by an employee, contractor, or civilian for reasons unrelated to official duties, such as peering at a resident who is using the toilet to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

PROCEDURES:

Procedure Index

Section	Subject
A	Confidentiality
B	Hiring and Promotion
C	Training and Acknowledgement
D	Staffing
E	Supervision and Monitoring
F	External Victim Advocate and Support Services
G	Sexual Abuse Response Team (SART)
H	Resident Screening
I	Resident Orientation and Education
J	Housing and Program Assignments
K	Searches and Observation
L	Reporting Sexual Abuse and Sexual Harassment
M	Response Procedures
N	Post Investigation Review
O	Administrative and Criminal Investigations
P	Incident Classification
Q	Resident Notifications
R	Disciplinary Procedures
S	Post Incident Classification Procedures
T	Data Collection
U	Data Collection and Review
V	Data Review for Corrective Action
W	Data Storage
X	Audits
Y	Auditing and Corrective Action

A CONFIDENTIALITY

1. All information concerning an event of resident sexual abuse or sexual harassment is to be treated as confidential. Aside from reporting to designated supervisors or officials, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation and other security and management decisions. This information should never be shared with other residents. (115.261(b))

2. Appropriate controls shall be in place to safeguard the responses to questions asked during the screening for risk of victimization and abusiveness so that sensitive information is not exploited to the resident's detriment by staff or other residents. (115.241(i))
3. Security and management of documentation containing PREA information will be in accordance with Nueces County S.A.T.F. policy regarding records management, records retentions, HIPPA, etc.

B HIRING AND PROMOTION

Any incident of sexual harassment shall be considered in determining whether to hire or promote any individual or to enlist the services of any contractor, who may have contact with residents. (115.217 (b))

1. To the extent permitted by law, Nueces County S.A.T.F. will decline to hire or promote anyone who may have contact with residents, and decline to enlist the services of any contractor, who may have contact with residents who:
 - a. Has engaged in sexual abuse in a prison, jail, lock-up, community confinement facility, juvenile facility, or other institution;
 - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - c. Has been civilly or administratively adjudicated to have engaged in the activity as outlined above in B.1.b (115.217 (a)(1-3))

NOTE: To the extent permitted by law, Nueces County S.A.T.F. may decline to hire or promote and may terminate employment based on material omissions regarding such misconduct, or the provision of materially false information (115.217 (g))

2. All applicants and employees who may have direct contact with residents shall be asked about previous misconduct, as outlined above in B.1.a. – c., in written applications or interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees. (115.217 (f))
 - a. The Employment Application Supplement form will be completed upon application for employment and as part of the promotional interview process.
 - b. The Conditions of Employment document shall also serve as verification of an employee's fulfillment of his / her continuing affirmative duty to disclose any sexual misconduct as described in this policy, as outlined above in B.1.a – c. (115.217 (c)(1-2))

3. Background Records Check

- a. Before hiring new employees who may have contact with residents, Nueces County S.A.T.F. shall:
 - i. Perform a criminal background records check; and
 - ii. Consistent with federal, state, and local law make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse as defined by this policy. The Employment Application Supplement form shall be used to solicit such prior employment information (115.217 (c)(1-2))
- b. Nueces County S.A.T.F. shall also perform a criminal background records check before enlisting the services of any unescorted contractor who may have contact with the residents. (115.217 (d))
- c. Nueces County S.A.T.F. shall conduct criminal background records checks at least every five (5) years of current employees and unescorted contractors who may have contact with residents or have in place a system for otherwise capturing such information. (115.217 (e))
- d. Unless prohibited by law, Nueces County S.A.T.F. shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. (115.217 (h))

C TRAINING AND ACKNOWLEDGEMENT

1. Employees

- a. All Nueces County employees shall receive training on Nueces County S.A.T.F.'s zero-tolerance policy for sexual abuse and sexual harassment. (115.231 (a)(1)) Such training shall be tailored to the gender of the residents at the facility (115.231 (a)(1)(b)) At a minimum, all employees shall receive pre-service and annual in-service training on the following: (115.231 (c))
 - i. The PREA National Standards and other applicable state or local laws imposing criminal liability for the sexual abuse of a person held in custody;
 - ii. An employee's duty to report any occurrence of sexual harassment or sexual abuse;
 - iii. How to fulfill employee responsibilities for sexual abuse/sexual harassment prevention, detection, reporting and response in accordance with this policy.
 - iv. The right of residents to be free from sexual abuse and sexual harassment;
 - v. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - vi. The dynamics of sexual abuse and sexual harassment in confinement;
 - vii. Locations, situations, and circumstances in which sexual abuse may occur;
 - viii. The common reactions of sexual abuse and sexual harassment victims;

- ix. Signs of victimization;
- x. How to detect and respond to signs of threatened and actual sexual abuse;
- xi. How to avoid inappropriate relationships with residents;
- xii. How to communicate effectively and professionally with residents, including LGBTI and Gender Non-Conforming residents; and
- viii. How to comply with laws relevant to mandatory reporting of sexual abuse to outside authorities. (115.231 (a)(1-10))

b. Specialized Training

- i. Staff receives general training provided to all employees,
Security staff shall receive training on how to conduct cross-gender pat-down searches and searches of transgender and intersex residents, in a manner that is professional, respectful and the least intrusive possible while being consistent with security needs. (115.215 (f)) S.A.T.F. facility will utilize the Guidance in Cross-Gender and Transgender Pat Searches training curriculum from the PREA Resource Center to educate and train security staff.
 - In addition to the general training provided to all employees and to the extent that Nueces County S.A.T.F. conducts sexual abuse investigations, investigators shall receive training in conducting sexual abuse investigations in confinement settings. (115.234 (a)) The PREA Coordinator shall ensure that more than one (1) person at the facility receives training as a sexual abuse investigator. This will ensure that a trained investigator is available as a back-up during employee absences (e.g., leave, paid time off, sickness, offsite training, etc.) from work.
 - Specialized training shall include techniques for interviewing sexual abuse victim, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. (115.234 (b))
 - Documentation confirming that investigators have completed the required specialized training in conducting sexual abuse investigations shall be maintained in accordance with facility record retention policies. (115.234 (c))
 - In addition to the general training provided to all employees all full and part-time medical and mental health care professionals, who work

regularly in the facility, shall receive specialized medical training as outlined below:

- how to detect and assess signs of sexual abuse and sexual harassment;
- how to preserve physical evidence of sexual abuse;
- how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
- how and to whom to report allegations of sexual abuse and sexual harassment (115.235 (a)(1-4))
- If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. (115.235 (b))

c. Employees transferring to a facility that houses a population whose gender is different from their previously assigned facility shall receive additional training specific to the population of the newly assigned facility. (115.231 (d))

d. Employees shall be required to confirm, by either electronic or manual signature, their understanding of the received training. Signed documentation will be maintained in the employee's training file. (115.231 (d))

e. The Nueces County PREA Acknowledgement of Understanding form shall be completed by each employee serving as verification for the employees, review and understanding of the contents of this policy. The completed forms will be maintained by the Facility Director. A newly signed Nueces County PREA Acknowledgement of Understanding form shall be required for future revisions of this policy.

3. Volunteers / Contractor Training **115.232**

- a. All volunteers/contractors who have contact with inmates/residents shall receive training on their responsibilities pertaining to sexual abuse and sexual harassment prevention, detection reporting and response as outlined in this policy. (115.232 (a))
- b. The level and type of training provided to volunteers/contractors shall be based on the services they provide and level of contact they have with residents. All volunteers/contractors who have contact with residents shall be notified of Nueces County's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. (115.232 (b))
- c. Volunteers/contractors shall be required to confirm, by either electronic or manual signature, their understanding of the received training. Signed documentation will be maintained in the volunteer or contractor's file. (115.232 (c))

- d. Volunteers/contractors who have contact with residents on a recurring basis shall be provided a copy of this policy prior to admission to the facility to begin their assignment or task.
- e. The Nueces County PREA Acknowledge of Understanding form serves as verification of the volunteers or contractor's review and understanding of the contents of this policy and shall be completed by each volunteer or contractor who has contact with residents on a recurring basis. The completed forms will be maintained by the Facility Director. A newly signed Nueces County PREA Acknowledge of Understanding form will be required for future revisions of this policy.

D. Staffing 115.213, 115.218

1. Nueces County S.A.T.F. will develop a staffing plan that provides for adequate levels of staffing to protect residents against sexual abuse. The location of video monitoring systems will be considered when determining adequate levels of staffing. (115.213 (a))
2. In calculating staffing levels and determining the need for video monitoring, the following factors shall be taken into consideration:
 - a. The physical layout of each building;
 - b. The composition of the resident population;
 - c. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - d. Any other relevant factors. (115.213 (a)(1-4))
3. The facility shall make its best effort to comply on a regular basis, with the approved PREA Staffing Plan and shall document and justify all deviations. (115.213 (b)) Deviations shall be documented and notification made to Facility Director.
4. The PREA Compliance Manager is responsible for reviewing the PREA Staffing Plan in conjunction with the daily Residential Monitor Schedule. If a Staffing pattern falls below the PREA Staffing Plan due to absence, the Shift Supervisor (SRM) shall notify the PREA Compliance Manager of the deviation. The PREA Compliance Manager shall:
 - a. Document and describe the deviation along with a thorough justification for the deviation; and
 - b. Notify the PREA Coordinator of the deviation within seven (7) calendar days; to include a description of any corrective actions that were taken to resolve the deviation.
5. Annual PREA Staffing Plan Assessment
Whenever necessary, but no less frequently than once each year on August 31st, an annual PREA staffing plan assessment will be completed.

- a. In conjunction with the PREA Coordinator, the Director and the PREA Compliance Manager will complete the Annual PREA Staffing Plan Assessment. Upon completion, the Annual PREA Staffing Plan Assessment will be forwarded to the PREA Coordinator.
- b. In coordination with the PREA Compliance Manager, the PREA Coordinator shall assess, determine, and document whether adjustments are needed to:
 - i. Prevailing staffing patterns;
 - ii. The staffing plan established by this section;
 - iii. The video monitoring system and other monitoring technologies;
 - iv. The resources the facility has available to commit to ensure adherence to the staffing plan. (115.213 (c)(1-4))
 - v. Address any visual blind-spots as they are identified.
- c. Any potential changes (listed above) shall be brought to the attention of the S.A.T.F. Facility Director.

6. Upgrades to Facilities and Technologies 115.218

- A. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency’s ability to protect residents from sexual abuse.
- B. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency’s ability to protect residents from sexual abuse.

E. Supervision and Monitoring

Employees shall conduct unannounced facility rounds to identify and deter sexual abuse and sexual harassment. The occurrence of such rounds shall be documented as an unannounced round in the applicable log. This practice shall be implemented for all shifts and all areas where residents are permitted.

F. External Victim Advocates and Support Services

- 1. Nueces County S.A.T.F. shall maintain or attempt to enter into Memorandums of Understanding (MOU) or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. (115.253 (c))
- 2. Residents shall be provided access to outside victim advocates for emotional support

services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. Such information shall be included in the facility's Resident Handbook. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible. (115.253 (a))

3. Residents shall be informed, prior to giving the access, of the extent to which such communications shall be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. (115.253 (b))

4. As requested by the victim, either the victim advocate, a qualified community-based organization staff member, or a qualified facility staff person shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals (115.221 (e))

G. Sexual Abuse Response Team (SART)

1. Each facility will establish a SART which includes the following positions:

- a. PREA Compliance Manager; and
- b. PREA Coordinator
- c. PREA Investigator(s)
- d. Senior Residential Monitor (for after-hours incidents);

2. SART responsibilities shall include the following:

- a. Responding to reported incidents of sexual abuse;
- b. Responding to victim assessment and support needs;
- c. Ensuring policy and procedures are enforced to enhance resident safety; and
- d. Participating in the development of practices and/or procedures that encourage prevention of sexual abuse and enhance compliance with PREA National Standards.

3. SART Member Responsibilities

- a. The SART/PREA Team will:
 - i. Review the facility's response to sexual abuse allegations, with the Director or Designee to ensure the policy is implemented effectively and victim needs are addressed;
 - ii. Serve as primary liaison with local law enforcement or delegate this responsibility.
 - iii. Ensure the completion of the Sexual Abuse / Sexual Harassment Incident Form; and
 - iv. The PREA Coordinator or designee shall ensure that thirty, sixty and ninety day monitoring is conducted by the PREA Coordinator or Resident's Counselor (if appropriate), following a report of sexual abuse or sexual harassment, to protect against potential retaliation against residents or employees. This shall include periodic status checks of residents and review of relevant documentation. If an allegation is determined to be unfounded, retaliation monitoring will no longer be required. (115.267 (a) (c))

-monitoring will be documented on the PREA Retaliation Monitoring Report (30, 60, 90 form)

-Monitoring shall continue beyond ninety (90) days if the initial monitoring indicates a continuing need. (115.267 (c))

v. Ensure prompt actions are taken to remedy any identified retaliation. (115.267 (c))

vi. Ensure any other individual who cooperates with an investigation and expresses fear of retaliation is protected from retaliation. (115.267 (e))

vii. Attempt to obtain the services of a victim advocate from a rape crisis center to assist the alleged victim of sexual abuse.

-Efforts to identify and utilize a victim advocate shall be documented on the Sexual Abuse / Sexual Harassment Incident Form.

-If a rape crisis center is not available to provide victim advocate services, the PREA Coordinator will make available a qualified staff member from a community-based organization. (115.221 (d))

viii. Ensure that residents are aware they may access additional victim resources through community victim resource agencies; and

ix. Ensure that alleged victims are informed of their rights to care and protection from further victimization.

b. The Security representative will:

i. Ensure resident safety needs are addressed, including separating the alleged victim and perpetrator; and

ii. Ensure employee responses to reports of sexual abuse and sexual harassment are timely and consistent with policy.

H. Resident Screening

1. Initial

Upon admission to the facility, and upon transfer to another facility, residents shall be screened by staff assigned to perform the initial intake screening process in order to obtain information relevant to housing, counseling and groups with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. The screening shall identify past victims and/or predators and assess vulnerability to sexual abuse victimization. (115.262, 115.241 (a) and 115.242 (a))

a. When staff learns that a resident is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the resident.

b. Staff shall complete the interview portion of the screening upon intake or at least within twenty-four (24) hours of arrival at the facility. (115.241 (b))

c. Screenings shall include interview questions and a review of the resident's computerized record (C.S.S.), which must be completed within seventy-two (72) hours of admission to the facility. Prior criminal history will be considered.

- d. Screenings will be completed and documented using the Sexual Victimization and Abusivness Risk Screening Form, which will be shared with resident's Counselor for proper treatment planning and monitoring. (115.241 (c))
- e. Should any risk factors be identified at this time, Clinical Supervisor will consult with Operations Manager and Facility Director to determine a housing assignment that ensures the safety of all Residents. (115.262)
- f. All completed Screening Tool forms will be maintained in the resident's file. Screening of residents should only be used as a guideline for determining appropriate housing and services and should never be used as the sole reason for the deprivation of a program or privilege.
- g. Counselors will monitor any Resident who has the potential for violating other residents (aggressors) and Residents who may be at risk for victimization. Any evidence that this is occurring must be immediately reported to the appropriate Supervisor.

2. Reassessment

A. reassessment of the resident's risk level of victimization or abusiveness will be conducted by the appropriate staff member designated by the Director. The reassessment shall occur:

- a. Within thirty (30) days of the resident's arrival at the facility. The reassessment will include any additional relevant information received by the facility since the initial intake screening; and (115.241 (f))
- b. When warranted, due to a referral, request, incident of sexual abuse, or receipt of additional information that may impact the resident's risk of victimization or abusiveness. (115.241 (g))

3. Resident Refusal to Disclose

Residents may not be disciplined for refusing to answer, or for not disclosing complete information, in response to questions asked pursuant to the following:

- a. Whether the resident has a mental, physical, or developmental disability;
- b. Whether the resident is, or is perceived to be, LGBTI or Gender Non-Conforming;
- c. Whether the resident has previously experienced sexual victimization; or
- d. The resident's own perception of vulnerability. (115.241 (h))

4. Confidentiality

Appropriate controls shall be implemented within the facility regarding the dissemination of responses to questions asked in order to ensure that sensitive information is not exploited by employees or other residents to the resident's detriment. (115.241 (i))

I. Resident Orientation and Education

1. Upon arrival at the facility, all residents shall be provided written information regarding sexual abuse prevention and reporting (ex. A Resident's Guide for the Prevention and Reporting of Sexual Abuse and Sexual Harassment in Community Corrections Facilities) (115.233 (a)-1(b)) All Residents, even those who have transferred from another Facility, shall receive comprehensive educational information about the following topics related to this policy:
 - a. Nueces County S.A.T.F.'s zero tolerance policy regarding sexual abuse and sexual harassment;
 - b. How to safely report incidents, threats, or suspicions of sexual abuse or sexual harassment;
 - c. A Resident's right to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents; and
 - d. Policy and procedures regarding sexual abuse prevention and intervention. (115.233 (a))
2. Residents will be provided education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as residents who have limited reading skills. (115.233 (c) and 115.216 (a))
 - a. in the event a resident has difficulty understanding provided information or procedures outlined in this policy, employees must ensure that such information is effectively communicated to such residents on an individual basis. (115.216 (b))
 1. Clinical Supervisor will assign individuals to Counselors based on the needs of the Resident including those with limited English skills, reading or writing abilities.
 2. Documents available in Spanish and large font.
 - b. Auxillary aids that are reasonable, effective, and appropriate to the needs of the resident shall be provided when simple written or oral communication is not effective. (215.216 (b)) What You Need to Know video transcripts available in both English and Spanish.
 - c. Residents will not be relied upon to provide interpretation services, act as readers, or provide other types of communication assistance except in limited circumstances where a extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-responder duties, or the investigation of the resident's allegations. (115.216 (c))
3. The facility shall maintain documentation of resident participation in educational sessions pertaining to sexual abuse and sexual harassment. (115.233 (d))
4. In addition to providing such education, the facility shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats. (115.233 (e))

J. Housing and Program Assignments

1. The agency shall use information from the PREA Risk Screening Form required by 115.241 to inform the Operations Manager so that housing, bed, work, education and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.
2. LBGTI and Gender Non-Conforming
 - a. In deciding whether to house a transgender or intersex resident in a male housing unit or a female housing unit, or when making other housing and programming assignments for such residents, the facility shall consider the transgender or intersex resident's own views with respect to his/her own safety and shall consider (115.242 (d)) on a case-by-case basis whether such a placement would ensure the Resident's health and safety. Consideration should also be given as to whether the placement would present management or security problems. (115.242 (c))
 - b. The establishment of a unit solely dedicated to the housing of LBGTI and/or Gender Non-Conforming residents is strictly prohibited unless required by consent decree, legal settlement, or legal judgment for the purpose of protecting that resident (115.242 (f))

K. Searches and Observations

1. Cross Gender
 - a. The facility shall not conduct cross-gender strip searches except in exigent circumstances or when performed by medical practitioners.
 - b. The facility shall not conduct cross-gender pat-down searches except in exigent circumstances or when performed by medical practitioners.
3. Searches or physical examination of a transgender or intersex resident for the sole purpose of determining the resident's genital status is prohibited. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. (115.215 (e))
4. Pat and strip searches of transgender/Intersex residents will be completed by a staff member of the same sex for which the resident has been classified by referring agency. Making accommodations, if necessary, to search individuals according to gender identity would not violate the prohibitions on cross-gender searches. Searches of breasts will be completed using the back and or side of the hand.
5. Residents may shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine living quarter checks. (115.215 (d))

6. Employees of the opposite gender must announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothes. (115.215 (d))
7. Transgender and intersex residents shall be given the opportunity to shower separately from other residents. (115.242 (e))

L. Reporting Sexual Abuse and/or Sexual Harassment

1. Resident Reporting

- a. Residents shall be encouraged to immediately report pressure, threats, or instances of sexual abuse or sexual harassment, as well as possible retaliation by other residents or employees for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Resident who are victims of sexual abuse have the option to report an incident in many ways see examples below: (115.251 (a) and (b)).
 - i. Submitting an “I Need Assistance” (INA) form to the PREA Coordinator, PREA Investigator(s), the Facility Director or PREA Compliance Manager.
 - ii. Verbally telling any employee
 - iii. Having a family member (or a trusted 3rd party) call the facility to make a report.
 - iv. Contact the facility Nurse.
 - v. Call the 1-800 number on the PREA posters located throughout the facility
- b. PREA Incidents may be processed through the facility’s resident grievance process (115.252). Any method of reporting of a PREA incident is considered an official report. Should a report be submitted and received as a resident grievance, it will immediately be referred to the Facility Investigator or Facility Director.

2. Employee Reporting Duties

Employees must take all allegations of sexual abuse seriously, including verbal, anonymous, and third-party reports, and treat them as if the allegation is credible. Staff shall promptly document any verbal reports. (115.251 c)) All reports of sexual abuse and sexual harassment will be reported to the facility investigator. (15.261 (e)) Employees having contact with the alleged victim should behave in a manner that is sensitive, supportive, and non-judgmental.

- a. All employees are required to immediately report:
 - i. Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility or off facility grounds in accordance with this policy.

- ii. Retaliation against residents or employees who have reported such an incident; and
 - iii. Any employee neglect or violation of responsibilities that may have contributed to an incident or retaliation. (115.261 (a))
- b. Employees who fail to report allegations may be subject to disciplinary action.
 - c. Apart from reporting to designated PREA-trained team members, employees shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, and as specified in this policy, to make treatment, investigation, and other security and management decisions. (115.261 (b))
 - d. When it is learned that a resident is subject to a substantial risk of imminent sexual abuse, immediate action shall be taken to protect the resident. (115.262 (a)-1
 - e. Employees may privately report sexual abuse and sexual harassment of residents by forwarding a letter, sealed and marked “confidential”, to the facility Director. (115.251 (d)). Employees can also make an anonymous report to the Purple Door toll free number: 1-800-580-4878 OR 881-8888.
 - f. Unless otherwise precluded by federal, state, or local law, medical and mental health professionals shall be required to follow reporting procedures as outlined above in L.2.a. At the initiation of providing medical care, both medical and mental health professionals will inform residents of their professional duty to report and the limitations of confidentiality. (115.261 (c)) Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18. (115.281 (e))
 - g. If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local vulnerable person’s statute, the allegation shall be reported to the designated state or local services agency under applicable mandatory reporting laws (115.61 (d))

At this facility, the designated state and /or local reporting agencies are:

Purple Door of South Texas 1-800-580-4878 OR 881-8888

3 Anonymous Reporting (115.254)

The facility shall provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not a part of Nueces County S.A.T.F., and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to facility officials, allowing the resident to remain anonymous upon request.

At this facility, the following anonymous reporting mechanism and process has been established:

Call the Purple Door of South Texas 1-800-580-4878 OR 881-8888

4. Third Party Reporting

The facility shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall post this information on the facility PREA link (115.254)

§ 115.252 Exhaustion of administrative remedies

(A)(1) The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

(2) The agency may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

(3) The agency shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict the agency's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

(B) The agency shall ensure that—

(1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

(C)(1) The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(2) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.

(3) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.

(4) At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

(D)(1) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.

(2) If a third party files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(3) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.

(E)(1) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.

(2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(F) The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

M. Response Procedures 115.282, 115.283 115.262, 115.283

Access to emergency medical and mental health services - 115.282

- a. Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
- b. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.262 and shall immediately notify the appropriate medical and mental health practitioners.
- c. Resident victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
- d. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Ongoing medical and mental health care for sexual abuse victims and abusers - 115.283

- a. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
- b. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- c. The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- d. Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
- e. If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- f. Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
- g. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- h. The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Staff First Responder Duties - 115.264

1. Any employee who discovers or learns of sexual abuse, or an allegation of sexual abuse, shall ensure that the following actions are accomplished:
 - a. Separate the alleged victim and abuser. Assure the alleged victim has no contact with the alleged perpetrator, and notify one of the following members of Management: PREA Compliance Manager, Facility Director and/or PREA Coordinator. (115.264 (a)(1))
 - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence(115.264 (a)(2))
 - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking drinking, or eating (115.264 (a)(3); and
 - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser not take any actions that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking drinking, or eating. (115.264 (4))

- e. If the first responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff. (115.264 (b)(4))
- f. All required information concerning the allegation is kept confidential by discussing the information with only those employees who have a direct need to know.

2. Upon notification of alleged sexual abuse, the PREA team consisting of Facility Director, PREA Coordinator, PREA Compliance Manager, PREA Investigator(s) or Facility Designee will ensure any crime scene is preserved. These actions include:

- a. Contact Doctor's Regional Hospital Emergency Room to advise a Sexual Assault victim is in route for S.A.N.E. Nurse forensic examination.
- b. Sealing access to the immediate area of the scene, if possible;
- c. Photographing the scene and visible evidence at the scene (i.e., tissue or blood); and
- d. Securing any available recorded video footage of the affected area.

3.If the allegation involves events that took place while the alleged victim was not at the S.A.T.F. facility (while housed at another facility), the head of the facility that received the report will:

- a. Contact the outside entity where the abuse took place as soon as possible, but no later than seventy-two (72) hours after receiving the allegation (115.263 (a)(b))
- b. Determine whether the allegation was reported and investigated.
 - i. If the allegation was reported and investigated by the appropriate officials, the facility shall document the allegation, name and title of the person contacted, and that the allegation has already been addressed. Under this circumstance, further investigation and notification need not occur.
 - ii. If the allegation was not reported or not investigated, a copy of the statement of the resident shall be forwarded to the appropriate official at the location where the incident was reported to have occurred.
- c. All such contacts and notifications shall be documented including the allegation, any details learned from contact with the site where the alleged abuse took place, and the facility's response to the allegation. (115.263 (c))
- d. If an allegation is received from another facility, the Facility Director will ensure that allegation is investigated. (115.263 (d))

5. The PREA Coordinator or Facility Director or designee shall ensure the following coordinated response process is completed upon receipt of a reported sexual abuse incident:

- a. The PREA Coordinator or Facility Director or designee shall immediately

report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports to state or local law enforcement agencies for criminal investigation if the allegation (if proven true) would be considered a criminal act under federal, state, or local law. (115.254) The reporting party should request guidance from the law enforcement agency(ies) in preserving the crime scene and coordinating an investigation.

At this Facility, Such allegations are reported to the following law enforcement agency: Nueces County Sheriff's Department or Corpus Christi Police Department.

- b. Ensure the alleged perpetrator is secured in an area away from the alleged victim pending an investigation into the allegation.
 - c. If the allegation involves an employee, ensure steps are taken to place this person in a role that does not involve contact with residents.
 - d. notify the applicable contracting governmental correctional agency.
 - e. ensure that medical and mental health referrals are completed (when appropriate).
 - f. ensure that an investigation is initiated and documented. Investigations into allegations of sexual abuse must be investigated by an employee who has received training in the investigation of sexual abuse cases.
 - g. Ensure appropriate incident reports are completed in accordance with Nueces County S.A.T.F. Prison Rape Elimination Act policy and procedure: Section L – Reporting sexual abuse and /or Sexual Harassment.
 - h. Review any video recordings of the alleged crime scene from the time period implicated by the allegation. Ensure all video recordings are secured and preserved from the time period implicated in the allegation.
6. A preliminary review of the incident and the facility's response shall be conducted forty-eight (48) to seventy-two (72) hours following a reportable PREA incident. The review will be convened by the Facility Director, PREA Coordinator, PREA Compliance Manager and PREA Investigators.
- a. Participants will include the Facility Director, PREA Coordinator, PREA Compliance Manager, PREA Investigator(s).
 - b. At a minimum, the review shall include:
 - i. Discussion of the incident, and whether the incident response meets applicable standards;
 - ii. Appropriate categorization of the incident report;
 - iii. Completion of required notifications;
 - iv. A request for law enforcement involvement (if appropriate); and
 - v. Whether employee actions or failures to act contributed to the sexual abuse.

N. Post Investigation Review

1. The Facility Director will ensure that a post investigation review of a sexual abuse incident is conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. (115.286 (a))
 - a. In addition to the Facility Director, the incident review team shall include input from all parties involved including any referral sources for medical and/or mental health practitioners. (115.286 (c))
 - b. Such review shall ordinarily occur within thirty (30) days of the conclusion of the investigation. (115.286 (b))
2. The review team shall:
 - a. consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; LGBTI and/or Gender Non-Conforming identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during different shifts; and
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff. (115.286 (d)(1-5))
3. All findings and recommendations for improvement will be documented on the Sexual Abuse Incident Review Report. Completed Incident reports will be forwarded to the Facility Director, the PREA Compliance Manager, and the PREA Coordinator.
4. The facility shall implement the recommendations for improvement or shall document reasons for not doing so. (115.286 (e))

O. Administrative and Criminal Investigations

The Facility Director shall ensure that an administrative investigation and a referral for a criminal investigation, where appropriate, are completed for all allegations of sexual abuse and sexual harassment including third-party and anonymous reports. (115.222 (a) 115.254)

- a. When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (115.271 (a))
- b. Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.234. (115.271 (b))

- c Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. (115.271(c))
- d When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (115.271 (d))
- e The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. (115.271 (e))
- f Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. (115.271 (g))
- g Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. (115.271 (h))
- h The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. (115.271 (i))
- i The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. (115.271 (j))

Administrative Investigation

The administrative investigation shall include an effort to determine whether staff actions or failures to act contributed to the abuse. Such investigations shall be documented on the Incident Investigation Report and shall detail the following components: (115.271 (f)(1))

- a. Investigative facts (i.e., specific details about what actually happened);
- b. Physical evidence (e.g., clothes collected, medical evidence, etc.);
- c. Testimonial evidence (e.g., witness statements);
- d. Reasoning behind credibility assessments (i.e., why is the person deemed credible or not credible. Credibility shall be assessed on an individual basis and not be determined by the person's status as a resident or employee.); (115.271 (f)(2))
- e. Investigative findings (i.e., discovery or outcome of the investigation); and
- f. Whether actions and/or failures of staff to act contributed to the incident, including an explanation as to what determined the conclusion.

2.Roles within a Criminal Investigation

- a. The facility shall enter into a written Memorandum of Understanding (MOU) with the outside

agency investigating agency or entity outlining the roles and responsibilities of both the facility and the investigating entity in performing sexual abuse investigations.

- i. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. (115.271 (I))
- b. The facility investigator, as delegated by the Facility Director, shall establish a relationship with local law enforcement agencies and prosecutors to develop a clear understanding of the investigative guidelines and procedures used during a criminal investigation of an alleged sexual abuse incident.
- c. Discussions with state or local law enforcement should define the roles of the facility investigator and the law enforcement investigator.
- d. Facility employees will assist the state or local law enforcement by preserving the integrity of the evidence so that successful prosecution can take place.

3. Responsibilities of the Investigating Entity

Investigations conducted by a facility employee for allegations of sexual abuse will be handled in accordance with the Code of Federal Regulations, Title 28, Part 1151.221, Evidence Protocol and Forensic Medical Examinations, as outlined below. If the facility is not responsible for investigating such allegations, the facility shall request that the responsible outside agency or entity (i.e., state or local law enforcement, contracting agency, etc) comply with these requirements. (115.221 (f))

- g. The investigating entity shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. (115.221 (a))
- h. The protocol shall be, as appropriate, adapted from or otherwise based on the most recent edition of the Department of Justice's Office on Violence against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults" or similarly comprehensive and authoritative protocols developed after 2011. (115.221 (b))
- i. The investigating entity shall offer all victims of sexual abuse access to forensic medical examinations, whether onsite or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by a SAFE or SANE where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The investigating entity shall document its efforts to provide SAFEs or SANEs. (115.221 (c))
- j. The investigating entity shall attempt to make available to the victim a victim advocate from a rape crisis center. The investigating entity may utilize a rape crisis center that is part of a government unit as long as the center is not part of the criminal justice system (such a law

enforcement agency) and offers a comparable level of confidentiality as a non-governmental entity that provides similar victim services. (115.221 (d))

- i. If a rape crisis center is not available to provide victim advocate services, the investigating entity shall make available a qualified investigating entity staff member, to provide these services.
- ii. The investigating entity shall document efforts to secure services from rape crisis centers.
- k. As requested by the victim, either the victim advocate, a qualified investigating entity staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals. (115.221 (e))

In any sexual abuse or sexual harassment investigation in which the facility is the primary investigating entity, the facility shall utilize a preponderance of the evidence standard for determining whether sexual abuse or sexual harassment has taken place. (115.272)

P. Incident Classification

All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports shall be reported in accordance with Nueces County S.A.T.F. Policy for Reporting Incidences of Sexual Abuse and Sexual Harassment. (115.254)

1. Incident Classification

- a. Following completion of the investigation, the allegation will be classified as follows:
 - i. Substantiated – An incident shall be classified as substantiated if the results of the Investigation determine that the allegation did occur.
 - ii. Unsubstantiated – An incident shall be classified as unsubstantiated if the results of the investigation determine that the evidence was insufficient to make a final determination of whether or not the allegation occurred.
 - iii. Unfounded – An incident shall be classified as unfounded if the results of the investigation determine the allegation did not occur.
- b. The Facility Director will determine the appropriate classification of the incident and ensure that the PREA Reporting Form is completed and maintained with the incident packet.

Q. Resident Notifications - 115.273

1. Following an investigation into a resident's allegation that he or she suffered sexual abuse at the facility, the resident shall be informed as to whether the allegation has been determined to be

substantiated, unsubstantiated or unfounded. If the facility did not conduct the investigation, the relevant information shall be requested from the outside investigating agency or entity in order to inform the resident. (115.273 (a)(b))

2. Following a resident's allegation that an employee has committed sexual abuse against the resident, the facility shall subsequently inform the resident (unless the facility has determined that the allegation is unfounded) whenever:

- a. The employee is no longer posted within the resident's unit as a result of the findings of the investigation;
- b. The employee is no longer employed at the facility as a result of the allegation;
- c. The facility learns that the employee has been indicted on a charge related to sexual abuse within the facility; or
- c. The facility learns that the employee has been convicted on a charge related to sexual abuse within the facility. (115.273 (c)(1-4))

3. Following a resident's allegation that he/she has been sexually abused by another resident, the facility shall subsequently inform the alleged victim whenever:

- a. The facility learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- b. The facility learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (115.273 (d)(1, 2))

4. All resident notifications or attempted notifications shall be documented on the Resident Allegation Status Notification. The resident shall sign the Resident Allegation Status Notification, verifying that such notification has been received. The signed Resident Allegation Status Notification shall be filed in the Resident's file.

5. The facility's obligation to notify the resident as outlined in this section shall terminate if the resident is released from Nueces County's custody. (115.273 (f))

R. Disciplinary Sanctions 115.278

Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse. (115.278 (a))

1. Residents

a. Substantiated Incidents

- i. All residents found guilty of sexual abuse shall be institutionally disciplined in accordance with the facility disciplinary procedures. (115.278 (a))
- ii. Because the burden of proof is substantially easier to prove in a resident's disciplinary case than in a criminal prosecution, a resident may be institutionally disciplined even though law enforcement officials decline to prosecute.

iii. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. (115.278 (b))

iv. The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed. (115.278 c))

v. A resident may be disciplined for sexual conduct with an employee only upon finding that the employee did not consent to such contact. (115.278 (e))

b. Deliberate False Allegations

i. Residents who deliberately allege false claims of sexual abuse can be disciplined.

ii. The Facility Director or designee should contact law enforcement to determine if a deliberately false accusation may be referred for prosecution.

c. Disciplinary Sanctions

If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the alleged perpetrator to participate in such interventions as a condition of access to programming or other benefits. (115.278 (d))

For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. (115.278 (f))

At this facility, the following interventions may be available to the alleged perpetrator:
Counseling referral to the Purple Door– Domestic violence Counseling

2. Employees

a. Employees shall be subject to disciplinary sanctions up to and including termination for violating Nueces County's S.A.T.F. sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for employees who have engaged in sexual abuse. (115.276 (a)(b))

b. Disciplinary sanctions for violations of Nueces County's S.A.T.F. sexual abuse or sexual harassment policies (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary history, and the sanctions imposed for comparable offenses by

other employees with similar histories. (115.276 (c))

c.All terminations for violations of Nueces County's S.A.T.F. sexual abuse or sexual harassment policies, or resignations by employees who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. (115.276 (d))

3.Civilians/Contractors

Any civilian or contractor who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies and to any relevant licensing body. Any other violation of Nueces County's S.A.T.F. sexual abuse or sexual harassment policies by a civilian or contractor will result in further prohibitions. (115.277 (a)(b))

S. Post Incident Classification Procedures

Once the investigation is complete, the necessity of keeping the victim and perpetrator separated will be evaluated, such that the victim and perpetrator or potential perpetrator are kept separate while housed at the S.A.T.F. facility (or until any recommended transfer is completed)

T. Data Collection 115.286

1.The Nueces County S.A.T.F. PREA Team shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

2.Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

3.The review team shall include upper-level management officials, with input from PREA Compliance Manager, PREA Coordinator, Investigators and any medical or mental health practitioners who became involved in the case.

4.The review team shall:

a Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;

b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay , bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

c.Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

d. Assess the adequacy of staffing levels in that area during different shifts;

e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

f. Prepare a report of its findings, including but not necessarily limited to

determinations made pursuant to paragraphs (2)(a) – (2)(e) of this section, and any recommendations for improvement and submit such report to the facility Director and PREA Coordinator.

5. The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

U. Data Collection and Review 115.287

1. The Nueces County PREA team shall collect accurate, uniform data for every allegation of sexual abuse at S.A.T.F. using a standardized instrument and set of definitions (Survey of Sexual Violence conducted by Department Of Justice)

2. The agency shall aggregate the incident-based sexual abuse data at least annually.

3. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

4. The Nueces County S.A.T.F. PREA Team shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

V. Data Review for Corrective Action 115.288

1. The agency shall review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

3. The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.
4. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

W. Data Storage, Publication, and Destruction 115.289

1. The Nueces County PREA Team shall ensure that data collected pursuant to 115.87 are securely retained.
2. The PREA Team shall make all aggregated sexual abuse data readily available to the public at least annually through its website or, if it does not have one, through other means.
3. Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
4. The PREA Team shall maintain sexual abuse data collected pursuant to 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise

X. Audits 115.293

115.93 Audits of standards.

The Nueces County S.A.T.F. shall conduct audits pursuant to 115.401 - .405.

Y. Auditing and Corrective Action 115.401

115.401 Frequency and scope of audits

The Nueces County S.A.T.F. shall ensure that the facility is audited in accordance with current PREA Standards.

Revision:

This policy has been revised on the dates listed below:
06/18/2019 – modifications as a result of PREA Audit.