DEPARTMENT OF CORRECTIONS

Policy Number:	**202.057**
Title:	**Sexual Abuse/Harassment Prevention, Reporting, and Response**
Effective date:	**4/6/26**

PURPOSE: To ensure system-wide prevention, detection, reporting, response, and retention of records relating to incidents of sexual abuse/harassment of any incarcerated person/resident/detainee by either another incarcerated person/resident/detainee, or by a staff member, contractor, volunteer, intern, visitor, or anyone else within the Minnesota Department of Corrections (DOC).

APPLICABILITY: Department-wide

DEFINITIONS:
Correctional setting – prisons, county jails, detentions, lockups, and residential placement facilities.

Community confinement facility - a community treatment center, halfway house, mental health facility, alcohol or drug rehabilitation center or other community correctional facility.

Forensic evidence collection – the collection of evidence during the medical forensic exam within a 240-hour time period after the abuse incident, unless exigent circumstances exist (for example, extended hostage situation, victim has visible or significant trauma from the abuse needing treatment prior to evidence collection, or victim has not cleansed themself since the abuse allowing for further evidence collection after an extended period).

PREA Compliance Manager (PCM) – designated facility staff member in a correctional or detention facility responsible for implementing and overseeing compliance with the federal Prison Rape Elimination Act (PREA).

PREA Coordinator – agency manager designated to oversee and ensure compliance with the Prison Rape Elimination Act (PREA).

Sexual abuse –

A. Sexual abuse of an incarcerated person, detainee, or resident by a staff person, intern, contractor, or volunteer includes any of the following acts, with or without consent of the incarcerated person, detainee, or resident:
   1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
   2. Contact between the mouth and the penis, vulva, or anus;
   3. Contact between the mouth and any body part when the staff person, intern, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
   4. Penetration of the anal or genital opening, however slight, by a hand, finger, or object, that is unrelated to official duties or where the staff person, intern, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; and

5. Any other intentional contact, either directly or through the clothing, with the genitalia, genital area, anus, groin, breast, inner thigh, or the buttocks of another person, that is unrelated to official duties or where the staff person, intern, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.

B. Sexual abuse of an incarcerated person, detainee, or resident by another incarcerated person, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
   1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
   2. Contact between the mouth and the penis, vulva, or anus;
   3. Contact between the mouth and any body part when the incarcerated person/resident/detainee has the intent to abuse, arouse, or gratify sexual desire;
   4. Penetration of the anal or genital opening of another person, however slight, by a hand finger, object, or other instrument; and
   5. Any other intentional contact, either directly or through the clothing, of the genitalia, genital area, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse advocate – an individual who has completed the 40hour sexual violence advocacy training, and is employed by a community-based program.

Sexual abuse response team (SART) – a multi-disciplinary team designed to coordinate a survivor-centered response to sexual assault. The team is coordinated by the Prison Rape Elimination Act (PREA) compliance manager/designee and must include people from security, health services, behavioral health, the office of special investigations (OSI), sexual abuse advocacy, victim services, law enforcement, local hospitals, case management, and the PREA coordinator/designee.

Sexual assault forensic examination – a process performed by a sexual assault nurse examiner (SANE) during which medical history and forensic evidence is obtained from the patient. The SAME exam needs to be conducted within ten days (240 hours) of the sexual assault. The SANE must offer the incarcerated person/resident or detainee information on sexually transmitted infections and other non-acute medical concerns and assess the risk of pregnancy.

Sexual harassment –

A. Incarcerated person/resident/detainee sexual harassment includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an incarcerated person/resident/detainee directed towards another incarcerated person/resident/detainee. This includes demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures. A single comment or gesture may be considered as sexually harassing, depending on the nature of the comment or gesture.

B. Staff sexual harassment includes repeated verbal comments or gestures of a sexual nature to an incarcerated person/resident/detainee by a staff person, intern, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about

body or clothing, or obscene language or gestures. A single comment or gesture may be considered as sexually harassing, depending the nature of the comment or gesture.

Staff sexual misconduct – the following acts by staff, interns, contractors, or volunteers when directed at an incarcerated person/resident or detainee for the purpose of gratifying the sexual desires of any person:

A. Any attempt, threat, or request to engage in the activities described in this policy;
B. Any display of uncovered genitalia, buttocks, or breast in the presence of an incarcerated person, detainee, or resident;
C. Voyeurism (that is, invading the privacy of an incarcerated person/resident or detainee for reasons unrelated to official duties, such as peering at an incarcerated person/resident or detainee who is using a toilet to perform bodily functions; requiring an incarcerated person/resident or detainee to expose their buttocks, genitals, or breasts; or taking images of all or part of an incarcerated person's/resident's or detainee's naked body or of the person performing bodily functions);
D. Dealing, offering, receiving, or giving favors or attention to an incarcerated person/resident or detainee for purposes of grooming, bribing, or otherwise seeking to engage an incarcerated person/resident or detainee in activities prohibited by policy; and
E. Aiding or abetting another person in performing acts prohibited by this policy.

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

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

Unsubstantiated allegation – an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether the even occurred.

PROCEDURES:

A. **Zero Tolerance**

The Minnesota Department of Corrections (DOC) maintains a zero-tolerance policy on sexual abuse and harassment to promote a safe and humane environment for incarcerated people/residents and detainees, free from sexual violence and misconduct.

1. All staff, interns, contractors, and volunteers must immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse/harassment or staff sexual misconduct that occurred in a facility or community services area. This includes medical and behavioral health practitioners, unless otherwise precluded by law. Staff, contractors, interns, and volunteers must report the incident immediately to the watch commander or their supervisor and complete an incident report before the end of their shift. For purposes of this provision, there is no chain of command reporting limitation.

2. Regardless of tenure or rank, any correctional staff person must directly intercede when observing anyone sexually abusing an incarcerated person/resident or detainee and must immediately call an incident command system (ICS).

3. If a staff person learns that an incarcerated person/resident or detainee is subject to a substantial risk of imminent sexual abuse, they must take immediate action to protect the incarcerated person/resident or detainee.

4. The DOC investigates and documents all alleged incidents of sexual abuse/harassment/staff sexual misconduct promptly, thoroughly, and objectively through its office of special investigation (OSI), sexual abuse/harassment-trained investigators, and outside law enforcement, as appropriate to the incident.

5. Incarcerated people/residents, detainees, staff, interns, contractors, volunteers, and any other individuals who have business with the DOC are subject to disciplinary action and/or criminal sanctions, including dismissal or termination of contracted services, if determined to have engaged in sexual abuse/harassment/staff sexual misconduct of an incarcerated person/resident or detainee. A violation of this policy may also result in termination from the DOC. Termination is the presumptive disciplinary sanction for staff people who have engaged in sexual abuse.

6. All incidents of alleged sexual abuse/harassment or staff sexual misconduct must be documented in the sexual abuse incident management database which is monitored by the facility's PREA compliance manager (PCM)/designee.

B. **Prevention**

1. Training for staff/individuals with direct incarcerated person/resident contact
   a) During orientation, all staff, interns, volunteers, contractors, or any other individuals who have direct adult incarcerated person or juvenile resident contact must receive information regarding sexual abuse/harassment/staff sexual misconduct, the potential consequences for engaging in prohibited conduct, and their responsibilities in preventing, reporting, and responding to incidents.

   b) The DOC employee development unit must offer training on sexual abuse/harassment, which includes the following:
      (1) Staff must know and enforce DOC policies prohibiting sexual abuse/harassment/staff sexual misconduct.
      (2) Staff must always act professionally and must treat any allegation of sexual abuse/harassment seriously and report it immediately.
      (3) Failure to report information about sexual abuse/harassment/staff sexual misconduct may result in disciplinary action, up to and including termination.
      (4) Staff must not place a youthful incarcerated person or a resident in a housing unit in which they would have sight, sound, or physical contact with any adult incarcerated person or detainee.
      (5) Staff must comply with all policies of surveillance including: sight and sound supervision of incarcerated people/residents and detainees, conducting frequent and random area checks, providing supervision, and maintaining communication with incarcerated people/residents and detainees. Staff must provide sight and sound supervision of youthful incarcerated people whenever they are interacting with adult incarcerated people/detainees.
      (6) Staff must understand factors that may increase an incarcerated person's/resident's/detainee's likelihood of being sexually victimized,

including such examples as: an incarcerated person/resident/detainee experiencing their first incarceration, being youthful or elderly, having a history of mental illness or developmental disability, having sexual orientation, gender identity and gender expression (SOGIE) characteristics (gay, lesbian, bi-sexual, transgender, intersex, or nonbinary), having a small physical stature, or having committed a sex offense, or having previously been victimized.

(7) Staff must be aware of and report possible warning signs that an incarcerated person/resident/detainee has been sexually victimized, including isolation, depression, lashing out at others, refusing to shower, suicidal or self-injurious behavior, seeking protective custody, or refusing to leave a segregation unit.

(8) Staff must be aware of and report incarcerated people/residents/detainees who exhibit sexually aggressive behavior. Characteristics of a sexually aggressive incarcerated person/resident/detainee may include pairing up with or associating with other incarcerated people/residents/detainees who meet the profile of a potential victim, have a history of strong-arming or extorting, have a prior history of predatory, voyeuristic or exhibitionist behavior, or having a demonstrated inability to control anger.

(9) Staff people must not engage in retaliation against an incarcerated person/resident/detainee who makes an allegation of sexual abuse/harassment/staff sexual misconduct. Staff people must not retaliate against staff or others who intervene in, report, or provide evidence about incidents of sexual abuse/harassment or staff sexual misconduct.

(10) An incarcerated person/resident/detainee who alleges sexual abuse is the alleged victim of a criminal act and, by law, their identity must remain private and must only be shared on a need-to-know basis.

c) All staff training must be documented and retained in the agency-approved electronic training management system.

2. Incarcerated person/resident/detainee education

At each facility, staff must provide comprehensive education to incarcerated people/residents/detainees within 30 days of their intake, either in person, by video or by providing a PREA education packet regarding their rights to be free from sexual abuse/harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. The DOC must provide this education in formats accessible to all, including those who have limited English proficiency, are deaf, are visually impaired, or otherwise have a disability, as well as to those who have limited reading skills. Incarcerated person/resident/detainee education must include:

a) The DOC's zero-tolerance policy on sexual abuse/harassment;

b) How to avoid sexual contact in prison;

c) The risks and potential consequences of engaging in any type of sexual activity while incarcerated, including criminal sanctions or incarcerated person/resident/detainee discipline;

d) How to identify and report an incident of sexual abuse/harassment or staff sexual misconduct;

e) What defines a false accusation and the consequences for making a false accusation; and

f) How to obtain advocacy, counseling services, and medical care.

3. Incarcerated Person/Resident/Detainee screening

The PREA screening identifies those at heightened risk of being sexually victimized or sexually abusive to ensure appropriate housing and programming decisions.

a) Within 72 hours of an incarcerated person's/resident's/detainee's arrival at a DOC facility, a qualified staff person must complete a PREA Screening Tool, screen the incarcerated person's/resident's/detainee's available file information, and interview the incarcerated person/resident/detainee to assess their potential vulnerability to sexual abuse/harassment or sexually aggressive behavior. Incarcerated people/residents/detainees must not be disciplined for refusing to answer, or for not disclosing complete information.

b) If the screening identifies an incarcerated person/resident/detainee with a potential vulnerability to or demonstrated risk for sexually aggressive behaviors, PREA screening tool reflects that a follow up must also be completed within 30 days by the facility PCM/designee. Other follow-up according to specific staff roles and timeline is prescribed by the PREA screening tool.

(1) Incarcerated people at high risk for sexual victimization must not be placed in involuntary restrictive housing unless an assessment of all available alternatives has been made, and it is determined that there is no available alternative means of separation from likely abusers. If the facility staff cannot conduct such an assessment immediately, it may hold the incarcerated person in involuntary restrictive housing for less than 24 hours while completing the assessment.

(2) If an involuntary restrictive housing assignment is made, facility staff must clearly document:

(a) The basis for the facility staff's concern for the incarcerated person's safety; and

(b) The reason why no alternative means of separation can be arranged.

c) Upon receiving an allegation that an incarcerated person/resident/detainee was sexually abused while confined at a prior facility, the warden of the facility who received the allegation must notify the head of the prior facility, or appropriate office of the agency, where the alleged abuse occurred. Presumptively valid

recipients are the warden or facility head, the facility's PCM/designee, the agency's PREA coordinator, or the office of the agency head.

(1) Such notification must be provided as soon as possible, but no later than 72 hours after receiving the allegation.

(2) The warden of the facility/PCM/designee must document that such notification was provided and must retain a copy.

(3) The warden of the facility/PCM/designee or agency office that receives such notification must ensure the allegation is investigated in accordance with PREA standards.

d) Qualified staff completing the PREA screening must offer a referral for behavioral health services for an incarcerated person/resident/detainee with any potential sexual vulnerability. Staff may also make referrals based on mental health concerns, observed behavior, or at the incarcerated person's/resident's/detainee's request.

e) During any screening process, if the incarcerated person/resident/detainee discloses a previously unreported incident of sexual abuse, staff must offer community-based advocacy services per section D.1.f), below.

f) Within 30 days after arrival, the incarcerated person's/resident's/detainee's caseworker must reassess the incarcerated person's/resident's/detainee's risk of victimization or abusiveness based on any additional, relevant information received by the facility since the intake screening.

g) An incarcerated person's/resident's/detainee's risk level must be reassessed due to a referral, request, incident of sexual abuse, or receipt off additional information.

C. Incarcerated person/resident/detainee Reporting

All incarcerated people/residents/detainees are encouraged to report to staff if they have been victimized or they have knowledge of any sexual abuse/harassment/staff sexual misconduct within the DOC.

1. Methods for reporting include responses to the PREA screening, direct reporting, anonymous reporting, third-party reporting, or reporting on the DOC's sexual abuse hotline.

a) The DOC maintains multiple ways for incarcerated people/resident/detainees and staff to report allegations of sexual abuse/harassment perpetrated by other incarcerated people/residents/detainees, or sexual misconduct perpetrated by staff, interns, contractors, or volunteers.

(1) A qualified interpreter is provided for an incarcerated person/resident/detainee who has a disability that impacts their ability to communicate (such as a hearing impairment).

(2) Incarcerated people/residents/detainees who do not speak and understand English are provided language interpretive services. Incarcerated person/resident/detainee interpreters are not used unless a delay could cause immediate safety or security issues.

b) PREA screening: Incarcerated people/residents/detainees are interviewed by qualified staff, using the sexual abuse intake screening tool upon arrival to a facility.

c) Direct report: Any staff, intern, contractor, or volunteer who receives a verbal or written report or observes an incident of sexual abuse/harassment or staff sexual misconduct must immediately notify the watch commander and complete a confidential incident report.

d) Anonymous or third-party reporting: Staff may receive an anonymous kite, hear a rumor, or other third-party information (including from an incarcerated person's/resident's/detainee's family or friend) that an incarcerated person/resident/detainee has been the victim of sexual abuse/harassment or staff sexual misconduct. Staff must immediately report all information in a confidential incident report to the watch commander.

e) DOC PREA hotline: Anyone may contact the DOC's PREA hotline by dialing (651) 603-6798 and following the prompts. Prompts are provided in English and Spanish. The hotline is advertised in all DOC facilities in programming, living units, and other areas frequented by incarcerated people/residents/detainees.

f) DOC PREA advocacy line: Anyone may contact the sexual violence advocacy helpline by dialing 651-361-7666. This helpline is advertised in all DOC facilities through a PREA advocacy brochure and posted in programming, living units, and other areas frequented by incarcerated people/residents/detainees.

g) Outside agencies: Incarcerated people/residents/detainees may report sexual abuse/harassment or staff sexual misconduct to an outside agency directly or through a third party. Information on how to report to an outside agency confidentially is advertised in all DOC facilities through a PREA posting in programming, living units, and other areas frequented by incarcerated people/residents/detainees.

2. False reporting
If an investigation reveals that an incarcerated person has made a false accusation of sexual abuse/harassment or staff sexual misconduct they may be held accountable, through the disciplinary process and/or referred for criminal charges.

3. Retaliation
Staff must not engage in any form of retaliation against an incarcerated person/resident/detainee who makes an allegation of sexual abuse or staff sexual misconduct. Staff must not retaliate in any way against staff or others who intervene in, report, or provide information about incidents of sexual abuse or staff sexual misconduct.

D. Responding to reports of sexual abuse/ staff sexual misconduct

All allegations of sexual abuse or staff sexual misconduct within DOC facilities or contracted jails or confinement centers are investigated by the PREA trained investigators and documented in a sexual abuse database. All victims must have access to psychological services, medical services, and a sexual abuse advocate. Designated staff must complete the responsibilities below as applicable:

1. Correctional facility sexual abuse
    a) First responder
        (1) Separate the alleged perpetrator and victim so that neither one can hear or see the other.
        (2) Ensure staff remain with the victim to provide safety and support and to encourage the prevention of evidence from being compromised. If the allegation falls within a time period that allows for the collection of evidence, ensure the perpetrator is not taking actions that could destroy evidence.
        (3) Inform the watch commander/designee.
        (4) Secure the crime scene. Take photographs as directed by the office of special investigations (OSI).
        (5) Initiate the First Responder Sexual Abuse Response Checklist.
        (6) Complete a confidential incident report.
        (7) Forward the First Responder Sexual Abuse Response Checklist and confidential incident report to the watch commander.

    b) Watch commander
        (1) Initiate the Watch Commander Sexual Abuse Response Checklist.
        (2) Notify the officer of the day (OD) and OSI staff.
        (3) If the alleged victim is a minor, specific time-sensitive statutory reporting requirements apply. Contact the inspection and enforcement (I&E) unit.
        (4) Ensure that separation is not a form of punishment but a safety measure for both the alleged victim and alleged perpetrator. If the alleged perpetrator is a staff person, intern, volunteer, or contractor, the watch commander must consult with human resources staff as soon as possible to determine the appropriate method of separation and then direct the individual to remain in a designated area.
        (5) Involuntary (administrative) segregation should only be assigned when another alternative cannot be found and must not exceed 30 days.
        (6) Ensure the alleged perpetrator does not have access to a phone and is supervised until the arrival of OSI staff or local law enforcement.
        (7) If health services staff are on duty, immediately notify them of the allegation of sexual abuse. If health services staff are not on duty:
            (a) Call the on-call medical provider as soon as possible to determine if immediate medical treatment is necessary.
            (b) Offer the alleged victim support and explain the options. The alleged victim may choose to undergo a sexual assault forensic examination (if the incident occurred within the previous 240 hours) at a designated emergency room or other designated facility that conducts SANE exams. If so, the alleged victim is examined for

injuries and sexually transmitted infections (STI), may have biological specimens collected, and may have blood drawn.

(c) If the alleged victim refuses to be examined, document the refusal in an incident report.

(d) If necessary, call the designated health care facility or local emergency room to notify them of the need for a sexual assault forensic exam; and

(e) Arrange transportion of the alleged victim to the health care facility as soon as possible via state car or ambulance.

(8) Notify behavioral health staff during regular business hours. During non-business hours, notify on-call behavioral health staff.

(9) Notify the facility director of clinical operations as soon as they come on duty. Report all actions that have been completed and relay any follow-up orders received from the health care facility.

(10) Notify victim services by calling or e-mailing the PREA advocacy line.

(11) Collect First Responder, Health Services, and Watch Commander Sexual Abuse Response Checklists and all confidential incident reports and forward them accordingly.

c) Health services staff

(1) Offer the alleged victim and alleged perpetrator support and explain the options and procedures.

(a) A sexual assault forensic examination at a designated emergency room or other facility designated to conduct SANE exams by a certified sexual assault nurse examiner (SANE).

(b) The option for the victim to access a sexual abuse community advocate during the process.

(c) An examination for injuries and sexually transmitted infections (STI), and the collection of biological specimens.

(d) A blood draw if necessary.

(2) If the alleged victim or perpetrator refuses to be examined, document the refusal in the progress notes and have them sign a Refusal of Health Care form. Encourage them to notify health services if they change their mind.

(3) If the alleged victim agrees to be examined, provide the facts known about the incident, including the infectious disease status of the alleged perpetrator (if known), to the emergency room or clinic staff where the alleged victim is to be examined. If the alleged victim is a minor, communicate the alleged victim's age to the emergency room staff and clinic physician.

(4) Report the incident to the facility director of clinical operations/designee.

(5) Document all actions taken and any communications.

(6) Provide both the alleged victim and the alleged perpetrator with education on the risk of STIs and the availability of STI testing.

(7) Forward the Health Services Sexual Abuse Response Checklist and confidential incident report to the watch commander.

(8) Ensure the emergency room or designated facility report and follow-up recommendations are reviewed with a medical practitioner.

(9) Each emergency room and clinic will follow their protocol to provide advocacy services during a SANE exam.

d) Behavioral health staff must adhere to Policy 500.309, "Behavioral Health Services – Sexual Abuse/Harassment and follow the directions below:

(1) If the incident involves DOC staff, a non-DOC contracted behavioral health professional may be used.

(2) Prior to the initiation of services, a behavioral health staff person meets with the alleged victim and informs the individual of their duty to report and the limits of confidentiality. If services are accepted, staff must obtain a signed Behavioral Health Services Agreement outlining the limits of confidentiality before services are provided.

(3) Assess the incarcerated person's/resident's/detainee's mental health needs, provide any necessary counseling, and document in their behavioral health file.

(4) Consult OSI investigators regarding any clinical issue(s) which may be relevant to OSI.

(5) Report the incident and alleged victim's needs to the director of behavioral health services. The director decides, on a case-by-case basis, whether DOC staff or an external professional should provide the support services.

(6) Report the identity of the alleged perpetrator to the facility behavioral health supervisor, who must also offer the incarcerated/resident/detainee perpetrator support services.

e) OSI staff must:

(1) Follow the procedures established in Policy 107.007, "Criminal Investigations."

(2) Offer advocacy and, if requested, contact the PREA advocacy line or the victim services coordinator. If services are accepted, staff must advise the incarcerated person/resident/detainee of the extent communication with outside advocacy services are monitored. Incarcerated people/residents/detainees must be informed of mandatory reporting obligations before communication with a victim advocate.

(3) Communicate with the PCM/designee and others as needed.

(4) Produce a final investigative report within 45 days unless an extension is approved by the DOC PREA coordinator.

(5) Credibility assessment will be established throughout the report. The credibility of an alleged victim, suspect, or witness must be assessed on an individual basis and must not be determined by the person's status as an incarcerated person/resident/detainee or staff person. This may include information obtained from video evidence, work schedules, living/work assignments, communications, medical/behavioral health data, or other relevant data sources.

(6) Document findings in the PREA database.

f) Advocacy staff

Sexual abuse advocacy or other professional services are available or made available to alleged victims of sexual abuse or harassment.

(1) Anytime an incarcerated person/resident/detainee makes a report of sexual abuse, sexual harassment, or previous sexual violence, DOC staff must offer community-based advocacy services.

(2) Even if the alleged victim does not consent to participate in a sexual assault forensic examination or does not want to advance the investigation, the alleged victim must still be offered or referred to community-based advocacy services.

(3) Information on what advocacy services can be provided through the PREA Advocacy Brochure and the PREA victim advocacy video developed by victim services and restorative justice (VSRJ) which explains the role of advocacy.

(4) Facility staff must contact victim services at 651-361-766 or PREAadvocacy.doc@state.mn.us when an alleged victim is interested in potentially working with advocacy services.

g) The PCM/designee must:

(1) Promptly open a case in the PREA database;

(2) Ensure standards are adhered to and properly documented, including retaliation monitoring, outcome memos, and sexual assault incident reviews;

(3) Provide database follow up, or delegate such follow up, as necessary; and

(4) Designate a staff person to complete and document retaliation monitoring for a minimum of 90 days at regular intervals on reporters, victims, and witnesses. Anyone who cooperates with an investigation is protected from retaliation. Retaliation monitoring may continue beyond 90 days if needed or requested. If the allegation is determined to be unfounded, the obligation to monitor ends.

h) Sexual abuse response team (SART)

(1) Each DOC correctional facility must maintain a sexual abuse response team (SART) chaired by the facility's PCM. SART must ensure the facility has developed a written plan requiring that the actions of all initial responders are coordinated so that their interventions following an incident of sexual abuse are organized, timely, and systematically focused on the needs of the victim.

(2) Activation/Response: Upon notification of an incident, the warden/designee determines whether to activate the facility SART. If activation is warranted, the warden/designee must notify the PREA coordinator.

(3) If activated, the SART leader and/or PCM must convene a SART meeting as soon as reasonably possible, considering facility safety and security, the immediate needs of the victim, the investigation status, and the facility's resources and limitations.

(4) The SART must develop a coordinated response among behavioral health, health services, case management, victim advocacy, OSI, security, the PREA

coordinator/designee, and various institution staff as needed to develop a comprehensive, victim-centered management plan for both the alleged victim and the alleged perpetrator.

(5) The SART caseworker is responsible for notifying the risk assessment/community notification unit (RA/CN) of the sexual abuse incident.

2. Field services:

a) If field services or a community reentry staff, contractor, or volunteer becomes aware of an incident of sexual abuse or sexual harassment that occurred within a community confinement* setting, they must:

(1) immediately consult with their supervisor regarding appropriate actions and notify the community confinement facility supervisor of the allegation.

(2) complete a confidential incident report within 24-hours of learning of the situation. Submit report to Field Services supervisor and confinement setting supervisor/administration.

(3) The field services supervisor must notify FS Director, a supervisor from OSI and DOC PREA Coordinator.

(4) DOC PREA Coordinator will assign a DOC PREA unit staff to document in PREA database and communicate with community confinement facility to meet the PREA Compliance Policies.

b) If field services or a community reentry staff, contractor, or volunteer becomes aware of an allegation of sexual abuse or sexual harassment not occurring in a prison or confinement facility and involving a current or former DOC staff, contractor, or volunteer they must:

(1) File an incident report following DOC Policy 103.219 Employee Misconduct

c) If field services or a community reentry staff, contractor, or volunteer becomes aware of an incident of sexual abuse or sexual harassment, not covered by 2. a) or b), they should:

(1) Immediately consult with their supervisor

(2) Provide the reporting individual a referral to local law enforcement for reporting.

d) Anyone reporting a sexual victimization must be offered victim advocacy services. Field services and re-entry staff may reach out to Victim Services to connect the individual with community-based advocacy services through PREA advocacy phone or email.

e) When appropriate, staff should refer the alleged victim to appropriate community services such as a crisis center, support groups, victim advocate services, and area law enforcement.

3. Incident of prior sexual victimization

a) If through the screening process or a subsequent disclosure, staff learns that an incarcerated person/resident/detainee may have experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff must offer the individual a follow-up meeting with a behavioral health practitioner within 14 days of the screening or disclosure. Staff must also complete a Referral for Behavioral Health Services form and notify OSI staff of the disclosure. Once OSI is contacted, an OSI staff person must meet with the victim within 72 hours to explain the investigation options. Staff must also offer the incarcerated person/resident/detainee community-based advocacy services.

b) Any information related to prior sexual victimization or abuse that occurred in an institutional setting must be limited to medical and behavioral health practitioners, OSI staff, and other staff, as necessary, to inform treatment plans, security, and management decisions, including such examples as housing, bed, work, education, and program assignments.

c) The evaluation and treatment of a victim of prior sexual abuse/harassment or sexual misconduct must include follow-up services, a treatment plan, and referral for continued care following transfer to or placement in another facility. DOC staff may also provide outside service referrals when the individual is to be released from custody.

4. Prior incident of sexual victimization reported to field services

a) If field services staff become aware of a prior incident of sexual abuse within correctional field services, they must:

(1) Immediately consult with their supervisor regarding appropriate actions; and

(2) Complete a confidential incident report within 24-hours of learning of the situation.

b) The field services supervisor must notify a supervisor from OSI who then determines the next steps, if any further action is necessary.

c) Anyone reporting prior sexual victimization must be offered victim advocacy services. Field services staff may reach out to victim services to connect the individual with community-based advocacy services through the PREA advocacy phone or e-mail.

d) When appropriate, staff should refer the alleged victim to appropriate community services such as a crisis center, support groups, mental health treatment, victim advocate services, and area law enforcement.

E. Responding to Reports of Sexual Harassment

1. In cases of sexual harassment, incarcerated people/residents/detainees have access to psychological services and victim services. Designated staff must complete the responsibilities below when sexual harassment is reported/alleged.

2. Correctional facility/field services

a) A staff person must intervene if they observe, or have reason to suspect that an incarcerated person/resident/detainee is being sexually harassed. In addition, the staff person must:

(1) Inform the watch commander/field services designee of the alleged sexual harassment; and

(2) Complete and forward a confidential incident report to the watch commander/field services designee.

b) The watch commander/field services designee must review the allegation and determines the appropriate course of action, which may include such actions as:

(1) A referral to behavioral health as appropriate; and

(2) A change in housing assignment. Involuntary (administrative) segregation should only be assigned when another alternative cannot be found and must not exceed 30 days.

c) OSI staff must review an incarcerated person's/resident's/detainee's allegation of harassment against a staff person, intern, volunteer, contractor, or visitor for any criminal violations.

d) A trained sexual harassment investigator must follow established investigative protocols, which include:

(1) Interview the reporter, alleged victim, alleged perpetrator, and any witnesses.

(2) Offer victim services, chaplain services, and behavioral health services to the alleged victim.

(3) Obtain additional evidence relevant to the investigation, for example, Kiosk services, videos, kites, etc.

(4) Prepare a thorough, objective written report of the findings within 45-days and submit it to the PCM for review and approval. If the allegation involves a staff person, the PCM will notify the appointing authority and the regional human resources director (RHRD). (The PCM may request an investigation time extension for extenuating circumstances.)
The evidentiary standard for findings (case outcome) shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

(5) Document the investigation in the designated agency database.

e) Anyone who cooperates with an investigation is protected from retaliation. The PCM/designee must complete and document retaliation monitoring at least once for reporters, victims, and witnesses, and further monitoring upon request. If the allegation is determined to be unfounded, the obligation to monitor ends.

F. Sexual abuse/harassment allegation outcome notifications

1. The PCM/designee must notify the alleged victim of the outcome of the investigation. This includes informing the alleged victim of:
   a) The case disposition; and

   b) If the incident involved a staff person, whether the person has been reassigned from the unit or is no longer employed at the facility or in the department.

2. If another agency conducted the investigation, OSI staff must provide the alleged victim relevant with the relevant information described above. OSI staff also inform the alleged victim regarding actions taken as a result of an allegation against another incarcerated person/resident/detainee or a staff person.

G. SART Report

1. Following a SART activation, the PCM must:
   a) Complete the Sexual Abuse Response Team Guide.

   b) Complete a SART Confidential Memorandum.

   c) Distribute both documents to the warden.

   d) Save all SART documents with the investigation to the PREA database.

H. Sexual Abuse Incident Review (SAIR)

An sexual abuse incident review (SAIR) is conducted by the PCM and the designated facility team within 30 days of the conclusion of the investigation, unless the incident was unfounded. The PCM must follow the SAIR template (attached). The completed SAIR must be distribued to the warden for final review and uploaded with the investigation documents.

I. Confidentiality

All staff involved with PREA-related incidents and follow-up must always maintain confidentiality and professionalism. The identity of an alleged victim of sexual abuse is private information. The sharing of sensitive information is limited to those staff who must know in accordance with policy, state statute, federal law, professional licensure and ethical standards. DOC staff must, to the extent possible, limit the release of information in an effort to protect the victim, witnesses, and reporters.

J. Victim Services

1. Sexual abuse advocacy or other professional services are available or made available to alleged victims of sexual abuse, sexual harassment, or prior sexual violence victimizations. Investigators must immediately notify victim services if the victim requests advocacy services.

2. Victim services staff must connect incarcerated people who have requested services to community-based sexual violence advocacy.

3. Victim services staff must provide addresses and telephone numbers of local victim advocacy or rape crisis organizations, enable reasonable communication between

incarcerated people/residents/detainees and these organizations and agencies, and do so in as confidential a manner as possible.

3. Victim services staff must inform incarcerated people/residents/detainees, prior to giving them access, of the extent to which such communications are monitored and the extent to which reports of abuse are forwarded to authorities in accordance with mandatory reporting laws.

K. Record Retention

1. All documentation relating to sexual abuse/harassment or staff sexual misconduct must be stored in the designated agency database.

2. If the alleged perpetrator is a staff person (including an intern, volunteer, or contractor, documentation must be retained in the person's file as directed by human resources and/or OSI.

INTERNAL CONTROLS:

A. All staff training must be documented and retained in the agency-approved electronic training management system.

B. The sexual abuse database maintains sexual abuse standard documentation requirements.

C. All documentation of notification by the head of the facility to another facility regarding allegations of sexual assault of an incarcerated person/resident/detainee while confined at another facility must be retained in the sexual abuse database.

State Correctional Facilities Security Audit Standards: 3.01.08

REFERENCES:

Prison Rape Elimination Act (PREA), 28 C.F.R. §115 (2012)
Minn. Stat. §§ 241.01, 611A.20, 629.37 and 629.39
Minn. Stat. § 609.341, subd. 5
Minn. Stat. § 609.341, subd. 11
Minn. Stat. § 609.343
Minn. Stat. § 609.345
Minn Stat. § 13.82, subd. 17
Policy 202.040, "Incarcerated Person Intake Screening and Processing"
Policy 202.050, "Incarcerated Person/Resident Orientation"
Policy 202.105, "Multiple Occupancy Cell/Room Assignment"
Policy 202.120, "Incarcerated Person Incompatibility"
Policy 301.085, "Administrative Segregation"
Policy 500.303, "Mental Health Assessment"
Policy 101.010 "Information Program and Dissemination"
Policy 103.410, "In-Service Training"
Policy 103.420, "Pre-Service and Orientation Training"
Policy 106.210 "Providing Access to and Protecting Government Data"
Policy 106.320 "Incarcerated Person/Resident Case Records"
Policy 107.007, "Criminal Investigations"

Policy 202.045, “Management and Placement of Incarcerated People Who are Transgender, Gender Diverse, Intersex, or Nonbinary”
Policy 300.300, “Incident Reports”
Policy 301.140, “Emergency Management and Continuity”
Policy 303.010, “Incarcerated Individual Discipline”
Policy 302.120, "Reporting Maltreatment of Minors"
Policy 500.050, “Health Screenings and Full Health Appraisals”
Policy 500.190 “Health Care Data Practices”
Policy 500.3071 “Behavioral Health Data Practices”
Policy 202.041, “Juvenile Facility Admissions”
Policy 500.309, Behavioral Health Services – Sexual Abuse/Harassment
Instruction 202.041-2RW, “Intake Screening and Admissions”

REPLACES: Policy 202.057, “Sexual Abuse/Harassment Prevention, Reporting, and Response” 8/21/18.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: (See also PREA iShare sites: DOC SharePoint for staff; public DOC website)
First Responder Sexual Abuse Response Checklist (202.057C)
Watch Commander Sexual Abuse Response Checklist (202.057D)
Health Services Sexual Abuse Response Checklist (202.057E)
Sexual Abuse Response Team Checklist (202.057G)
SART Confidential Memorandum (202.057H)
Notification of Sexual Victimization (202.057I)
PREA Brochure-English (202.057K-English)
SAIR Template (202.057L)
PREA Administrative Investigation Template (202.057M)
Retaliation monitoring (202.057N)
Outcome Memo (202.057O)

APPROVED BY:
Commissioner of Corrections