DEPARTMENT OF CORRECTIONS

Policy Number:	**202.057**
Title:	**Sexual Abuse/Harassment Prevention, Reporting, and Response**
Effective date:	**8/21/18**

PURPOSE: To ensure system-wide prevention, detection, reporting, response, and retention of records relating to an incident of sexual abuse/harassment of any offender by an offender, contractor, volunteer, staff, or visitor within the Minnesota Department of Corrections (DOC). This policy is not intended to govern incidents of sexual abuse/harassment by an offender against a staff, contractor, visitor, volunteer, or any other individual who has business with the DOC.

APPLICABILITY: Department-wide

DEFINITIONS:

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

Forensic evidence collection – the collection of evidence from the patient during the medical forensic exam within a 120 hour time period, unless exigent circumstances exist (e.g., extended hostage situation, patient has visible and/or significant trauma from the abuse, or patient has not cleansed him/herself since the abuse).

Intimate parts – includes the primary genital area, groin, anus, inner thigh, buttocks, breast of a human being, or any clothing covering one of these areas (see Minn. Stat. § 609.341, subd. 5, and subd. 11).

Sexual abuse –

A. Sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer includes any of the following actions, with or without consent of the offender, 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 member, 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 member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; and
   5. Any intentional contact, either directly or through the clothing, 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.

B. Sexual abuse of an offender, detainee, or resident by another offender, 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. Penetration of the anal or genital opening of another person, however slight, by a hand finger, object, or other instrument; and
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.

Sexual abuse advocate – an individual specifically trained to offer advocacy, support, crisis intervention, information, and referrals to a victim of sexual abuse.

Sexual abuse response team (SART) – a team of facility staff which may include such examples as: security, health services, behavioral health, office of special investigations (OSI), and case management representatives. The team is managed by the associate warden of operations (AWO). The purpose of the team is to ensure a holistic approach to investigations and support for victims.

Sexual assault forensic examination – a process performed by a sexual assault nurse examiner (SANE) during which the medical forensic history and evidence is obtained from the patient. The SANE must offer the offender information on sexually transmitted infections, other non-acute medical concerns, and assess the risk of pregnancy.

Sexual harassment –

A. Offender/offender sexual harassment includes verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender or resident directed towards another. A single comment or gesture may be considered as sexually harassing, depending on the nature of the comment or gesture.
B. Staff/offender sexual harassment includes repeated verbal comments or gestures of a sexual nature to an offender or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures. 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 when performed by department staff, contractors, or volunteers when directed at an offender for the purpose of gratifying the sexual desire(s) of any person, and/or encouraging an offender to engage in staff sexual misconduct:

A. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in this policy;
B. Any display by a staff member, contractor, or volunteer of uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident;
C. Voyeurism by a staff member, contractor, or volunteer;
D. Unwelcome sexual advances, or requests for sexual favors;
E. Dealing, offering, receiving, or giving favors or attention to an offender for purposes of grooming, bribing, or otherwise seeking to engage an offender in activities prohibited by policy;
F. Attempting to perform acts prohibited by this policy; and
G. Aiding or abetting another person to perform acts prohibited by this policy.

Substantiated allegation – allegation proved to have occurred by evidence obtained in an investigation.

Unfounded allegation – allegation proved not to have occurred by evidence obtained in an investigation.

Unsubstantiated allegation – allegation that cannot be proved or disproved by evidence obtained in an investigation.

PROCEDURES:

A. The DOC maintains a zero-tolerance policy on sexual abuse and harassment to promote a safe and humane environment, free from sexual violence and misconduct for offenders.

1. All staff, 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 mental health practitioners, unless otherwise precluded by law.

2. If the DOC learns that an offender is subject to a substantial risk of imminent sexual abuse, it must take immediate action to protect the offender.

3. The agency investigates all matters of sexual abuse/harassment/staff sexual misconduct vigorously through the office of special investigation (OSI), the facility discipline unit, facility supervisory staff, and outside law enforcement, as directed by the incident.

4. Offenders, staff, contractors, visitors, volunteers, or 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 offender. A violation of this policy may result in termination from the DOC.

B. Prevention

1. Training for staff/individuals with direct offender contact

a) During orientation, all volunteers, contractors, or any other individuals who have direct adult or juvenile offender contact receive information regarding sexual abuse/harassment/staff sexual misconduct and the potential consequences for engaging in prohibited conduct with an offender (see Policy 103.420, "Pre-Service and Orientation Training"). All DOC staff are trained to recognize the signs of offender sexual victimization and understand their responsibilities in the detection, prevention, prohibition, reporting, and consequences of sexual abuse/harassment/staff sexual misconduct.

b) The DOC employee development unit offers periodic in-service training on sexual abuse, available to appropriate staff for professional development (see Policy 103.410, "In-Service Training").

(1) Staff must know and enforce DOC policies prohibiting sexual abuse/harassment/staff sexual misconduct.

(2) Staff must act professionally at all times, and must treat any allegation of sexual abuse/harassment seriously and report it as required.

(3) Failure to report information about sexual abuse/harassment/staff sexual misconduct may result in disciplinary action, up to and including termination.

(4) Sexual abuse/harassment can occur in any facility area, especially those not directly supervised at all times. Staff must comply with all policies of surveillance including: sight and sound supervision of offenders, conducting frequent and random area checks, providing supervision, and maintaining communication with offenders. Staff must provide sight and sound

supervision of youthful offenders whenever they are interacting with adult offenders.

(5) Staff must understand factors that may increase an offender's likelihood of being sexually victimized, including such examples as: an offender experiencing his/her first incarceration, youth, elderly, mentally ill, developmentally disabled, gender nonconforming, gay, lesbian, bi-sexual, transgender, intersex, small physical stature, or offenders who have committed a sex offense or have been previously victimized.

(6) Staff must be aware of possible warning signs that might indicate an offender has been sexually victimized, including such examples as: isolation, depression, lashing out at others, refusing to shower, suicidal or self-injurious behavior/statements, seeking protective custody, or refusing to leave a segregation unit.

(7) Staff must be aware of offenders who exhibit sexually aggressive behavior. Characteristics of a sexually aggressive offender may include: pairing up with or associating with an offender who meets the profile of a potential victim, history of strong-arming or extorting, a prior history of predatory behavior, voyeuristic or exhibitionist behavior, or a demonstrated inability to control anger.

(8) Staff must not engage in any form of retaliation against an offender who makes an allegation of sexual abuse/harassment/staff sexual misconduct.

(9) An offender who alleges sexual abuse is the alleged victim of a criminal act and by law their identity must remain private.

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

2. Offender education

Newly committed offenders receive orientation regarding sexual abuse/harassment and reporting. Offenders receive written and verbal information per Division Directive 202.050, "Offender Orientation," in a language easily understood by the offender, regarding:

a) The DOC 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, which may include criminal sanctions and/or offender discipline (see Policy 303.010, "Offender 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 counseling services and/or medical assistance if victimized.

3. Offender screening

a) When an offender arrives at a DOC facility as a new commitment, release violator, department transfer, jail delegation, or non-department admission, a qualified staff person completes a PREA Intake Screening Tool in COMS, screens the offender's available file information, and interviews the offender to assess his/her potential for vulnerability to sexual abuse and/or tendencies to engage in sexually aggressive behavior. Offenders must not be disciplined for refusing to answer, or for not

disclosing complete information, when screened by qualified staff completing a PREA Intake Screening Tool. For juvenile offender screenings, see Instruction 202.041RW, "Intake Screening." For other facility screenings, see Division Directive 202.040, "Offender Intake Screening and Processing."

Within 24 hours of an offender's intake, a qualified staff person completes an initial health screening, including the screening questions (see Policy 500.050, "Health Screenings and Full Health Appraisals").

b) If the screening identifies an offender with a potential vulnerability and/or demonstrated risk for sexually aggressive behaviors, staff must immediately notify the associate warden of operations (AWO)/designee. The AWO/designee, in consultation with the warden, determines whether sexual abuse response team (SART) activation is warranted.

Offenders at high risk for sexual victimization must not be places in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the offender in involuntary segregated housing for less than 24 hours while completing the assessment.

If an involuntary segregated housing assignment is made, the facility must clearly document:

(1) The basis for the facility staff's concern for the offender's safety; and
(2) The reason why no alternative means of separation can be arranged.

PREA screening information is used to determine housing, bed assignment, work assignment, and the need for further referral based on the information (see Division Directive, 202.105, "Multiple Occupancy Cell/Room Assignment"). For additional information on placement options, see the Reference section for links on administrative segregation, offender incompatibility, and transgender offenders.

c) Upon receiving an allegation that an offender was sexually abused while confined at another facility, the head of the facility that received the allegation must notify the head of the facility, or appropriate office of the agency, where the alleged abuse occurred. Presumptively valid recipients are the facility head, the facility's PREA compliance manager, 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 facility or agency must document that it has provided such notification.
(3) The facility head or agency office that receives such notification must ensure that the allegation is investigated in accordance with the standards.
(4) The facility head notifies the OSI special investigator.

d) Qualified staff completing the Sexual Violence Prevention (PREA) Checklist must make a referral for mental health services for an offender with a potential sexual vulnerability. Staff may also make referrals based on mental health concerns,

observed behavior, and/or at the offender's request (see Division Directive 500.303, "Mental Health Assessment").

e) Within 30 days, the offender's/resident's caseworker must review additional information received and notify the PREA compliance manager/designee if new information is received. Offenders/residents are reassessment when any additional information is received.

C. Reports of sexual abuse/harassment/staff sexual misconduct

All offenders are encouraged to report to staff if he/she has been victimized or the offender has knowledge of sexual abuse/harassment/staff sexual misconduct within the DOC.

1. Methods for reporting: offender responses to the PREA checklist, direct reporting, anonymous/third-party reporting, or reporting on the DOC sexual abuse telephone helpline.

a) The DOC maintains multiple ways for offenders and staff to report allegations of sexual abuse/harassment/staff sexual misconduct perpetrated by other offenders, staff, contractors or volunteers.

(1) A qualified interpreter is provided for an offender who has a disability that impacts his/her ability to communicate (such as a hearing or vision impairment).

(2) Offenders who do not speak and understand English are provided language interpretive services. Offender interpreters are not used unless a delay could cause immediate safety or security issues.

(3) Offenders who falsely report information are reviewed for a violation of the offender discipline regulations and/or criminal statutes.

b) Sexual Violence Prevention (PREA) Checklist: all offenders are interviewed by trained staff, using a screening checklist upon arrival to a facility.

c) Direct report: any staff, contractor, or volunteer who receives a verbal or written report of sexual abuse/harassment or staff sexual misconduct must immediately notify the watch commander/duty officer and complete a confidential incident report. Staff must report any communication, including rumors from staff or offenders that may indicate sexual abuse, harassment, or staff sexual misconduct has occurred, regardless of any established professional privilege.

d) Anonymous or third-party reporting: staff may receive an anonymous kite, hear a rumor, or other third-party information (including from an offender's family or friend) that an offender has been the victim of sexual abuse/harassment/staff sexual misconduct. Staff must immediately report all information in a confidential incident report to the watch commander/duty officer, who must then confer with the office of special investigations (OSI). OSI determines whether, and how, an investigation will proceed.

e) DOC sexual abuse helpline: anyone may contact the sexual abuse helpline by dialing (651) 603-6798 and following the prompts. Prompts are provided in English and Spanish. Offenders making the call from a DOC offender telephone may use the collect call option and are not charged for the call. The helpline is advertised in all DOC facilities in programming, living units, and other areas

frequented by offenders. OSI staff reviews and investigates any messages received on the helpline.

f) Outside agencies: offenders may report sexual abuse/harassment/staff sexual misconduct to an outside agency directly or through a third party.

2. Incident in progress:

a) If a staff observes suspected sexual abuse or staff sexual misconduct in progress, he/she must immediately activate the incident command system (ICS) per Policy 301.140, "Incident Command System."

b) If staff observes suspected sexual harassment in progress, he/she must verbally direct the behavior to stop. Staff must write an incident report to document the directive and, depending on the severity, contact the watch commander. The watch commander reviews allegations of sexual harassment and staff sexual misconduct and makes appropriate notifications.

3. False reporting

Offenders who falsely allege sexual abuse/harassment and staff sexual misconduct will be held accountable through all means available to the department (see Policy 303.010, "Offender Discipline").

D. Responding to reports of sexual abuse

The DOC investigates all reported or alleged incidents of sexual abuse. An offender who alleges that the offender has been the victim of sexual abuse perpetrated by another offender, staff, contractor, or volunteer is offered access to psychological services, medical services, and a sexual abuse advocate. Designated staff must complete the responsibilities below when sexual abuse is reported. The facility's Associate Warden of Operations assigns a trained lieutenant to open an incident in the database, as applicable. Access to the PREA Incident Management system is limited to members of SART, and only approved by the SART chairperson and the PREA coordinator.

1. Correctional facility sexual abuse – current incident:

a) Primary staff responder report

(1) Separate the alleged perpetrator and victim so that neither one can hear or see the other.

(2) Remain with the victim to provide safety and support, and to ensure that the victim does not wash, shower, change clothes, or otherwise compromise physical evidence on his/her body prior to examination.

(3) With the exception of health services staff and the watch commander, the staff receiving the report must initiate the First Responder Sexual Abuse Response Checklist (attached). If the alleged victim is a minor, specific reporting requirements may apply, see Policy 302.120, "Reporting Maltreatment of Minors" and contact the inspection and enforcement unit (I&E).

(4) Inform the watch commander/designee of the alleged sexual abuse.

(5) Secure the crime scene. Take photographs as needed.

(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/duty officer

(1) Initiate the Watch Commander Sexual Abuse Response Checklist (attached).

(2) Notify the officer of the day (OD) and facility OSI staff. The OD is responsible for notifying the warden.

(3) If the alleged victim is a minor, specific time-sensitive statutory reporting requirements may apply, see Policy 302.120, "Reporting Maltreatment of Minors" and contact the I&E unit.

(4) Ensure that the alleged perpetrator and victim are separated. Separation may not represent a form of punishment. The watch commander must not allow the alleged perpetrator access to a phone and must ensure the individual is supervised until the arrival of OSI or local law enforcement. If the alleged perpetrator is a staff, volunteer, or contract staff, 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. The alleged perpetrator's refusal to remain in the designated area is considered insubordination.

(5) 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) 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 communicate the reported information;

(c) Explain to the alleged victim the importance of a physical exam to assess medical needs, provide any necessary treatment, and to ensure preservation of evidence; and

(d) Transport the alleged victim to the health care facility as soon as possible via state car or ambulance (as appropriate).

(6) Notify behavioral health staff during regular business hours. During non-business hours, notify on-call behavioral health staff (see Division Directive 500.303, "Mental Health Assessment").

(7) Notify the health services administrator/designee as soon as he/she comes on duty. Report all actions that have been completed and relay any follow-up orders received from the health care facility.

(8) Complete a confidential incident report.

(9) Collect First Responder, Health Services, and Watch Commander Sexual Abuse Response Checklists and all confidential incident reports and forward to warden/designee for post-incident review.

(10) Post-incident review – the warden/designee reviews the Sexual Abuse Response Checklists and all confidential incident reports received from the watch commander.

(11)

c) Health services staff

(1) If health services staff receive a direct report from an offender alleging sexual abuse, staff must notify the watch commander/designee immediately and initiate the Health Services Sexual Abuse Response Checklist (attached). If the alleged victim is a minor, specific reporting requirements may apply, see Policy 302.120, "Reporting Maltreatment of Minors." The

staff must inform the reporting individual of his/her duty to report and the limits of confidentiality (prior to the initiation of services).

(2) Offer the alleged victim support and explain the options.
   (a) The alleged victim undergoes a sexual assault forensic examination at a designated emergency room;
   (b) The alleged victim is examined for injuries, sexually transmitted infections (STI), and biological specimens are collected; and
   (c) Blood may be drawn.

(3) If the alleged victim refuses to be examined, document in the progress notes and have the alleged victim sign a Refusal of Health Care form (attached). Encourage the alleged victim to notify health services if he/she changes his/her mind.

(4) If the alleged victim agrees to be examined, provide the facts known about the incident, including the infectious disease status of the aggressor/alleged perpetrator (if known), to the emergency room or clinic 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 and clinic physician. The emergency room or clinic where the alleged victim is to be examined must utilize SANEs and provide the alleged victim the option to access a sexual abuse community advocate during the process.

(5) Report the incident to the health services administrator/designee verbally when on-duty, or e-mail the report if off-duty.

(6) Document all actions taken and communications with the alleged victim in the medical record progress notes within 24 hours of the incident. Do not identify the alleged perpetrator by name, offender identification number (OID), or in any manner.

(7) Complete a confidential incident report.

(8) Provide the perpetrator (offender) with education on the risk of STI and the availability of STI testing.

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

(10) Ensure the emergency room report and follow-up recommendations are reviewed with a medical practitioner.

(11) Document in the PREA Incident Management System, as applicable.

d) Behavioral health staff

(1) If the incident occurs during non-business hours, the watch commander/duty officer must notify the on-call staff. Behavioral health staff determine the necessity to provide crisis counseling during non-business hours.

(2) If the incident involves DOC staff sexual abuse of an offender, a non-DOC contracted mental health professional (with training in the assessment and treatment of sexual abuse) may be utilized to provide care for the offender.

(3) When a behavioral health staff person first meets with the alleged victim, the staff person must offer psychological services. The staff person must inform the reporting individual of his/her duty to report and the limits of confidentiality (prior to the initiation of services). If services are accepted, staff must obtain a signed Behavioral Health Services Agreement (attached) outlining the limits of confidentiality before services are provided.

(4) Assess the offender's mental health needs, provide the necessary counseling, and documents in the offender's behavioral health file.
(5) Consult OSI investigators regarding any clinical issue(s) which may be relevant to an OSI interview of the alleged victim.
(6) 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 department staff or an external professional should provide the support services.
(7) Report the identity of the alleged perpetrator to the facility behavioral health supervisor, who must also offer the offender perpetrator support services.
(8) Complete a confidential incident report and submit it to the watch commander.
(9) Document in the PREA Incident Management System, as applicable.

e) OSI investigation staff and law enforcement must follow the procedures established in Policy 107.007, "Criminal Investigations" when investigating all alleged incidents of sexual abuse, and must also document in the PREA Incident Management System, as applicable.

The OSI investigator produces a final investigative report within 45 days of the completion of the investigation, unless time is expanded in writing by the OSI supervisory staff.

If the investigation reveals that an offender has made a false accusation that he/she, in good faith, could not have believed to be true, the facility may take disciplinary action against the offender through all means available.

f) Sexual abuse advocacy
Sexual abuse advocacy or other professional services are available or made available to alleged victims of sexual abuse.
(1) If the alleged victim does not consent to participate in a sexual assault forensic examination, the OSI investigator must provide the alleged victim information about advocacy by utilizing the PREA victim advocacy video developed by the victim assistance program (VAP), which explains the role of the victim advocate.
(2) The OSI investigator must contact the VAP director. If the alleged victim expresses a desire for advocacy services, this request must be included in the contact.

2. Incident of sexual victimization, outside the 120-hour time frame
a) If through the screening process or a subsequent disclosure, staff learns information that indicates that an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff must ensure that the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. A Referral for Mental Health Services form (attached) is required. Once OSI is contacted, OSI meets with the victim within 72 hours and explains the investigation options.

b) Any information related to prior sexual victimization or abuse that occurred in an institutional setting must be limited to medical and mental health practitioners, OSI,

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 includes follow-up services, a treatment plan, and referral for continued care following transfer to/placement in another facility. Referrals may also be provided when the offender is released from custody.

3. Post-incident review
The warden/designee immediately reviews all confidential incident reports received from the watch commander for follow-up, when appropriate. If the report is received after business hours, the warden reviews the documentation on the next business day for follow-up, when appropriate.

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 a correctional field services or other confinement setting, he/she must:
      (1) Immediately consult with his/her 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 the OSI.

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

5. The AWO or designee documents in the PREA Incident Management System, as applicable.

E. Responding to reports of sexual harassment or staff sexual misconduct
The DOC maintains a zero tolerance policy and investigates all reported or alleged incidents of sexual harassment or staff sexual misconduct. In cases of sexual harassment or staff sexual misconduct, offenders have access to psychological services and educational materials. Designated staff must complete the responsibilities below when sexual harassment or staff sexual misconduct is reported/alleged.

1. Correctional facility
   a) A staff person must intervene if he/she observes, or has reason to suspect that an offender is being sexually harassed or the victim of staff sexual misconduct. In addition, the staff person must:
      (1) Inform the watch commander/designee of the alleged sexual harassment or staff sexual misconduct; and
      (2) Complete and forward a confidential incident report to the watch commander.

   b) The watch commander/duty officer reviews the allegation and determines the appropriate course of action, which may include such actions as:

(1) Consulting with administration if the alleged perpetrator is a staff person, volunteer, or contract staff person, and consider whether to prohibit further contact with offenders to ensure that the conduct does not recur;
(2) Offering the offender(s) a behavioral health referral;
(3) If the incident occurs during business hours, notifying behavioral health staff. If the incident occurs during non-business hours, notifying the on-call behavioral health staff. The on-call staff determines the necessity to provide crisis counseling during non-business hours; and
(4) Completing a confidential incident report.

c) Post-incident review
The warden/designee reviews all confidential incident reports received from the watch commander for follow-up, when appropriate. If received after regular business hours, the warden reviews the documentation on the next business day for follow-up, when appropriate.

d) Behavioral health staff
(1) Offer psychological services to the alleged victim. The staff person must inform the reporting individual of his/her duty to report and the limits of confidentiality (prior to the initiation of services). If services are accepted, staff must obtain a signed Behavioral Health Services Agreement outlining the limits of confidentiality before services are provided.
(2) Assess the offender's mental health needs, provide the necessary counseling, and document in the offender's behavioral health file.
(3) Consult with the staff responsible for investigating the alleged incident regarding any clinical issue(s) which may be relevant to an investigative interview of the alleged victim.
(4) Report the incident and alleged victim's needs to the director of behavioral health services, who decides on a case-by-case basis whether department staff or an external professional should provide support services.
(5) Report the identity of the alleged perpetrator to the facility behavioral health supervisor, who must also offer the offender perpetrator support services.
(6) Complete a confidential incident report and submit it to the watch commander.
(7) Document the follow-up in the PREA Incident Management System, as applicable.

e) Offender on offender allegations of harassment are investigated by the supervisor in charge of the alleged perpetrator's living area, unless administration makes another determination. Juvenile allegations may be documented in the PREA Incident Management System, as applicable. Adult allegations are not entered into the PREA Incident Management System.

f) An offender's allegation of harassment against a staff person, volunteer, or visitor is reviewed by OSI for any criminal violations. If no criminal violation occurred, the allegation is provided to the appointing authority/designee and the human resources director (HRD). The allegation is then forwarded to the PREA coordinator, who determines if a sexual harassment/misconduct investigation is warranted. The PREA coordinator reviews the information and reports to the HRD

as to the appropriate investigation procedure. Only a specifically trained staff person (lieutenant or higher rank), is assigned the investigation.

g) Trained facility staff must:
   (1) Follow established procedures when investigating incidents of sexual harassment or staff sexual misconduct.
      (a) Explain the investigative process and take (or review if already taken) a verbal statement from the complainant.
      (b) Communicate the allegations to, explain the investigative process to, and interview the respondent.
      (c) Obtain additional evidence or facts by reviewing relevant files, documentation, interviewing possible witnesses, and any other necessary investigative work.
      (d) Prepare a thorough, objective written report of the findings and submit it to the PREA coordinator for review for completeness. If the investigation is complete and needs no additional follow-up, the PREA coordinator forwards the report to the facility HRD for the determination of further action.
      (e) Complete the investigation and make a determination within 45 days of the investigator's initial meeting with the complainant, unless reasonable cause for delay exists.
   (2) Produce a final investigative report within the required timelines. If timelines must be extended due to unavoidable circumstances, the reason(s) must be documented in the report.
   (3) Include a credibility assessment in the report. This section outlines what was used to assess credibility of information received in interviews. This may include information obtained from video evidence, work schedules, living/work assignments, communications, medical/behavioral health data, or other relevant data sources;
   (4) Provide the investigation report to the appointing authority, who directs the communication of the results to the affected staff and offender.
   (5) Refer situations not investigated to the appointing authority.
   (6) Document in the PREA Incident Management System, as applicable.

   If the investigation reveals that an offender has made a false accusation that the offender, in good faith, could not have believed to be true, the facility may take disciplinary action against the offender through all means available.

2. Field services sexual harassment or staff sexual misconduct
   a) A staff person must intervene if the staff person observes, or has reason to suspect, that an offender is being sexually harassed or the victim of staff sexual misconduct. In addition, staff must:
      (1) Inform the staff member's supervisor of the alleged sexual harassment or staff sexual misconduct; and
      (2) Complete and forward a confidential incident report to the supervisor.

   b) The supervisor reviews the allegation and determines the appropriate course of action, which may include:

(1) Consulting with administration if the alleged perpetrator is a staff person, volunteer, or contract staff person, and consider whether to prohibit further contact with offenders to ensure the conduct does not recur;
(2) Referring the offender to appropriate community services; and
(3) Completing a confidential incident report.
(4) Conferring with the field services director to determine whether the allegations meet the definition of sexual harassment or staff sexual misconduct for referral purposes.

c) Field services supervisors must investigate allegations if OSI staff do not initiate an investigation.

F. Sexual abuse response team (SART) involvement

1. Objective:
Each Minnesota correctional facility (MCF) must maintain a SART, chaired by the facility's AWO. SART provides a victim-centered coordinated team response. SART offers supportive services to the alleged victim of sexual abuse, and ensures the victim access to a continuum of services.

a) SART has members from security/first responders, facility leadership, medical practitioners, behavioral health practitioners, and the special investigator.

b) SART must meet the immediate and long-term needs of an alleged victim and perpetrator of sexual abuse by offering access to support services.

c) SART must attempt to identify and cooperate with the prosecution or internal discipline of the perpetrator.

d) The SART leader must ensure that staff/offender reporters of abuse are protected from retaliation.

e) The SART leader/designee must follow up with staff/offender reporters and witnesses at 30 days, 60 days, and 90 days from the date of the sexual abuse/harassment or sexual misconduct to ensure there is no retaliation as a result of the reporting. Follow-up may increase, if needed. Anyone who cooperates with an investigation is protected from retaliation. If the allegation is determined to be unfounded, the obligation to follow-up ends. All retaliation follow-up must be documented in the PREA Incident Management System.

2. Activation
Upon notification from the watch commander and completion of a post-incident review, the warden/designee determines whether to activate the facility SART. If notification is received during regular business hours, the warden may review and issue a decision on SART activation. If notification is received after regular business hours, the warden reviews the documentation on the next business day and issues a decision on SART activation. If activation is warranted, the warden/designee must notify the facility SART leader.

3. Response

a) Following notice of activation, the facility SART leader must promptly take any action deemed necessary for the immediate safety needs of the alleged victim.

Involuntary (administrative) segregation should only be assigned when another alternative cannot be found and must not exceed 30 days.

b) The SART leader must convene a SART review meeting as soon as reasonably possible, taking into account facility safety and security, the immediate needs of the victim, the investigation status, and the facility's resources/limitations.

c) The SART must develop a coordinated response among behavioral health, health services, case management, victim services, OSI, security, and various institution staff as needed to develop a comprehensive, victim-centered management plan for both the alleged victim and the alleged perpetrator.

d) The SART team reviews the Sexual Abuse Response Team Guide (attached) to evaluate the services offered to the alleged victim.

e) The SART caseworker is responsible for notifying the risk assessment/community notification unit (RA/CN) policy compliance supervisor of the sexual abuse incident when:
   (1) The alleged perpetrator is a predatory offender; or
   (2) When the information provided creates probable cause to believe that criminal sexual abuse has been committed.

   The SART caseworker must document the above in the PREA Incident Management System, as applicable.

f) The RA/CN unit must:
   (1) Conduct a sexual abuse risk assessment upon being informed that an offender-on-offender perpetrator has been identified and the allegation has been substantiated. As deemed appropriate, this assessment includes psychological testing, scoring of actuarial tools, and information regarding possible interventions, including the appropriateness of sex abuse specific mental health treatment, as available at that facility. The risk assessment report is provided to the AWO and mental health director at the facility housing the alleged perpetrator within 60 days of the initial report.
   (2) Determine if review is required by the end of confinement review committee (ECRC).
   (3) Determine if review is required by the sexually psychopathic personality (SPP)/sexually dangerous person (SDP) screening committee.
   (4) Determine if the offender's treatment recommendation needs review.

4. Sexual abuse allegation notifications

a) All notifications must be documented in the PREA Incident Management System.

b) OSI, or the AWO, must notify the alleged victim of the outcome (once it has been determined), whether the allegations are substantiated, unsubstantiated, or unfounded.

c) OSI provides the alleged victim relevant information if another agency conducted the investigation. OSI also informs the alleged victim regarding actions taken as a result of an allegation against another offender or staff.

(1) If/when the staff/offender is indicted on a related charge stemming from an incident within the facility;
(2) If/when the staff/offender is convicted on a related charge stemming from an incident within the facility; and
(3) If/when the offender has received disciplinary sanctions.

d) The AWO must notify the alleged victim regarding actions taken as the result of an allegation against staff.
(1) When the staff is no longer in the unit; and
(2) When the staff is no longer employed at the facility.

e) The agency's obligation to report to the offender terminates if/when:
(1) The allegation is unfounded; or
(2) The offender is released from custody.

5. Report
Within ten business days of the SART activation, a written SART Confidential Memorandum (format attached) and the Sexual Abuse Response Team Guide must be provided to the warden detailing SART actions, recommendations, and overall management of the alleged victim and perpetrator. The SART Confidential Memorandum must be uploaded to the PREA Incident Management System. The SART evaluation and report must include:
a) The histories of any prior victimization or predatory behaviors of the alleged victim and perpetrator while incarcerated;
b) Identification of any pre-incident activity between the alleged victim and perpetrator;
c) Evaluation of alleged victim and perpetrator classifications, housing, work assignment, medical and behavioral health history;
d) Assessment of the safety and security needs of the alleged victim and perpetrator;
e) The implementation of offender management plans;
f) Follow-up plans and/or release referrals; and
g) Corrective actions or suggestions to improve correctional practices to prevent future occurrences of sexual abuse.

6. Review
An incident review team is conducted by the warden, AWO, OSI, captain, corrections program director, and health services administrator within 30 days of the conclusion of an investigation, unless the incident was unfounded.
a) Review includes input from those involved and must:
(1) Consider possible policy changes;
(2) Consider motives which may include such examples as: race, ethnicity, gender identity (lesbian, gay, bisexual, transgender, intersex, or perceived status), gang affiliation, or whether the incident was motivated or otherwise cause by group dynamics;
(3) Assess the physical area in the facility where the abuse occurred;
(4) Assess staffing levels;
(5) Assess the need for additional monitoring technology (e.g., cameras, etc.); and
(6) Be documented in the PREA Incident Management System under the Incident Panel.

b) The PREA coordinator must conduct SART review audits periodically.

c) The facility must implement the recommendations from the review, or document the reason(s) for not making the recommended changes.

d) Documentation is retained in the PREA Incident Management System.

7. Confidentiality
SART members must maintain confidentiality and professionalism at all times. 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, professional licensure and ethical standards. DOC staff must, to the extent possible, limit the release of information in an effort to protect the victim and reporter of sexual abuse from retribution (see Minn Stat. §13.82, subd. 17).

8. Training
SART members must be cross-trained in the roles and responsibilities of each team member. Cross training helps maintain a holistic response to an incident of sexual abuse/harassment.
a) The facility SART leader must replace, re-assign, and train a new SART member when a member is lost.

b) Specialized training is periodically offered to appropriate staff for professional development. Training assistance and advice is available from the department victim assistance program, employee development unit, and the PREA coordinator.

9. Each facility must have procedures which address:
a) SART member selection from various institutional staff as needed to develop a coordinated response;
b) Group roles and responsibilities;
c) Individual team member roles and responsibilities;
d) Crisis, intermediate, and long-term interventions;
e) Information sharing;
f) Tracking and monitoring methods;
g) Collaboration with victim assistance programs; and
h) Debriefing procedures.

G. Retention and data collection
1. Record retention
All documentation relating to sexual abuse/harassment must be filed in the offender's confidential base file and/or staff (alleged victim or perpetrator) confidential file as directed by human resources and/or OSI. For additional information on case records see Policy 106.220 "Case Records," for treatment records see Policies 500.190 "Health Care Data Practices" and 500.3071 "Behavioral Health Data Practices," and for investigative reports see Policy 107.007 "Criminal Investigations." Staff must comply with Minnesota's data practices laws; for further guidance see Policy 106.210 "Providing Access to and Protecting Government Data."

2. Statistics

The Department of Justice Bureau of Justice Statistics annually collects statistical information on reported incidents of sexual violence and sexual misconduct against offenders (see Policy 102.050, "Prison Rape Elimination Act (PREA) Data Collection, Review, and Distribution" for more information).

INTERNAL CONTROLS:

A. All documentation relating to sexual abuse/harassment is retained in the offender's confidential base file and aggressor/alleged perpetrator's confidential file. If the aggressor/alleged perpetrator is a staff member, documentation must be retained as directed by human resources and/or OSI.

B. All staff training must be documented and retained in the training management system.

C. The PREA Incident Management System maintains PREA-specific requirements.

D. All documentation of notification by the head of the facility to another facility, regarding allegations of sexual assault of an offender while confined at another facility, must be retained in the offender's confidential file.

ACA STANDARDS: 4-4281-1 through 4-4281-8, 1-ABC-3D-06-1 through 1-ABC-3D-06-6

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, "Offender Intake Screening and Processing"
Policy 202.050, "Offender/Resident Orientation"
Division Directive 202.105, "Multiple Occupancy Cell/Room Assignment"
Policy 202.120, "Offender Incompatibility"
Division Directive 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 106.220 "Offender/Resident Case Records"
Policy 107.007, "Criminal Investigations"
Policy 202.045, "Evaluation, Placement and Treatment of Transgender/Intersex Offenders"
Policy 301.140, "Incident Command System"
Policy 303.010, "Offender 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"
Division Directive 202.041, "Juvenile Facility Admissions"
Instruction 202.041-2RW, "Intake Screening and Admissions"

REPLACES: Policy 202.057, "Sexual Abuse/Assault Prevention, Reporting, and Response" 7/1/18.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS:
DOC Sexual Abuse Helpline Posters (PREA iShare site)
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 Guide (202.057G)
SART Confidential Memorandum (202.057H)
Report of Sexual Victimization – Adult (202.057I)
Report of Sexual Victimization – Juvenile (202.057J)
Refusal of Health Care form (500.010A)
Sexual Violence Prevention (PREA) Checklist Spanish (202.040CSpanish)
Sexual Abuse Prevention and Intervention Guide (202.050A)
Offender Intake Training Signature Sheet (202.050B)
Behavioral Health Services Agreement (500.3071C)
Referral for Mental Health Services (available on Behavioral Health iShare site)

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