



*State of North Carolina
Department of Public Safety
Prisons*

Chapter: F
Section: .3400
Title: **Inmate Sexual Abuse and
Sexual Harassment Policy**
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POLICY & PROCEDURES

.3401 AUTHORITY

This policy is issued by the Director of Prisons given the authority to manage and direct the total operations of the Prison Section and to establish such rules and regulations as the Director prescribes.

.3402 PURPOSE

The purpose of this policy is to provide guidelines for the prevention, detection, response, investigation, prosecution and tracking of inmate on inmate and staff on inmate sexual abuse and sexual harassment.

.3403 APPLICABILITY

This policy applies to all inmates, and to all persons employed by Prisons, volunteers, agents of the Department, and contractors assigned to a facility and/or providing services to inmates.

.3404 DEFINITIONS

- (a) **ABUSER:** The inmate or staff member who commits an act of sexual abuse and/or sexual harassment.
- (b) **CONTRACTOR:** Means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
- (c) **DIRECT STAFF SUPERVISION:** Means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.
- (d) **EXIGENT CIRCUMSTANCES:** Means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- (e) **FIRST RESPONDER:** The first staff member to respond to a report of alleged sexual abuse or sexual harassment.
- (f) **INMATE:** Means any person incarcerated or detained in a prison or jail.
- (g) **INVESTIGATOR:** A staff member who has been assigned or designated to administratively investigate a report of alleged inmate sexual abuse and/or sexual

harassment; and has received specialized training in conducting such investigations in confinement settings.

- (h) **PREA SUPPORT PERSON:** A designated employee, at each facility, that has been screened for appropriateness to serve as a victim advocate and has received education concerning sexual assault and forensic examination issues in general.
- (i) **PREA COMPLIANCE MANAGER:** A designated employee, at each facility, with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.
- (j) **PRELIMINARY INVESTIGATION:** Is conducted by a sexual abuse and sexual harassment investigator to determine, at a minimum:
 - (1) if the allegation is a form of sexual abuse or sexual harassment, and
 - (2) who is the alleged victim(s) and abuser(s)
- (k) **PREPONDERANCE OF EVIDENCE:** Is the evidentiary standard for administrative investigations.
 - (1) 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;
 - (2) This standard is satisfied if the evidence shows that it is more probable than not that an event occurred;
 - (3) Preponderance of the evidence is a lesser standard of proof than "beyond a reasonable doubt," which is required to convict in a criminal trial;
 - (4) The agency shall impose no standard higher than a preponderance of evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated, §115.72 of the national standards.
- (l) **SEXUAL ABUSE REVIEW TEAM:** Includes the PREA Compliance Manager and upper-level management officials, with input from line supervisors, investigators, and medical and mental health practitioners.
- (m) **SEXUAL ABUSE:** Encompasses (1) sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and (2) sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.
 - (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is

coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) Contact between the mouth and the penis, vulva, or anus;
 - (C) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - (D) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:
- (A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) Contact between the mouth and the penis, vulva, or anus;
 - (C) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; to include kissing.
 - (D) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (E) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (F) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
 - (G) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

- (H) Voyeurism by a staff member, contractor, or volunteer: an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.
- (n) **SEXUAL HARASSMENT:**
- (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 inmate, detainee, or resident directed toward another; and
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- (o) **SUBSTANTIATED ALLEGATION:** Means an allegation that was investigated and determined to have occurred.
- (p) **UNFOUNDED ALLEGATION:** Means an allegation that was investigated and determined not to have occurred.
- (q) **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.
- (r) **VICTIM:** The inmate who has been determined to have a history of being sexually abused and/or sexually harassed by another.
- (s) **VOLUNTEER:** any person who provides goods or services to Prisons of his/her own free will and does so for no financial gain.
- (t) **VULNERABLE ADULT:** any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.
- (u) **YOUTHFUL INMATE:** any inmate under the age of 18 being supervised in the adult prison system.

.3405 POLICY

The North Carolina Department of Public Safety is committed to a standard of zero-tolerance of sexual abuse and sexual harassment toward inmates, either by staff, contractors, volunteers, or by inmates. Therefore, it is the policy of Prisons to provide a safe, humane and appropriately secure environment, free from the threat of sexual abuse and sexual harassment for all inmates, by maintaining a program of prevention, detection, response, investigation, prosecution and tracking.

.3406 PROCEDURES

(a) EMPLOYEE TRAINING:

- (1) New Employees: shall receive the Sexual Abuse and Harassment 101 training that addresses the following:
 - (A) The agencies standard of zero-tolerance of sexual abuse and sexual harassment toward inmates, either by staff, contractors, volunteers, or by inmates.
 - (B) Employees' responsibilities when responding to sexual abuse and harassment;
 - (C) Inmates' right to be free from sexual abuse and sexual harassment;
 - (D) Inmates' and employees' right to be free from retaliation for reporting sexual abuse and harassment;
 - (E) The dynamics of sexual abuse and sexual harassment in confinement;
 - (F) Common reactions of sexual abuse and sexual harassment victims;
 - (G) Detect and respond to signs of threatened and actual sexual abuse;
 - (H) How to avoid inappropriate relationships with inmates;
 - (I) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates;
 - (J) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
 - (K) Relevant laws regarding age of consent; and
 - (L) Unique attributes of working with males and/or females in confinement/supervision.

- (2) Annual Refresher: All staff shall receive annual refresher training on inmate sexual abuse and sexual harassment issues emphasizing the zero-tolerance and duty to report, as well as covering current sexual abuse and sexual harassment policies and procedures.
 - (3) All materials provided to staff on the subject of sexual abuse and sexual harassment, and any lesson plans used during any presentations on this topic shall be approved by Department of Public Safety's PREA Office.
 - (4) Additional training may be offered at individual facilities or through the Office of Staff Development and Training.
 - (5) Training for staff shall be offered by approved Staff Trainers certified as General Instructors unless an exception is given by the Director.
 - (6) Verification of employee training shall be documented on form OSDT-1 and in appropriate agency training tracking system.
 - (7) Certification of employee understanding of material shall be documented by signing the PREA Acknowledgement Form (OPA-T10); or electronic signature when completing the ELearning course authorized by the agency.
- (b) TRAINING FOR VOLUNTEERS, CUSTODIAL AGENTS, CONTRACTORS, AND OTHER PERSONS PROVIDING SERVICES TO INMATES:
- (1) Initial Training:
 - (A) Volunteers (with the exception of One-Time volunteers who have no direct contact with inmates), custodial agents, contractors and other persons providing services to inmates:
 - (i) Shall receive the Sexual Abuse and Harassment 101 training as part of initial orientation which addresses:
 - (I) The agencies standard of zero-tolerance of sexual abuse and sexual harassment toward inmates, either by staff, contractors, volunteers, or by inmates; and
 - (II) How to report incidents of sexual abuse and harassment.
 - (ii) The application process will not be complete until the volunteer verifies understanding of training by signing the PREA Acknowledgement Form and returning the form to the facility.
 - (B) One-Time volunteers

- (i) Shall review information on PREA Acknowledgement Form (OPA-T10) which addresses:
 - (I) The agencies standard of zero-tolerance of sexual abuse and sexual harassment toward inmates, either by staff, contractors, volunteers, or by inmates; and
 - (II) How to report incidents of sexual abuse and harassment.
 - (ii) The application process will not be complete until the volunteer verifies understanding of information by signing the PREA Acknowledgement Form (OPA-T10) and returning the form to the facility.
- (C) Training shall be offered by approved Staff Trainers certified as General Instructors unless an exception is given by the Director.
- (2) Annual Training:
- (A) VOLUNTEERS: At a minimum, all volunteers must review and sign a PREA Acknowledgement Form (OPA-T10) annually as part of the application renewal process. The application process will not be complete until the volunteer verifies understanding of training by signing the PREA Acknowledgement Form and returning the form to the facility.
 - (B) WORK RELEASE/STUDY RELEASE: The Work Release/Study Release Coordinator shall provide the PREA Acknowledgement Form (OPA-T10) to the company or school contact person. The contact person must review and verify understanding of training by signing the PREA Acknowledgement Form (OPA-T10) and returning it to the Coordinator.
 - (C) CUSTODIAL AGENTS: Custodial Agents will receive PREA refresher training annually that will include the Introduction to PREA lesson plan with the approved video.
 - (D) CONTRACT PERSONS/AGENCIES (who have direct contact with inmates):
 - (i) Contracts will be modified to include language that reflects Prisons' commitment to a zero-tolerance of sexual abuse and sexual harassment, the contract person's duty to report any allegations of inmate sexual abuse or sexual harassment either by another inmate or by staff, and obligation to adopt and comply with the PREA standards.

- (ii) New contracts and contract renewals shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.
- (c) SPECIALIZED TRAINING:
 - (1) Investigators: Sexual Abuse and Harassment
 - (A) Shall complete appropriate employee training defined in section .3406(a)
 - (B) Shall receive training on conducting sexual abuse and harassment investigations in a confinement setting. Such training shall include:
 - (i) Techniques for interviewing sexual abuse victims;
 - (ii) Proper use of Miranda and Garrity Warnings;
 - (iii) Sexual abuse evidence collection in a confinement setting; and
 - (iv) Criteria and evidence required to substantiate a case for administrative action or prosecution referral.
 - (C) Completion of training shall be documented on form OSDT-1 and in appropriate agency training tracking system.
 - (2) Medical and Mental Health care practitioners:
 - (A) Shall complete mandated training defined in section .3406(a) for Employees; or mandated training defined in section .3406(b) for Volunteers, Custodial Agents, Contractors, and Other Persons Providing Services to Inmates for contractor's.
 - (B) All full- and part-time medical and mental health care practitioners who work regularly in its facilities shall be trained in:
 - (i) Detecting and assessing signs of sexual abuse and sexual harassment;
 - (ii) Preserving physical evidence of sexual abuse;
 - (iii) Responding effectively and professionally to victims of sexual abuse and sexual harassment; and
 - (iv) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

- (C) Verification of employee training shall be documented on form OSDT-1 and in appropriate agency training tracking system.

(d) INMATE EDUCATION:

(1) RECEPTION: All inmates shall receive, during reception, information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, and how to report incidents or suspicions of sexual abuse and sexual harassment.

(2) INTAKE: All inmates shall receive comprehensive education about sexual abuse and sexual harassment. Such education shall be completed within 30 days of intake and upon transfer to a different facility.

(A) Comprehensive education shall include:

(i) Inmates' rights to be free from sexual abuse and sexual harassment;

(ii) Inmates' rights to be free from reporting incidents of sexual abuse and sexual harassment; and

(iii) The agency's policies and procedures for responding to incidents of sexual abuse and sexual harassment.

(iv) The toll free PREA telephone number for reporting sexual abuse directly to the PREA Office (when applicable), however, if the safety and security of the inmate is at risk, the toll-free number is not the recommended method by which to report incidents of allegations of sexual abuse.

(B) Education for Inmates shall be offered by staff that has completed the PREA Train the Trainer Inmate Education course.

(3) TRANSFER: All inmates shall receive education about sexual abuse and sexual harassment upon transfer to a different facility.

(A) Education shall be completed utilizing the Inmate Sexual Abuse and Sexual Harassment Orientation Upon Transfer (Facilitator Talking Points).

(B) Each inmate shall receive a copy of the PREA Brochure.

(C) Each inmate will sign the Orientation Form and placed in his/ her field jacket.

(D) Education for Inmates shall be offered by a designated employee at the facility.

- (4) Appropriate provisions shall be made as necessary for inmates not fluent in English, persons with disabilities and those with low literacy levels.
 - (5) Additional sexual abuse and sexual harassment information shall be provided through inmate brochures, handbooks and posters.
 - (6) All materials provided to inmates on the subject of sexual abuse and sexual harassment, and any lesson plans used during any presentations on this topic shall be approved by Department of Public Safety's PREA Office.
- (e) GENERAL PROVISIONS:
- (1) Screening for risk of victimization and abusiveness:
 - (A) All inmates and safekeepers shall receive a mental health screening (MHSI), administered via the web-based OPUS intake system, within 72 hours after admission to Prisons. Diagnostic Services staff shall conduct screening to determine an inmate's risk of being sexually abused by other inmates or their risk of being sexually abusive towards other inmates. The screening shall use an objective screening instrument that obtains the following minimum biographical data about the inmate:
 - (i) Whether the inmate has a mental, physical, or developmental disability;
 - (ii) The age of the inmate;
 - (iii) The physical build of the inmate;
 - (iv) Whether the inmate has previously been incarcerated;
 - (v) Whether the inmate's criminal history is exclusively nonviolent;
 - (vi) Whether the inmate has prior convictions for sex offenses against an adult or child;
 - (vii) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (viii) Whether the inmate has previously experienced sexual victimization;
 - (ix) The inmate's own perception of vulnerability;

- (x) Whether the inmate is detained solely for civil immigration purposes; and
- (xi) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive.

- (B) Based upon the results of the MHSI, a referral may be generated to mental health for any concerns. Qualified mental health professional(s) shall be contacted immediately at any time during the screening process, if the inmate's mental health indicates that he or she needs to be seen.
- (C) Every treatment encounter between an inmate and a mental health staff member will be recorded in OPUS.
- (D) The responses to the MHSI, are confidential; therefore the facility shall implement appropriate controls on the dissemination of responses to questions asked in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.
- (E) Inmates may not be disciplined for refusing to answer or for not disclosing complete information during screening or assessment.
- (F) Upon transfer to another facility, during the initial contact, the case manager will reassess the inmates' own perception of risk since the initial intake screening. Based on the response, from the inmate, a referral may be generated to mental health for any concerns. This screening shall be conducted using the web-based case management roster.
- (G) When a safekeeper transfers from one facility to another, within 3 days of arrival, a case analyst shall conduct a screening to determine the safekeepers' own perceptions of vulnerability. Based on the response from the safekeeper, a referral may be generated to mental health for any concerns. The screening will be conducted using the web-based case management roster.
- (H) In the event of a medical transfer to Central Prison or the North Carolina Correctional Institution for Women, the inmate shall be screened within 3 days of arrival to determine the inmates' own perception of vulnerability. This screening will be conducted using the web-base case management roster. Based on the response from the inmate a referral may be generated to mental health for any concerns.

- (2) Medical and Mental Health Screening; History of Sexual Abuse:

- (A) If the screening for risk of victimization and abusiveness indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
 - (B) If the screening for risk of victimization and abusiveness indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
 - (C) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
 - (D) Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.
- (3) Use of Screening information:
- (A) The information from the screening for risk of victimization and abusiveness shall be used 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.
 - (B) The following procedures will be followed to manage housing and bed assignments:
 - (i) Any inmate identified as a high risk abuser shall be restricted from double-cell housing.
 - (ii) A report of newly admitted high risk abusers will be reviewed weekly by Prisons Administration, Manager of Classification Services, or designee to activate a Central Monitoring file to prevent double cell housing.

- (iii) Designated personnel at each facility, as authorized by the Director of Prisons, will generate a list of high risk abusers using the web based security search tool.
 - (iv) The facility shall make individualized determination for bed assignments, based on facility housing designs, to ensure the safety of each inmate.
- (C) The following procedures will be followed to manage work assignments:
- (i) Prisons policy, Management of Security Posts F.1601 outlines the Department of Public Safety, Prisons efforts to maintain adequate levels of staffing relative to preventing incidents of sexual abuse. Facilities should evaluate other strategies to support prevention efforts, such as staff re-deployment, ensuring job site is not isolated, prior to assignments.
 - (ii) Designated staff at each facility shall review the web-based security search tool weekly, or more often as deemed appropriate, to monitor any high risk abusers assigned to their facility.
 - (iii) Facilities shall take appropriate action to ensure all job assignments are appropriate for high-risk abusers.
- (D) The following procedures will be followed to manage program and education assignments:
- (i) Designated staff at each facility shall review the web-based security search tool weekly, or more often as deemed appropriate, to monitor any high risk abusers assigned to their facility.
 - (ii) Facilities shall take appropriate action to ensure all program assignments are appropriate for high-risk abusers.
- (E) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
- (F) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

- (G) A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.
 - (H) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
 - (I) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.
 - (J) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.
- (4) Protective Custody:
- (A) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.
 - (B) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:
 - (i) The opportunities that have been limited;
 - (ii) The duration of the limitation; and
 - (iii) The reasons for such limitations.
 - (C) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
 - (D) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document:

- (i) The basis for the facility's concern for the inmate's safety; and
 - (ii) The reason why no alternative means of separation can be arranged.
 - (E) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.
- (5) Youthful Inmates:
- (A) A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters.
 - (B) In areas outside of housing units, the facility shall either:
 - (i) maintain sight and sound separation between youthful inmates and adult inmates, or
 - (ii) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.
 - (C) The agency shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.
- (f) REPORTING AND INVESTIGATION OF SEXUAL ABUSE AND SEXUAL HARASSMENT:
- (1) Reporting:
 - (A) Inmate reporting:
 - (i) Multiple internal ways shall be provided for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
 - (ii) At least one way shall be provided for inmates to report abuse or harassment to a public or private entity or office that is not part of

the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request.

- (iii) Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.
- (iv) Ways of reporting incidents of sexual abuse and harassment:
 - (I) To any Department of Public Safety employee;
 - (II) Administrative remedy process;
 - (III) PREA / Grievance locked box where applicable; and
 - (IV) Toll free PREA telephone number for reporting directly to the PREA Office, incidents of sexual abuse and sexual harassment (where applicable).

(B) Third Party Reporting: can be made via email, phone or letter.

(C) Staff and Agency Reporting Duties:

- (i) All staff are required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency.
- (ii) Staff has a duty to report any allegations that inmates are having sexual relationships with other inmates or with staff.
- (iii) Any retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- (iv) All reports of sexual abuse and sexual harassment, however made, are to be forwarded to the Facility Head and the PREA Office.
- (v) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
- (vi) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute,

reporting such allegation to the Department of Social Services is required.

- (vii) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.
- (viii) Local law enforcement shall be notified if there is evidence or suspicion that criminal conduct may have occurred.
- (ix) Failure of staff to report alleged incidents of sexual abuse and sexual harassment will subject the non-reporting staff member to disciplinary action.

(D) Reporting to other agencies or facilities

- (i) Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- (ii) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (iii) The Facility Head shall document such notification by completing a memorandum to file, and uploading into the correspondence tracking system (CTS).
- (iv) Upon receiving notification from another facility or agency that an allegation of sexual abuse or sexual harassment has been reported, the Facility Head shall ensure that the allegation is investigated in accordance with these standards.

- (2) Protection Duties: When the staff learns that an inmate is subject to a substantial risk of imminent sexual abuse immediate action shall be taken to protect the inmate.

(3) First Responder

- (A) Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to:
 - (i) Take necessary steps to separate the alleged victim and abuser. If the Facility Head, in consultation with the PREA Support Person, determines that the safety of the inmate victim requires placement in administrative segregation, then:

- (I) Such segregation shall be administered in accordance with the applicable policies and procedures for administrative segregation.
 - (II) The Region Director or Female Command Manager and the NCDPS PREA Office shall be notified in writing of the use of segregation and the reasons therefore.
 - (III) To the maximum extent possible, the inmate victim while in administrative segregation shall have the same privileges of access to the canteen, telephone, visitation and property as they were afforded prior to reporting.
 - (IV) Within three business days of the inmate victim's release from administrative segregation, the Facility Head or designee will return the inmate victim to the gain time job assignment the inmate victim had prior to period of administrative segregation, if available. If, for operational reasons, the inmate victim's prior job assignment is unavailable, the Facility Head or designee will place the inmate victim in another gain time job assignment that is at least equal to the prior gain time job assignment.
 - (V) The Facility Head or designee will notify the Region Director or Female Command Manager in writing, that the inmate victim has either been returned to prior job assignment or placed in equivalent one.
 - (VI) Within three business days of the receipt of the written notification from the Facility Head or designee, the Region Director, Female Command Manager or their designee will request in writing to the Assistant Chief of Program Services that the inmate victim's gain time be restored.
 - (VII) When inmate victim is released from segregation, whenever possible shall be allowed to return to previously assigned housing unit unless, in the discretion of the Facility Head, doing so exposes the inmate to an increased risk to the inmate victim's safety and security or the orderly operation of the facility.
- (ii) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

- (iii) 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; and
 - (iv) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
 - (B) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.
- (4) Medical Services:
 - (A) If an alleged act of sexual abuse has occurred and there may be forensic medical evidence, the inmate may be in need of medical assistance, or other circumstances dictate, arrangements shall be promptly made to have the alleged inmate-victim examined by medical services.
 - (B) Medical Services will follow medical protocol, which includes provisions for examination, documentation and transport to the local emergency department when appropriate, where the following will occur: collection of forensic evidence, testing for sexually transmitted diseases, counseling, and prophylactic treatment. Medical Services will ensure that the inmate receives medical follow-up and is offered a referral for mental health services.
 - (i) In preparation for transporting the inmate to the hospital's emergency room medical protocol shall be followed in order to preserve any possible evidence with an appropriate chain of evidence form attached.
 - (ii) Forensic evidence collected by the emergency room hospital will only be released to law enforcement. Facility staff should not attempt to retrieve this evidence from the hospital.
 - (iii) When the alleged victim returns from the emergency room, he or she shall be placed in administrative segregation for protective housing if necessary. If the facility does not have segregation housing available, the inmate shall be placed in another designated single cell or transferred, if necessary, to a facility with a single cell available. Placement in protective housing under this provision

does not require that the inmate be placed on watch status unless such a status has been otherwise initiated. The inmate shall be listed as a protective control pending the investigation. Care should be taken by staff not to penalize the victim because of the allegations.

- (5) Victim Support shall be offered by a PREA Support Person (PSP). The PSP shall:
- (A) Be made available to provide victim advocate services.
 - (B) Inmate victim of alleged sexual abuse by an employee, contractor, or volunteer, the PSP shall consult with the Facility Head on a weekly basis for three weeks following the report of sexual abuse to update the victim on the progress of the investigation, answer any questions of the inmate victim and provide support.
 - (C) As requested by the victim, the PREA support person, of the same gender, 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.
 - (D) Not obstruct or interfere in the course of the investigation in any manner.
 - (E) Not be designated as the facility's PREA Compliance Manager.
 - (F) Monitor for Retaliation:
 - (i) The PSP shall monitor retaliation against the victim and the inmate who either report allegations, or cooperate with investigations, of sexual abuse or sexual harassment.
 - (ii) Upon notification of a Sexual Abuse or Sexual Harassment allegation the PSP will initiate monitoring the alleged victim and inmate who reported the allegation or cooperated with officials during the investigation.
 - (iii) Continue monitoring for a minimum of 90 days or beyond 90 days if the initial monitoring indicates a continuing need.
 - (iv) Termination of monitoring prior to minimum of 90 days requires:
 - (I) Allegation to be determined unfounded
 - (II) Approval by Facility Head

- (v) Upon completion of the monitoring period, complete and document the results on Form OPA-I24.
 - (vi) PREA Sexual abuse and harassment retaliation report (Offender/Juvenile).
 - (vii) Forward Form OPA-I24 to the PREA Compliance Manager (PCM).
- (G) Inform victim of disposition of PREA Investigation:
- (i) Following an investigation into an inmate's allegation that he or she suffered sexual abuse in a facility, the PSP shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Notification shall be documented on Form OPA-I30 PREA Support Person Services.
 - (ii) If the NC Department of Public Safety did not conduct the investigation, the PSP shall request, through the chain of command, the relevant information from the investigative agency in order to inform the inmate.
 - (iii) Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the PSP shall subsequently inform the inmate and document on Form OPA-130 PREA Support Person Services (unless the allegation is unfounded) whenever:
 - (I) The staff member is no longer posted within the inmate's unit;
 - (II) The staff member is no longer employed at the facility;
 - (III) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - (IV) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
 - (iv) Following an inmate's allegation that he or she has been sexually abused by another inmate, the PSP shall subsequently inform the inmate and document on Form OPA-130 PREA Support Person Services (unless the allegation is unfounded) whenever:
 - (I) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

- (II) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
 - (v) All such notifications or attempted notifications shall be documented.
 - (vi) Obligation to report shall terminate if the inmate is released from NC Department of Public Safety custody.
- (6) PREA Compliance Manager (PCM) shall:
- (A) Monitor for Retaliation:
 - (i) The PCM shall monitor for retaliation against staff that either report or cooperate with investigations, of sexual abuse or sexual harassment.
 - (ii) Upon notification of a Sexual Abuse or Sexual Harassment allegation the PCM will initiate monitoring of staff that reported the allegation or cooperated with officials during the investigation.
 - (iii) Continue monitoring for a minimum of 90 days or beyond 90 days if the initial monitoring indicates a continuing need.
 - (iv) Termination of monitoring prior to minimum of 90 days requires:
 - (I) Allegation to be determined unfounded
 - (II) Approval by Facility Head
 - (v) Upon completion of the monitoring period, complete and document the results on Form OPA-I22 PREA Sexual abuse and harassment retaliation report (staff).
 - (vi) All completed retaliation report forms will be forwarded through chain of command to the Region Director or Female Command Manager.
 - (vii) A copy of the form will be provided to the DPS PREA Office indicating completion of the monitoring period.
 - (B) Post Incident Review (PIR)

- (i) A PIR shall be completed for all substantiated and unsubstantiated allegations of sexual abuse.
 - (ii) The PIR is completed with input from upper-level management officials, investigators, and medical or mental health practitioners.
 - (iii) The PIR shall be completed within 30 days of the conclusion of the sexual abuse investigation.
 - (iv) Upon completion, the PIR will be forwarded through chain of command to the Region Director or Female Command Manager.
 - (v) Upon completion, a copy of the PIR will be provided to the DPS PREA Office for data collection and analysis.
- (C) Not be designated as the facility's PREA Support Person.
- (7) Investigations:
- (A) General Provisions
 - (i) Investigations into allegations of sexual abuse and sexual harassment, shall be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
 - (ii) Conflict of Interest: Investigators must not have and must not be perceived to have any conflict of interest in relation to the persons being investigated or other involved staff, the conduct or the policies and procedures that are the subject of investigation.
 - (iii) If an alleged act of sexual abuse or sexual harassment is reported or discovered, an immediate preliminary investigation shall be conducted to determine if the incident meets the standards of PREA.
 - (iv) Alleged victim and abuser shall remain separated.
 - (I) Alleged inmate abuser - A determination shall be made, based upon the amount of time that has passed since the alleged incident and the possibility of evidence still existing, as to whether the alleged inmate abuser, if known, should be placed in a segregation cell to preserve forensic evidence. If an inmate is placed in a segregation cell for purposes of preserving forensic evidence, the inmate shall be strip searched in accordance with the policies set forth in

section F.0100, et seq. of Prisons Policy and Procedure Manual and all possessions taken from him or her and a paper gown issued.

- (II) If there is evidence that Sexual Abuse of an Inmate by Another Inmate may have occurred, the superintendent shall be immediately notified.
 - (III) The alleged abuser shall be held in segregation until the investigation is complete, unless other circumstances require the transfer of the alleged abuser. During the course of the investigation the alleged victim and the alleged abuser shall remain separated.
- (v) Alleged staff abuser
- (I) Alleged staff abuser - Shall remain separated from the victim until the conclusion of the investigation. This may require reassignment or placement on investigative status pending the investigation.
- (vi) Sexual abuse and sexual harassment investigations shall be conducted by staff that has received special training in sexual abuse investigations.
- (vii) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data including video and/or audio recordings; shall interview alleged victims, suspected perpetrators, and witnesses.
- (I) In order to preserve the integrity of the investigation, one person, or a specific team, shall be designated to investigate an incident, and only that person (or team) shall be involved in the collection of evidence and interviewing of potential witnesses. A thorough investigation is necessary to ensure the potential for prosecution if it is determined that a crime has been committed.
 - (II) The only persons that should be entering a secured crime scene are law enforcement personnel, the investigator, or medical staff, as needed.
 - (III) A log shall be maintained of anyone entering the crime scene and at what time they entered. Anyone entering the

crime scene should be videotaped as additional documentation.

- (IV) The area shall remain secured as a crime scene until law enforcement releases it.
- (V) In the event photography of any portion of an alleged victim's body is deemed necessary by the Facility Head, to document injuries attributed to a sexual aggressor by the alleged victim, those photographs shall be taken by custody staff of the same gender.
- (viii) A determination shall be made, based upon the amount of time that has passed since the alleged incident and other factors, whether there is a possibility of evidence still existing at the crime scene. If it is determined that evidence may still exist, when possible, the crime scene shall be secured and any potential evidence shall remain in place for law enforcement examination and investigation. If the crime scene cannot be secured, the crime scene shall be photographed and/or videotaped, and the evidence, if any, collected, and placed in an evidence bag with an evidence form attached.
- (ix) An inmate that alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- (x) Review prior complaints and reports of sexual abuse involving the suspected perpetrator, included in the incident package and considered when determining credibility of the allegations.
- (xi) When the quality of evidence appears to support criminal prosecution, the Department of Public Safety sexual abuse and harassment investigators shall only be permitted to continue interviews after consulting with local law enforcement agency as to whether interviews may be an obstacle for subsequent criminal prosecution.
- (xii) 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 inmate or staff. No agency shall require an inmate 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.

- (xiii) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
- (xiv) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
- (xv) All written reports referenced in paragraph (g) of this section shall be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
- (xvi) 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.
- (xvii) 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.

(B) Investigation Documentation

- (i) Reported allegations, including persons involved and preliminary steps taken, shall be documented in OPUS on the PR (PREA) Incident Report within 72 hours of receiving the report. All PREA Investigations shall be consulted (referred) to the Region level for final decision.
- (ii) The PREA investigation shall be completed and decided upon (approved) by the Region Director or Female Command Manager within 30 days of the initial PREA report. An extension of an additional 30 days maximum may be given by the Region Director or Female Command Manager in instances where the investigation requires additional time for the collection of evidence or determination of validity. Any PREA investigation that extends beyond the 60 maximum days must have prior approval by the Director of Prisons.
- (iii) Sexual abuse and sexual harassment investigator shall submit the completed investigation report to Facility Head immediately upon completion of the. The report is not complete until submitted to the region office for approval.
- (iv) A copy of the complete investigation packet, to include audio and/or video will be sent to the NC DPS PREA office.

- (C) Substantiated Allegations
 - (i) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
 - (ii) All substantiated reports of staff on inmate sexual abuse or sexual harassment shall be reported in writing to the Region Director or Female Command Manager who will in turn forward the report to the Director of Prisons. The written report shall include evidence to support the substantiation. The Director of Prisons will forward all substantiated incidents of sexual abuse of an inmate by staff to the Secretary of the Department of Public Safety, or designee, for referral to the State Bureau of Investigation (SBI) or other law enforcement agency for further investigation.
 - (iii) In cases where forensic evidence may be available, or injury has occurred and there is not sufficient time to forward the report to the Director of Prisons for referral to the SBI, local law enforcement may be contacted to conduct the initial criminal investigation. Local law enforcement may be asked to bring the SBI into the investigation as soon as practical. The incident information shall be forwarded to the Director of Prisons as soon as possible for delivery to the Secretary of the Department of Public Safety, or designee, for referral to the SBI.

- (g) RETALIATION: Retaliation against staff or inmates making an allegation of inmate sexual abuse or sexual harassment is prohibited.
 - (1) Inmate monitoring – see section .3406 (f)5 victim support.
 - (2) Staff monitoring – see section .3406 (f)6 PREA compliance manager.

- (h) DISCIPLINARY SANCTIONS:
 - (1) General
 - (A) All disciplinary actions must be approved through Facility Head.
 - (2) Employees:
 - (A) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

- (B) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
 - (C) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
 - (D) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
- (3) Volunteers/ Contracting agents:
- (A) Any contractor or volunteer who engages in sexual abuse shall be immediately prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
 - (B) Appropriate remedial measures shall be considered whether to prohibit further contact with inmates in the case of any other violation of sexual abuse or sexual harassment policies.
 - (C) If an allegation of sexual abuse is which a volunteer or contracting agent is the alleged abuser is substantiated the volunteer or contracting agent shall be terminated from the relationship with NCDPS.
- (4) Inmates:
- (A) Shall be subject to disciplinary sanctions pursuant to formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
 - (B) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
 - (C) The disciplinary process shall 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.

- (D) 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 offending inmate to participate in such interventions as a condition of access to programming or other benefits.
 - (E) 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.
 - (F) The agency may not discipline an inmate victim for sexual contact with staff unless a finding that the staff member did not consent to such contact.
 - (G) False Reporting: Inmates will be held accountable for knowingly making false reports of unfounded incidents of sexual abuse against staff or another inmate. If it is clearly established that a false accusation has been made, the inmate may be subject to disciplinary action.
- (i) PROSECUTIONS: Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. The facility investigator shall work with law enforcement and the district attorney's office to ensure appropriate criminal prosecution of cases of sexual abuse.
- (j) RECORD RETENTION:
- (1) All written investigation reports will be retained as long as the alleged abuser is incarcerated or employed by the agency, plus five years; or sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise, whichever is greater.
 - (2) Accurate, uniform data for every allegation of sexual abuse shall be documented in OPUS.
 - (A) The agency shall aggregate the incident-based sexual abuse data at least annually.
 - (B) 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.
 - (3) Ensure that data is securely retained.
- (k) CONFIDENTIALITY: The Facility Investigator and all others involved in the PREA process, to the extent possible, will ensure the confidentiality of PREA complaints as

well as all data collected through the investigation of those complaints except as required in the following circumstances: (1) to cooperate with law enforcement in any investigation and prosecution of the incidents alleged in such complaints; (2) to take and enforce disciplinary action against any staff member as a result of the incidents alleged in the complaints; (3) to defend against claims brought by the inmate for violation of the inmate's rights for having been subjected to sexual abuse; and (4) to otherwise comply with the law.

George Solomon 1/1/14
Prisons Director Date

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