

PREA Standards Comparison
Standards for Lock-Ups

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					<p>§ 115.5 General Definitions.</p> <p>For purposes of this part, the term—</p> <p><i>Agency</i> 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.</p> <p><i>Agency head</i> means the principal official of an agency.</p> <p><i>Community confinement facility</i> 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.</p> <p><i>Contractor</i> means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.</p> <p><i>Detainee</i> means any person detained in a lockup, regardless of adjudication status.</p> <p><i>Direct staff supervision</i> means that security staff are in the same room with, and within</p>	

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					<p>reasonable hearing distance of, the resident or inmate.</p> <p><i>Employee</i> means a person who works directly for the agency or facility.</p> <p><i>Exigent circumstances</i> 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.</p> <p><i>Facility</i> means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.</p> <p><i>Facility head</i> means the principal official of a facility.</p> <p><i>Full compliance</i> means compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.</p> <p><i>Gender nonconforming</i> means a person whose appearance or manner does not conform to traditional societal gender expectations.</p> <p><i>Inmate</i> means any person incarcerated or detained in a prison or jail.</p> <p><i>Intersex</i> means 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.</p>	

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					<p><i>Jail</i> means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.</p> <p><i>Juvenile</i> means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.</p> <p><i>Juvenile facility</i> means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.</p> <p><i>Law enforcement staff</i> means employees responsible for the supervision and control of detainees in lockups.</p> <p><i>Lockup</i> means a facility that contains holding cells, cell blocks, or other secure enclosures that are:</p> <p>(1) Under the control of a law enforcement, court, or custodial officer; and</p> <p>(2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.</p> <p><i>Medical practitioner</i> 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.</p> <p><i>Mental health practitioner</i> means a mental health professional who, by virtue of education,</p>	

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					<p>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.</p> <p><i>Pat-down search</i> 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.</p> <p><i>Prison</i> means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.</p> <p><i>Resident</i> means any person confined or detained in a juvenile facility or in a community confinement facility.</p> <p><i>Secure juvenile facility</i> means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.</p> <p><i>Security staff</i> means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.</p> <p><i>Staff</i> means employees.</p>	

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					<p><i>Strip search</i> 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.</p> <p><i>Transgender</i> 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.</p> <p><i>Substantiated allegation</i> means an allegation that was investigated and determined to have occurred.</p> <p><i>Unfounded allegation</i> means an allegation that was investigated and determined not to have occurred.</p> <p><i>Unsubstantiated allegation</i> 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.</p> <p><i>Volunteer</i> means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.</p> <p><i>Youthful inmate</i> means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.</p> <p><i>Youthful detainee</i> means any person under the age of 18 who is under adult court supervision and detained in a lockup.</p>	

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					<p>§ 115.6 Definitions related to sexual abuse.</p> <p>For purposes of this part, the term—</p> <p><i>Sexual abuse</i> includes—</p> <p>(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and</p> <p>(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.</p> <p><i>Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident</i> 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:</p> <p>(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;</p> <p>(2) Contact between the mouth and the penis, vulva, or anus;</p> <p>(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and</p> <p>(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.</p> <p><i>Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer</i> includes any of the following acts, with or without consent of the inmate, detainee, or resident:</p> <p>(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;</p> <p>(2) Contact between the mouth and the penis, vulva, or anus;</p>	

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					<p>(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;</p> <p>(4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;</p> <p>(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;</p> <p>(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;</p> <p>(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and</p> <p>(8) Voyeurism by a staff member, contractor, or volunteer.</p> <p><i>Voyeurism by a staff member, contractor, or volunteer</i> means 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.</p> <p><i>Sexual harassment</i> includes—</p> <p>(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</p> <p>(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident</p>	

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					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.	
<i>Prevention Planning</i>		<i>Prevention Planning</i>		<i>Prevention Planning</i>		<i>Prevention Planning</i>
PP-1	Zero tolerance of sexual abuse The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its lockups comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards.	115.111	Zero tolerance of sexual abuse; Prison RAPE Elimination Act (PREA) Coordinator (a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. (b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator, who may be full-time or part-time, to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its lockups.	115.111	Zero tolerance of sexual abuse and sexual harassment; PREA coordinator. (a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. (b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its lockups.	

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PP-2	Contracting with other entities for the confinement of detainees If law enforcement agencies contract for the confinement of their detainees, they do so only with private agencies or other entities, including other government agencies, committed to eliminating sexual abuse in their lockups, as evidenced by their adoption of and compliance with the PREA standards. Any new contracts or contract renewals include the entity's obligation to adopt and comply with the PREA standards and specify that the law enforcement agency will monitor the entity's compliance with these standards as part of its monitoring of the entity's performance.	115.112	Contracting with other entities for the confinement of detainees (a) A law enforcement agency that contracts for the confinement of its lockup detainees in lockups operated by private agencies or other entities, including other government agencies, shall include in any new contracts or contract renewals the entity's obligation to adopt and comply with the PREA standards. (b) Any new contracts or contract renewals shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.	115.112	Contracting with other entities for the confinement of detainees. (a) A law enforcement agency that contracts for the confinement of its lockup detainees in lockups operated by private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards. (b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.	

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PP-3	Detainee supervision Law enforcement staff provides the detainee supervision necessary to protect detainees from sexual abuse. The upper management officials responsible for reviewing critical incidents must examine areas in the lockup where sexual abuse has occurred to assess whether physical barriers may have enabled the abuse, the adequacy of staffing levels in those areas during different shifts, and the need for monitoring technology to supplement law enforcement staff supervision (DC-1). When problems or needs are identified, the agency takes corrective action (DC-3).	115.113	Supervision and Monitoring (a) For each lockup, the agency shall determine the adequate levels of staffing, and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating such levels, agencies shall take into consideration the physical layout of each lockup, the composition of the detainee population, and any other relevant factors. (b) The lockup shall also establish a plan for how to conduct staffing and, where applicable, video monitoring, in circumstances where the levels established in paragraph (a) of this section are not attained. (c) Each year, the lockup shall assess, and determine whether adjustments are needed to: (1) The staffing levels established pursuant to paragraph (a) of this section; (2) Prevailing staffing patterns; and (3) The agency's deployment of video monitoring systems and	115.113	Supervision and monitoring. (a) For each lockup, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration; (1) The physical layout of each lockup; (2) The composition of the detainee population; (3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (4) Any other relevant factors. (b) In circumstances where the staffing plan is not complied with, the lockup shall document and justify all deviations from the plan. (c) Whenever necessary, but no less frequently than once each	

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			<p>other technologies.</p> <p>(d) Any intake screening or assessment shall include consideration of a detainee's potential vulnerability to sexual abuse.</p> <p>(e) If vulnerable detainees are identified, law enforcement staff shall provide such detainees with heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible.</p> <p>(f) If the lockup does not perform intake screenings or assessments, it shall have a policy and practice designed to provide heightened protection to a detainee to prevent sexual abuse whenever a law enforcement staff member observes any physical or behavioral characteristics of a detainee that suggest the</p>		<p>year, the lockup shall assess, determine, and document whether adjustments are needed to:</p> <p>(1) The staffing plan established pursuant to paragraph (a) of this section; (2) Prevailing staffing patterns;</p> <p>(3) The lockup's deployment of video monitoring systems and other monitoring technologies; and</p> <p>(4) The resources the lockup has available to commit to ensure adequate staffing levels. (d) If vulnerable detainees are identified pursuant to the screening required by § 115.141, security staff shall provide such detainees with heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible.</p>	

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			detainee may be vulnerable to such abuse.			
				115.114	Juveniles and youthful detainees. Juveniles and youthful detainees shall be held separately from adult detainees.	

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PP-4	Heightened protection for vulnerable detainees Any intake screening or assessment includes consideration of a detainee's potential vulnerability to sexual abuse. When vulnerabilities are identified, law enforcement staff provides heightened protection to vulnerable detainees, which may require continuous direct sight and sound supervision or single-cell housing. Absent intake screenings or assessments, any time a law enforcement staff member observes any physical or behavioral characteristics of a detainee that suggest he or she may be vulnerable to sexual abuse, the staff member provides sufficient protection to that detainee to prevent sexual abuse.					

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PP-5	Limits to cross-gender viewing and searches Except in the case of emergency, the agency prohibits cross-gender strip and visual body cavity searches. Except in the case of emergency or other extraordinary or unforeseen circumstances, the agency restricts law enforcement staff from viewing detainees of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. Any examination to determine the genital status of a detainee must be conducted in a private setting by a medical practitioner and only when the genital status is unknown to the agency.	115.114	Limits to cross-gender viewing and searches (a) The lockup shall not conduct cross-gender strip searches or visual body cavity searches except in case of emergency or when performed by medical practitioners. (b) The lockup shall document all such cross-gender searches. (c) The lockup shall implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in the case of emergency, by accident, or when such viewing is incidental to routine cell checks. (d) The lockup shall not examine a transgender detainee to determine the detainee's genital status unless the detainee's genital status is unknown. Such examination shall be conducted in private by	115.115	Limits to cross-gender viewing and searches. (a) The lockup shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. (b) The lockup shall document all cross-gender strip searches and cross-gender visual body cavity searches. (c) The lockup shall implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area	

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			<p>a medical practitioner.</p> <p>(e) The agency shall train law enforcement staff in how to conduct cross-gender pat down searches, and searches of transgender detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.</p>		<p>where detainees are likely to be showering, performing bodily functions, or changing clothing.</p> <p>(d) The lockup shall not search or physically examine a transgender or intersex detainee for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, 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.</p> <p>(e) The agency shall train law enforcement staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.</p>	

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PP-6	Accommodating detainees with special needs The agency ensures that detainees who are LEP, deaf, or disabled are able to report sexual abuse to staff directly, through interpretive technology, or through non-detainee interpreters. Accommodations are made to convey all written information about sexual abuse policies, including how to report sexual abuse, verbally to detainees who have limited reading skills or who are visually impaired.	115.115	Accommodating detainees with special needs (a) The agency shall ensure that detainees who are limited English proficient, deaf, or disabled are able to report sexual abuse and sexual harassment to staff directly, or through other established reporting mechanisms, such as abuse hotlines, without relying on detainee interpreters, absent exigent circumstances. (b) The agency shall make accommodations to convey verbally all written information about sexual abuse policies, including how to report sexual abuse and sexual harassment, to detainees who have limited reading skills or who are visually impaired.	115.116	Detainees with disabilities and detainees who are limited English proficient. (a) The agency shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats	

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					<p>or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.</p> <p>(b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to detainees who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and</p>	

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					impartially, both receptively and expressively, using any necessary specialized vocabulary. (c) The agency shall not rely on detainee interpreters, detainee readers, or other types of detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee’s safety, the performance of first-response duties under § 115.164, or the investigation of the detainee’s allegations.	

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PP-7	<p>Hiring and promotion decisions</p> <p>The agency does not hire or promote anyone who has engaged in sexual abuse in an institutional setting or who has engaged in sexual activity in the community facilitated by force, the threat of force, or coercion. Consistent with Federal, State, and local law, the agency makes its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse; must run criminal background checks for all applicants and employees being considered for promotion; and must examine and carefully weigh any history of criminal activity at work or in the community, including convictions for domestic violence, stalking, and sex offenses. The agency also asks all applicants and employees directly about previous misconduct during interviews and reviews.</p>	115.116	<p>Hiring and promotion decisions</p> <p>(a) The agency shall not hire or promote anyone who has engaged in sexual abuse in an institutional setting; who has been convicted of engaging in sexual activity in the community facilitated by force, the threat of force, or coercion; or who has been civilly or administratively adjudicated to have engaged in such activity.</p> <p>(b) Before hiring new employees, the agency shall:</p> <p>(1) Perform a criminal background check; and</p> <p>(2) 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.</p> <p>(c) The agency shall either conduct criminal background checks of current employees at least every five years or have in place a system for otherwise capturing such information for current employees.</p> <p>(d) The agency shall ask all applicants and employees directly about previous misconduct in written applications for hiring or promotions, in interviews for hiring or promotions, and in any interviews or written self-</p>	115.117	<p>Hiring and promotion decisions.</p> <p>(a) The agency shall not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor who may have contact with detainees, who—</p> <p>(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);</p> <p>(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or</p> <p>(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.</p> <p>(b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with detainees.</p> <p>(c) Before hiring new employees who may have contact with detainees, the agency shall: (1) Perform a criminal background</p>	

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PP-8	Assessment and use of monitoring technology The agency uses video monitoring systems and other cost-effective and appropriate technology to supplement its sexual abuse prevention, detection, and response efforts. The agency assesses, at least annually, the feasibility of and need for new or additional monitoring technology and develops a plan for securing such technology.	115.117	Upgrades to facilities technology (a) When designing or acquiring any new lockup and in planning any substantial expansion or modification of existing lockups, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect detainees 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 detainees from sexual abuse.	115.118	Upgrades to facilities and technologies. (a) When designing or acquiring any new lockup and in planning any substantial expansion or modification of existing lockups, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect detainees 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 detainees from sexual abuse.	
<i>Response Planning</i>		<i>Responsive Planning</i>		<i>Responsive Planning</i>		<i>Responsive Planning</i>
RP-1	Evidence protocol and forensic medical exams When investigating allegations of sexual abuse in a lockup, the agency follows a uniform evidence protocol that	115.121	Evidence protocol and forensic medical exams (a) To the extent the agency is responsible for investigating allegations of sexual abuse in its lockups, the agency shall follow	115.121	Evidence protocol and forensic medical examinations. (a) To the extent the agency is responsible for investigating allegations of sexual abuse in its lockups, the agency shall follow	

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	maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol must be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2004. As part of the agency’s evidence collection protocol, all victims of detainee-on-detainee sexually abusive penetration or staff-on-detainee sexually abusive penetration are provided with access and transportation to a community medical provider served by qualified forensic medical examiners. Forensic medical exams are provided free of		a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. (b) The protocol shall be adapted from or otherwise based on the 2004 U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” subsequent updated editions, or similarly comprehensive and authoritative protocols developed after 2010. As part of the training required in § 115.131, employees and volunteers who may have contact with lockup detainees shall receive basic training regarding how to detect and respond to victims of sexual abuse. (c) The agency shall offer all victims of sexual abuse access to		a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. (b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011. As part of the training required in § 115.131, employees and volunteers who may have contact with lockup detainees shall receive basic training regarding how to detect and respond to victims of sexual abuse.	

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	charge to the victim. The agency makes available a victim advocate to accompany the victim through the forensic medical exam process.		forensic medical exams performed by qualified medical practitioners, whether onsite or at an outside facility, without financial cost, where evidentiary or medically appropriate. (d) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of these policies. (e) The requirements in paragraphs (a) through (d) of this section shall also apply to: (1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in lockups; and (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in institutional settings.		(c) The agency shall offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs. (d) If the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, the detainee shall be permitted to use such services to the extent available, consistent with security needs. (e) To the extent the agency itself is not responsible for investigating allegations of	

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					sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (d) of this section. (f) The requirements in paragraphs (a) through (e) of this section shall also apply to: (1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in lockups; and (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in lockups	
		115.123	Policies to ensure investigation of allegations (a) If another law enforcement agency is responsible for conducting investigations of allegations of sexual abuse or sexual harassment in its lockups, the agency shall have in place a	115.122	Policies to ensure referrals of allegations for investigations. (a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and	

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			<p>policy to ensure that such allegations are investigated by an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, and shall publish such policy on its website, including a description of responsibilities of both the agency and the investigating entity.</p> <p>(b) Any State entity responsible for conducting criminal or administrative investigations of sexual abuse in lockups shall have in place a policy governing the conduct of such investigations.</p> <p>(c) Any Department of Justice component responsible for conducting criminal or administrative investigations of sexual abuse in lockups shall have in place a policy governing the conduct of such investigations.</p>		<p>sexual harassment.</p> <p>(b) If another law enforcement agency is responsible for conducting investigations of allegations of sexual abuse or sexual harassment in its lockups, the agency shall have in place a policy to ensure that such allegations are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy, including a description of responsibilities of both the agency and the investigating entity, on its website, or, if it does not have one, make available the policy through other means. The agency shall document all such referrals.</p> <p>(c) Any State entity responsible for conducting administrative or criminal investigations of sexual</p>	

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					<p>abuse or sexual harassment in lockups shall have in place a policy governing the conduct of such investigations.</p> <p>(d) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in lockups shall have in place a policy governing the conduct of such investigations.</p>	

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RP-2	<p>Agreements with outside law enforcement agencies</p> <p>If an agency has elected to permit another law enforcement agency to conduct criminal or administrative investigations of allegations of sexual abuse in its lockups, the agency maintains or attempts to enter into a written memorandum of understanding (MOU) or other agreement specific to investigations of sexual abuse in lockups with the outside law enforcement agency responsible for conducting investigations. If the agency confines detainees under the age of 18 or other detainees who fall under State and local vulnerable persons statutes, the agency maintains or attempts to enter into an MOU with the designated State or local services agency with the jurisdiction and authority to conduct investigations related to the sexual abuse of vulnerable persons within confinement facilities. When the agency already has an existing agreement or long-standing policy covering responsibilities including sexual abuse investigations, it does not need to enter into a new agreement. The agency maintains a copy of the agreement or documentation</p>					

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RP-3	Agreements with the prosecuting authority The agency maintains or attempts to enter into a written MOU or other agreement with the authority responsible for prosecuting violations of criminal law. The agency maintains a copy of the agreement or documentation showing attempts to enter into an agreement.					
<i>Training and Education</i>		<i>Training and Education</i>		<i>Training and Education</i>		<i>Training and Education</i>
TR-1	Employee training The agency trains all lockup employees and any volunteers who have contact with detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant Federal, State, and local law. The agency trains all lockup employees and volunteers who have contact with detainees to	115.131	Employee and volunteer training (a) The agency shall train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, and to communicate effectively and professionally with all detainees. (b) All current employees and volunteers who may have	115.131	Employee and volunteer training. (a) The agency shall train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: (1) The agency's zero-tolerance policy and detainees' right to be free from sexual abuse	

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	communicate effectively and professionally with all detainees. Current lockup employees and volunteers are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all lockup employees and volunteers to ensure that they know the agency's most current sexual abuse policies and procedures. The agency maintains written documentation showing lockup employee and volunteer signatures verifying that they understand the training they have received.		contact with lockup detainees shall be trained within one year of the effective date of the PREA standards, and the agency shall provide annual refresher information to all such employees and volunteers to ensure that they know the agency's current sexual abuse policies and procedures. (c) The agency shall document, via employee signature or electronic verification, that employees understand the training they have received.		and sexual harassment; (2) The dynamics of sexual abuse and harassment in confinement settings, including which detainees are most vulnerable in lockup settings; (3) The right of detainees and employees to be free from retaliation for reporting sexual abuse or harassment; (4) How to detect and respond to signs of threatened and actual abuse; (5) How to communicate effectively and professionally with all detainees; and (6) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. (b) All current employees and volunteers who may have contact with lockup detainees shall be trained within one year of the effective date of the PREA standards, and the agency shall provide annual refresher information to all such employees and volunteers to	

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					<p>ensure that they know the agency's current sexual abuse and sexual harassment policies and procedures.</p> <p>(c) The agency shall document, through employee signature or electronic verification, that employees understand the training they have received.</p>	
TR-2	<p>Detainee, attorney, contractor and inmate worker notification of the agency's zero tolerance policy</p> <p>Employees notify all detainees of the agency's zero-tolerance policy regarding sexual abuse during intake. The agency ensures that attorneys, contractors, and inmate workers are informed of the agency's zero-tolerance policy regarding sexual abuse upon entering the</p>	115.132	<p>Detainee, attorney, contractor and inmate worker notification of the agency's zero tolerance policy</p> <p>(a) During the intake process, employees shall notify all detainees of the agency's zero tolerance policy regarding sexual abuse.</p> <p>(b) The agency shall ensure that, upon entering the lockup, attorneys, contractors, and any inmates who work in the lockup</p>	115.132	<p>Detainee, contractor, and inmate worker notification of the agency's zero-tolerance policy.</p> <p>(a) During the intake process, employees shall notify all detainees of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.</p> <p>(b) The agency shall ensure that, upon entering the lockup, contractors and any inmates who work in the lockup are informed</p>	

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	lockup.		are informed of the agency's zero-tolerance policy regarding sexual abuse.		of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.	
TR-3	Specialized training: Investigations In addition to the general training provided to all employees and volunteers (TR-1), the agency ensures that law enforcement staff who investigate sexual abuse in lockups have received comprehensive and up-to-date training in conducting such investigations in confinement settings. Specialized training must include techniques for interviewing sexual abuse victims, proper use of <i>Miranda</i> - and <i>Garrity</i> -type warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for	115.134	Specialized training: Investigations (a) In addition to the general training provided to all employees and volunteers pursuant to § 115.131, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. (b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of <i>Miranda</i> and <i>Garrity</i> warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for	115.134	Specialized training: Investigations. (a) In addition to the general training provided to all employees and volunteers pursuant to § 115.131, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. (b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of <i>Miranda</i> and <i>Garrity</i> warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for	

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	administrative action or prosecution referral. The agency maintains written documentation that investigators have completed the required specialized training in conducting sexual abuse investigations.		administrative action or prosecution referral. (c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. (d) Any State entity or Department of Justice component that investigates sexual abuse in lockups shall provide such training to their agents and investigators who conduct such investigations.		administrative action or prosecution referral. (c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. (d) Any State entity or Department of Justice component that investigates sexual abuse in lockups shall provide such training to their agents and investigators who conduct such investigations.	

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				115.141	Screening for risk of victimization and abusiveness. (a) In lockups that are not utilized to house detainees overnight, before placing any detainees together in a holding cell, staff shall consider whether, based on the information before them, a detainee may be at a high risk of being sexually abused and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee. (b) In lockups that are utilized to house detainees overnight, all detainees shall be screened to assess their risk of being sexually abused by other detainees or sexually abusive toward other detainees. (c) In lockups described in paragraph (b) of this section, staff shall ask the detainee about his or her own perception of vulnerability. (d) The screening process in the lockups described in paragraph	

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					(b) of this section shall also consider, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization: (1) Whether the detainee has a mental, physical, or developmental disability; (2) The age of the detainee; (3) The physical build and appearance of the detainee; (4) Whether the detainee has previously been incarcerated; and (5) The nature of the detainee’s alleged offense and criminal history.	
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RE-1	Detainee reporting The agency provides multiple ways for detainees to report easily, privately, and securely sexual abuse, retaliation by other detainees or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. Staff accepts reports made verbally, in writing, anonymously, and from third parties and immediately puts into writing any verbal reports.	115.151	Detainee reporting (a) The agency shall provide multiple ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. (b) The agency shall also make its best efforts to provide at least one way for detainees to report abuse or harassment to an outside governmental entity that is not affiliated with the agency or that is operationally independent from agency leadership, such as an inspector general or ombudsperson. (c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports. (d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees.	115.151	Detainee reporting. (a) The agency shall provide multiple ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. (b) The agency shall also inform detainees of at least one way 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 detainee reports of sexual abuse and sexual harassment to agency officials, allowing the detainee to remain anonymous upon request. (c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and promptly document any verbal reports. (d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees.	

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

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RE-3	Third-party reporting The agency receives and investigates all third-party reports of sexual abuse (IN-1). At the conclusion of the investigation, the agency notifies in writing the third-party individual who reported the abuse and the detainee named in the third-party report of the outcome of the investigation. The agency publicly distributes or posts information on how to report sexual abuse on behalf of a detainee.	115.254	Third-party reporting The agency shall establish a method to receive third-party reports of sexual abuse in its lockups. The agency shall distribute publicly information on how to report sexual abuse on behalf of a detainee.	115.154	Third-party reporting. The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment in its lockups and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a detainee.	
<i>Official Response</i>		<i>Official Response Following an Inmate Report</i>		<i>Official Response Following an Inmate Report</i>		<i>Official Response Following an Inmate Report</i>
OR-1	Staff and agency or facility head reporting duties All staff members are required to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse that occurred in an	115.161	Staff and agency reporting duties (a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in an agency lockup;	115.161	Staff and agency reporting duties. (a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred	

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	institutional setting; retaliation against detainees or staff who reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. Apart from reporting to designated supervisors or officials, staff must not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment and investigation decisions. If the victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency head must report the allegation to the designated State or local services agency under applicable mandatory reporting laws.		retaliation against detainees or staff who reported abuse; and any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or retaliation. (b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than those who need to know, as specified in agency policy, to make treatment and investigation decisions. (c) If the first staff responder is not a law enforcement staff member, he or she shall be required to request the victim not to take any actions that could destroy physical evidence and then notify law enforcement staff.		in an agency lockup; retaliation against detainees or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. (b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment and investigation decisions. (c) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. (d) The agency shall report all allegations of sexual abuse, including third-party and anonymous reports, to the	

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					agency's designated investigators.	
				115.162	Agency protection duties. When an agency learns that a detainee is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the detainee.	
OR-2	Reporting to other confinement facilities When the agency receives an allegation that a detainee was sexually abused while confined at another facility or lockup, the head of the agency where the report was made notifies in writing the head of the facility or lockup where the alleged abuse occurred. The head of the facility or lockup where the alleged abuse occurred ensures	115.162	Reporting to other confinement facilities (a) Within 14 days of receiving an allegation that a detainee was sexually abused while confined at another facility or lockup, the head of the facility or lockup that received the allegation shall notify in writing the head of the facility or lockup or appropriate central office of the agency where the alleged abuse occurred.	115.163	Reporting to other confinement facilities. (a) Upon receiving an allegation that a detainee 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. (b) Such notification shall be provided as soon as possible, but	

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	the allegation is investigated.		(b) The facility or lockup head or central office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.		no later than 72 hours after receiving the allegation. (c) The agency shall document that it has provided such notification. (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.	

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OR-3	Staff first responder duties Upon learning that a detainee was sexually abused within a time period that still allows for the collection of physical evidence, the first law enforcement staff member to respond to the report is required to (1) separate the alleged victim and abuser; (2) seal and preserve any crime scene(s); and (3) instruct the victim not to take any actions that could destroy physical evidence, including washing, brushing his or her teeth, changing his or her clothes, urinating, defecating, smoking, drinking, or eating. If the first staff responder is a non-law enforcement staff member, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and then notify law enforcement staff.	115.163	Staff first responder duties (a) Upon learning that a detainee was sexually abused within a time period that still allows for the collection of physical evidence, the first law enforcement staff member to respond to the report shall be required to: (1) Separate the alleged victim and abuser; (2) Seal and preserve any crime scene; and (3) Request the victim not to take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. (b) If the first staff responder is not a law enforcement staff member, he or she shall be required to request the victim not to take any actions that could destroy physical evidence and then notify law enforcement staff.	115.164	Staff first responder duties. (a) Upon learning of an allegation that a detainee was sexually abused, the first law enforcement staff member to respond to the report shall be required to: (1) Separate the alleged victim and abuser; (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; (3) 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 (4) If the abuse occurred within a time period that still allows for	

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					<p>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.</p> <p>(b) If the first staff responder is not a law enforcement 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 law enforcement staff.</p>	

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OR-4	Coordinated response All actions taken in response to an incident of sexual abuse are coordinated among staff first responders, medical and mental health practitioners, investigators, and agency leadership. The agency's coordinated response ensures that victims receive all necessary immediate and ongoing medical, mental health, and support services and that investigators are able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.	115.164	Coordinated response (a) The agency shall coordinate actions taken in response to a lockup incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and agency leadership. (b) If a victim is transferred from the lockup to a jail, prison, or medical facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.	115.165	Coordinated response. (a) The agency shall develop a written institutional plan to coordinate actions taken in response to a lockup incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and agency leadership. (b) If a victim is transferred from the lockup to a jail, prison, or medical facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.	

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				115.166	Preservation of ability to protect detainees from contact with abusers (a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff sexual abusers from contact with detainees pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. (b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern: (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.172 and 115.176; or (2) Whether a no-contact assignment that is imposed	

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					pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.	
OR-5	Agency or facility protection against retaliation The agency protects all detainees and staff who report sexual abuse or cooperate with sexual abuse investigations from retaliation by other detainees or staff. The agency employs multiple protection	115.165	Agency protection against retaliation (a) The agency shall protect all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff.	115.167	Agency protection against retaliation. (a) The agency shall establish a policy to protect all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff, and shall	

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	measures, including housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for staff members who fear retaliation for reporting sexual abuse or cooperating with investigations. The agency monitors the conduct and/or treatment of staff who have reported sexual abuse or cooperated with investigations. When retaliation is determined to be taking place, the agency takes immediate steps to protect the detainee or staff member.		(b) The agency shall employ multiple protection measures, including housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (c) The agency shall monitor the conduct and treatment of detainees or staff who have reported sexual abuse or cooperated with investigations, and shall act promptly to remedy any such retaliation. (d) The agency shall not enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff abusers from contact with victims pending an investigation.		designate which staff members or departments are charged with monitoring retaliation. (b) The agency shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (c) The agency shall monitor the conduct and treatment of detainees or staff who have reported sexual abuse and of detainees who were reported to have suffered sexual abuse, and shall act promptly to remedy any such retaliation. (d) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.	

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					(e) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.	
<i>Investigations</i>		<i>Investigations</i>		<i>Investigations</i>		<i>Investigations</i>
IN-1	Duty to investigate The agency investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the lockup.					

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IN-2	<p>Criminal and administrative agency or facility investigations Agency investigations into allegations of sexual abuse are prompt, thorough, objective, and conducted by investigators who have received special training in sexual abuse investigations (TR-3). When outside agencies investigate sexual abuse, the agency has a duty to keep abreast of the investigation and cooperate with outside investigators (RP-2). Investigations include the following elements:</p> <ul style="list-style-type: none"> • Investigations are initiated and completed within the timeframes established by the highest- ranking agency official, and the highest-ranking official approves the final investigative report. • Investigators gather direct and circumstantial evidence, including physical and DNA evidence when available; 	115.171	<p>Criminal and administrative agency investigations (a) When the agency conducts its own investigations into allegations of sexual abuse, it shall do so promptly, thoroughly, and objectively, using investigators who have received special training in sexual abuse investigations pursuant to § 115.134, and shall investigate all allegations of sexual abuse, including third-party and anonymous reports. (b) 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. (c) When the quality of evidence appears to support criminal</p>	115.171	<p>Criminal and administrative agency investigations. (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. (b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.134. (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.</p>	

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	<p>interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse or misconduct involving the suspected perpetrator.</p> <ul style="list-style-type: none"> • When the quality of evidence appears to support criminal prosecution, prosecutors are contacted to determine whether compelled interviews may be an obstacle for subsequent criminal prosecution. • Investigative findings are based on an analysis of the evidence gathered and a determination of its probative value. • The credibility of a victim, suspect, or witness is assessed on an individual basis and is not determined by the person's status as detainee or staff. • Investigations include an effort to determine whether staff negligence or collusion enabled the abuse to occur. • Administrative investigations 		<p>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.</p> <p>(d) The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as detainee or staff.</p> <p>(e) Administrative investigations:</p> <p>(1) Shall include an effort to determine whether staff actions or failures to act facilitated the abuse; and</p> <p>(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative findings.</p> <p>(f) Criminal investigations shall be documented in a written report that contains a thorough</p>		<p>(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.</p> <p>(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 detainee or staff. No agency shall require a detainee 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.</p> <p>(f) Administrative investigations:</p> <p>(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and</p>	

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	<p>are documented in written reports that include a description of the physical and testimonial evidence and the reasoning behind credibility assessments.</p> <p>34 Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Lockups</p> <ul style="list-style-type: none"> • Criminal investigations are documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and provides a proposed list of exhibits. • Substantiated allegations of conduct that appears to be criminal are referred for prosecution. 		<p>description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.</p> <p>(g) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.</p> <p>(h) The agency shall retain such investigative records for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.</p> <p>(i) The departure of the alleged abuser or victim from the employment or control of the lockup or agency shall not provide a basis for terminating an investigation.</p> <p>(j) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.</p> <p>(k) When outside agencies investigate sexual abuse, the agency shall cooperate with</p>		<p>(2) 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.</p> <p>(g) 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.</p> <p>(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.</p> <p>(i) 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.</p> <p>(j) The departure of the alleged abuser or victim from the employment or control of the</p>	

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			outside investigators and shall endeavor to remain informed about the progress of the investigation.		lockup or agency shall not provide a basis for terminating an investigation. (k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. (l) When outside agencies investigate sexual abuse, the agency shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.	
IN-3	Evidence standard for administrative investigations Allegations of sexual abuse are substantiated if supported by a preponderance of the evidence.	115.172	Evidentiary standard for administrative investigations The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.	115.172	Evidentiary standard for administrative investigations. The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.	

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<i>Discipline</i>		<i>Discipline</i>		<i>Discipline</i>		<i>Discipline</i>
DI-1	Disciplinary sanctions for staff Staff is subject to disciplinary sanctions up to and including termination when staff has violated agency sexual abuse policies. The presumptive disciplinary sanction for staff members who have engaged in sexually abusive contact or penetration is termination. This presumption does not limit agency discretion to impose termination for other sexual abuse policy violations. All terminations for violations of	115.176	Disciplinary sanctions for staff (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 touching. (c) Sanctions shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the	115.176	Disciplinary sanctions for staff. (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	

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	agency sexual abuse policies are to be reported to appropriate law enforcement agencies and any relevant licensing bodies.		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.		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.	

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				115.177	Corrective action for contractors and volunteers. (a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. (b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.	

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DI-2	Referrals for prosecution for detainee-on-detainee sexual abuse When there is probable cause to believe that a detainee sexually abused another detainee, the agency refers the matter to the appropriate prosecuting authority.	115.177	Referrals for prosecution for detainee-on-detainee sexual abuse (a) When there is probable cause to believe that a detainee sexually abused another detainee in a lockup, the agency shall refer the matter to the appropriate prosecuting authority. (b) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of this policy. (c) Any State entity or Department of Justice component that is responsible for investigating allegations of sexual abuse in lockups shall be subject to this requirement.	115.178	Referrals for prosecution for detainee-on-detainee sexual abuse. (a) When there is probable cause to believe that a detainee sexually abused another detainee in a lockup, the agency shall refer the matter to the appropriate prosecuting authority. (b) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall inform the investigating entity of this policy. (c) Any State entity or Department of Justice component that is responsible for investigating allegations of sexual abuse in lockups shall be subject to this requirement.	
<i>Medical and Mental Health</i>		<i>Medical and Mental Care</i>		<i>Medical and Mental Care</i>		<i>Medical and Mental Care</i>
MM-1	Access to emergency medical and mental health services Victims of sexual abuse have	115.182	Access to emergency medical and mental health services (a) Detainee victims of sexual	115.182	Access to emergency medical services. (a) Detainee victims of sexual abuse in lockups shall receive	

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	timely, unimpeded access to emergency medical services following an incident of sexual abuse, regardless of whether they name an abuser. Treatment services must be provided free of charge to the victim. The agency is responsible for ensuring their safe and timely transportation to community medical providers and for referring victims to appropriate community mental health services.		abuse in lockups shall receive timely, unimpeded access to emergency medical treatment. (b) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser.		timely, unimpeded access to emergency medical treatment. (b) 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.	
<i>Data Collection and Review</i>		<i>Data Collection and Review</i>		<i>Data Collection and Review</i>		<i>Data Collection and Review</i>
DC-1	Sexual abuse incident reviews The agency treats all instances of sexual abuse as critical incidents to be examined by a group of upper management officials, with input from line supervisors and investigators. The review team evaluates each incident of sexual abuse to identify any policy, training, or other issues related to the	115.186	Sexual abuse incident reviews (a) The lockup 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. (b) The review team shall include upper management	115.186	Sexual abuse incident reviews. (a) The lockup 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. (b) Such review shall ordinarily occur within 30 days of the	

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	incident that indicate a need to change policy or practice to better prevent, detect, and/or respond to incidents of sexual abuse. The review team also considers whether incidents were motivated by racial or other group dynamics at the lockup. When incidents are determined to be motivated by racial or other group dynamics, upper management officials immediately notify the agency head and begin taking steps to rectify those underlying problems. The sexual abuse incident review takes place at the conclusion of every sexual abuse investigation, unless the allegation was determined to be unfounded. The review team prepares a report of its findings and recommendations for improvement and submits it to the agency head.		officials, with input from line supervisors and investigators. (c) The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator or victim's race, ethnicity, sexual orientation, gang affiliation, or other group dynamics at the lockup; (3) Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and		conclusion of the investigation. (c) The review team shall include upper-level management officials, with input from line supervisors and investigators. (d) The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) 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 lockup; (3) Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during	

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			(6) Prepare a report of its findings and any recommendations for improvement and submit such report to the lockup head and agency PREA coordinator.		different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the lockup head and agency PREA coordinator. (e) The lockup shall implement the recommendations for improvement, or shall document its reasons for not doing so.	

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DC-2	Data collection The agency collects accurate, uniform data for every reported incident of sexual abuse using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually. The incident-based data collected includes, at a minimum, the data necessary to answer all questions from the most recent version of the BJS Survey on Sexual Violence. Data are obtained from multiple sources, including reports, investigation files, and sexual abuse incident reviews. The agency also obtains incident-based and aggregated data from every agency with which it contracts for the confinement of its detainees.	115.187	Data collection (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at lockups under its direct control using a standardized instrument and set of definitions. (b) The agency shall aggregate the incident-based sexual abuse data at least annually. (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice's Bureau of Justice Statistics, or any subsequent form developed by the Bureau of Justice Statistics and designated for lockups. (d) The agency shall collect data from multiple sources, including reports, investigation files, and sexual abuse incident reviews. (e) The agency also shall obtain incident-based and aggregated	115.187	Data collection. (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at lockups under its direct control using a standardized instrument and set of definitions. (b) The agency shall aggregate the incident-based sexual abuse data at least annually. (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for lockups. (d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. (e) The agency also shall obtain	

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			data from any private agency with which it contracts for the confinement of its detainees. (f) Upon request, the agency shall provide all such data from the previous year to the Department of Justice no later than June 30.		incident-based and aggregated data from any private agency with which it contracts for the confinement of its detainees. (f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.	

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DC-3	Data review for corrective action The agency reviews, analyzes, and uses all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. Using these data, the agency identifies problem areas, including any racial or other group dynamics underpinning patterns of sexual abuse, takes corrective action on an ongoing basis, and, at least annually, prepares a report of its findings and corrective actions for each lockup as well as the agency as a whole. The annual report also includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the agency's progress in addressing sexual abuse. The agency's report is approved by the agency head,	115.188	Data review for corrective action (a) The agency shall review data collected and aggregated pursuant to section 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including: (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole. (b) 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. (c) 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	115.188	Data review for corrective action. (a) The agency shall review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including: (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole. (b) 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. (c) 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,	

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	submitted to the appropriate legislative body, and made readily available to the public through its Web site or, if it does not have one, through other means. The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of an agency, but it must indicate the nature of the material redacted.		other means. (d) 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 lockup, but must indicate the nature of the material redacted.		through other means. (d) 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 lockup, but must indicate the nature of the material redacted.	

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DC-4	Data storage, publication, and destruction The agency ensures that the collected sexual abuse data are properly stored, securely retained, and protected. The agency makes all aggregated sexual abuse data, from lockups under its direct control and those entities with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers from the data. The agency maintains sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law allows for the disposal of official information in less than 10 years.	115.189	Data storage, publication, and destruction (a) The agency shall ensure that data collected pursuant to § 115.187 are securely retained. (b) The agency shall make all aggregated sexual abuse data, from lockups under its direct control and any private agencies with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means. (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers. (d) The agency shall maintain sexual abuse data for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.	115.189	Data storage, publication, and destruction. (a) The agency shall ensure that data collected pursuant to § 115.187 are securely retained. (b) The agency shall make all aggregated sexual abuse data, from lockups under its direct control and any private agencies with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means. (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers. (d) The agency shall maintain sexual abuse data collected pursuant to § 115.187 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.	

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<i>Audits</i>		<i>Audits</i>		<i>Audits</i>		<i>Audits</i>
AU-1	Audits of standards The public agency ensures that all of its lockups, including contract facilities, are audited to measure compliance with the PREA standards. Audits must be conducted at least every three years by independent and qualified auditors. The public or contracted agency allows the auditor to enter and tour lockups, review documents, and interview staff and detainees, as deemed appropriate by the auditor, to conduct comprehensive audits. The public agency ensures that the report of the auditor's findings and the public or contracted agency's plan for corrective action (DC-3) are published on the appropriate agency's Web site if it has one or are otherwise made readily available to the public.	115.193	Audits of standards (a) An audit shall be considered independent if it is conducted by: (1) A correctional monitoring body that is not part of the agency but that is part of, or authorized by, the relevant State or local government; (2) An auditing entity that is within the agency but separate from its normal chain of command, such as an inspector general or ombudsperson who reports directly to the agency head or to the agency's governing board; or (3) Other outside individuals with relevant experience. (b) No audit may be conducted by an auditor who has received financial compensation from the agency being audited within the three years prior to the agency's retention of the auditor. (c) The agency shall not employ, contract with, or otherwise financially compensate the	115.193	Audits of standards. The agency shall conduct audits pursuant to §§ 115.401-405. Audits need not be conducted of individual lockups that are not utilized to house detainees overnight.	

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			<p>auditor for three years subsequent to the agency's retention of the auditor, with the exception of contracting for subsequent audits.</p> <p>(d) All auditors shall be certified by the Department of Justice to conduct such audits, and shall be re-certified every three years.</p> <p>(e) The Department of Justice shall prescribe methods governing the conduct of such audits, including provisions for reasonable inspections of facilities, review of documents, and interviews of staff and detainees. The Department of Justice also shall prescribe the minimum qualifications for auditors. (f) The agency shall enable the auditor to enter and tour facilities, review documents, and interview staff and detainees to conduct a comprehensive audit.</p> <p>(g) The agency shall ensure that the auditor's final report is published on the agency's website if it has one or is</p>			

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			otherwise made readily available to the public.			
<i>Auditing and Corrective Action</i>		<i>Auditing and Corrective Action</i>		<i>Auditing and Corrective Action</i>		<i>Auditing and Corrective Action</i>
				115.401	Frequency and scope of audits. (a) During the three-year period starting on [INSERT DATE ONE YEAR PLUS 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once. (b) During each one-year period starting on [INSERT DATE ONE YEAR PLUS 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], the agency shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of	

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					<p>the agency, is audited.</p> <p>(c) The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.</p> <p>(d) The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.</p> <p>(e) The agency shall bear the burden of demonstrating compliance with the standards.</p> <p>(f) The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.</p> <p>(g) The audits shall review, at a minimum, a sampling of relevant documents and other</p>	

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					<p>records and information for the most recent one-year period.</p> <p>(h) The auditor shall have access to, and shall observe, all areas of the audited facilities. (i) The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).</p> <p>(j) The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.</p> <p>(k) The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.</p> <p>(l) The auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being</p>	

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					<p>audited.</p> <p>(m) The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.</p> <p>(n) Inmates, residents, and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.</p> <p>(o) Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.</p>	

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				115.402	Auditor qualifications. (a) An audit shall be conducted by: (1) A member of a correctional monitoring body that is not part of, or under the authority of, the agency (but may be part of, or authorized by, the relevant State or local government); (2) A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the agency; or (3) Other outside individuals with relevant experience. (b) All auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements. (c) No audit may be conducted by an auditor who has received financial compensation from the agency being audited (except for compensation received for conducting prior PREA audits)	

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					within the three years prior to the agency’s retention of the auditor. (d) The agency shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency’s retention of the auditor, with the exception of contracting for subsequent PREA audits.	

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				115.403	Audit contents and findings. (a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review. (b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards. (c) For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level. (d) Audit reports shall describe the methodology, sampling	

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					<p>sizes, and basis for the auditor’s conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.</p> <p>(e) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.</p> <p>(f) The agency shall ensure that the auditor’s final report is published on the agency’s website if it has one, or is otherwise made readily available to the public.</p>	

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				115.404	Audit corrective action plan. (a) A finding of “Does Not Meet Standard” with one or more standards shall trigger a 180-day corrective action period.	

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					<p>(b) The auditor and the agency shall jointly develop a corrective action plan to achieve compliance.</p> <p>(c) The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.</p> <p>(d) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.</p> <p>(e) If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.</p>	

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				115.405	Audit appeals. (a) An agency may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination. (b) If the Department determines that the agency has stated good cause for a re- evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. The agency shall bear the costs of this re-audit. (c) The findings of the re-audit shall be considered final.	
<i>State Compliance</i>		<i>State Compliance</i>		<i>State Compliance</i>		<i>State Compliance</i>

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				115.501	<p>State determination and certification of full compliance.</p> <p>(a) In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent agency audits.</p> <p>(b) The Governor’s certification shall apply to all facilities in the State under the operational control of the State’s executive branch, including facilities operated by private entities on behalf of the State’s executive branch.</p>	