



PREA

Sexual Assault and Harassment Policy

- Southern Missouri Reentry (SMR) promotes a productive and safe environment for staff and clients and has zero tolerance for verbal or physical conduct that harasses, assaults, disrupts, traumatizes, or interferes with another's work performance or the quality of life for its clients. Behavior that creates an intimidating, offensive, or hostile environment is immediately reported and addressed.
- The intent of this procedure is to provide uniform guidelines to prevent, detect, and respond to sexual harassment and assault.
- SMR prohibits any form of retaliation against employees or clients for making a complaint or providing information about harassment.
- In accordance with the company Standards of Conduct, any staff person who violates this policy is subject to disciplinary action, including termination. All volunteers, vendors, contractors, and their representatives shall also comply with this policy or the working relationship/contract may be severed. The Program Director or designee may decide if it is necessary to prohibit further client contact until HR can be reached.
- All claims of sexual assault will be immediately reported to the contracting law enforcement agency, including notification to the agency's special investigation division.

Definitions

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

Agency head means the principal official of an agency.

Client means any person currently participating in SMR's residential re-entry and home confinement program.

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

Contracting authority means the board, department, or agency which has entered into and oversees the contract that the agency performs under.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee means any person detained in a lockup, regardless of adjudication status.

Direct staff supervision means that security staff are in the same room with, and within reasonable hearing distance of, the resident, client, or inmate.

Employee means a person who works directly for the agency or facility.

Exigent circumstances means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility head means the principal official of a facility.

Visual body cavity search means a search of the anal or genital opening.

Full compliance means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming means a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate means any person incarcerated or detained in a prison or jail.

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

Jail means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Law enforcement staff means employees responsible for the supervision and control of detainees in lockups.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner means a health professional who, by virtue of education, credentials and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

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

Prison means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.

Security staff means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Staff means employees, contractors and volunteers.

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

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

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

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

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

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

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

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

Sexual Abuse Includes:

1. Sexual abuse of a client by another client and
2. Sexual abuse of a client by a staff member, contractor, or volunteer.
3. Sexual abuse of a client by a client 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:
 - Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - Contact between the mouth and the penis, vulva, or anus;

- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - 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.
4. Sexual abuse of a client by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the client:
- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - Contact between the mouth and the penis, vulva, or anus;
 - Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
 - Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a client, and
 - Voyeurism by a staff member, contractor, or volunteer.
5. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of a client by staff for reasons unrelated to official duties, such as peering at a client who is showering or using a toilet to perform bodily functions; requiring a client to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a client's naked body or of a client performing bodily functions.

Sexual Harassment Includes:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one client directed toward another; and

2. Repeated verbal comments or gestures of a sexual nature to a client 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.

General Terms Includes:

1. Abuser – The client committing sexual assault against another client, or coercing sex from another client in exchange for protection, favors, etc.
2. Non-Assaultive Sexual Activity – The act of engaging in sexual activity which produces or is intended to produce sexual stimulation or gratification, in the presence of another person and the sexual activity is conducted without violence, threat of violence, coercion, or use of a weapon.
3. Sexual Activity – Sexual contact including, but not limited to: sexual intercourse, deviant sexual behavior, kissing, fondling, and/or manipulation of the genitalia, buttocks, and breasts of another person in a manner which produces or is intended to produce sexual stimulation or gratification with the consent of both parties.
4. Sexually Abusive Client – A client whose past behavior indicates he or she is prone to victimize other clients.
5. Sexual Assault – Sexual activity where force or threat of force is used, or when the person is unable to consent because of age or incapacitation (mental deficiency or physical incapacitation). Sexual activity includes: vaginal penetration by a penis; contact between the genitals of a person and the mouth or anus of another person; penetration of the vagina, anus, or mouth with a penis or any other object; and touching of the sexual or intimate parts for sexual gratification.
6. Sexual Coercion – Compelling or inducing another person to engage in sexual activity by deceit, threats, force, or intimidation or for personal favors.
7. Sexual Solicitation – The solicitation of another person to engage in sexual activity.
8. Staff – For the purposes of this policy staff shall include SMR employees, contract service providers, and volunteers.
9. Sexual Abuse Victim – Any client who, through documentation, evidence, or as a result of reasonable suspicion on the part of staff, has suffered sexual coercion, sexual solicitation, or sexual assault by another client or a staff person during their assignment to a SMR program.
10. Vulnerable Client – A client who is at high risk to become a victim of sexual assault by another client(s) due to characteristics related to age, physical stature, criminal history, physical or mental disabilities, or past history of victimization.

Prevention Planning**211 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator**

1. Southern Missouri Reentry has zero tolerance towards all forms of sexual abuse and harassment. Clients will be free from fear of sexual abuse and harassment. If a report of sexual abuse or harassment is made, it will be investigated thoroughly and with respect to the client's safety, dignity, and privacy, without fear of retaliation.
2. SMR will designate an upper-level, agency-wide PREA coordinator, with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities.

212 Contracting with other entities for the confinement of residents

SMR is not a public agency and cannot contract with other entities for confinement of clients.

213 Supervision and monitoring

1. SMR will develop and maintain a staffing plan. The staffing plan shall provide for adequate levels of staffing and, where applicable, video monitoring, to protect clients against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the following will be taken into consideration:
 - The physical layout of each facility;
 - The composition of the client population;
 - The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - Any other relevant factors.
2. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.
3. Whenever necessary, but no less frequently than once each year, the facility shall assess, determine, and document whether adjustments are needed to:
 - The staffing plan established pursuant to this section;
 - Prevailing staffing patterns;
 - The facility's deployment of video monitoring systems and other monitoring technologies; and
 - The resources the facility has available to commit to ensure adequate staffing levels.

214 Reserved**215 Cross gender viewing and searches**

1. SMR staff will only conduct pat-down searches; when any other more intrusive search is deemed necessary the contracting authority will provide staff to conduct the search.
2. Cross-gender pat-down searches of any clients are not permitted absent exigent circumstances.
3. SMR shall document all cross-gender pat-down searches of clients. SMR staff does not conduct any strip searches or any visual body cavity searches.
4. Clients may shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia. Video camera use will be restricted to areas where clients are required to fully clothed.^{d1} Staff of the opposite gender will announce their presence when entering an area where clients are likely to be showering, performing bodily functions, or changing clothing.^{d2}
5. SMR shall not search or physically examine a transgender or intersex client for the sole purpose of determining the resident's genital status. If the client's genital status is unknown, it may be determined during conversations with the client, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
6. Security staff shall be trained in how to conduct searches of transgender and intersex clients in the least intrusive and professional, respectful manner while being consistent with security needs of the program.

216 Clients with disabilities and limited English proficiency

1. The appropriate steps shall be taken to ensure that clients with disabilities (including, for example, clients who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with clients who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, written materials shall be provided that are in formats or through methods that ensure effective communication with clients with disabilities, including clients who have intellectual disabilities, limited reading skills, or who are blind or have low vision.
2. Reasonable steps shall be taken to ensure prevention, detection, and response to sexual abuse and sexual harassment to clients who have limited in English language skills. These steps will include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, as well as using any necessary specialized vocabulary.
3. SMR shall not use or depend on client interpreters, client readers, or other types of client assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the client's safety, the performance of required first-response duties, or the investigation of client's allegations. Any use of client assistants will be documented in writing; this documentation will be retained in relevant client files and by the PREA Coordinator.

4. Where interpreters are necessary yet unavailable, the contracting authority will be notified for assistance and in the meantime staff shall use Google Translate or other online translation programs to review all intake and handbook information including all PREA information, training, and procedures.

217 Hiring and promotion decisions

1. SMR shall not hire or promote anyone who may have contact with clients and shall not enlist the services of any contractor who may have contact with clients, who:
 - Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. § 1997);
 - Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - Has been civilly or administratively adjudicated to have engaged in the activity described in this section.
2. SMR shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with clients.
3. Before hiring new employees who may have contact with clients, the agency shall:
 - Perform a criminal background records check; and
 - Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
4. SMR shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents. In emergency situations contractors without a completed criminal background check will be allowed in the facility if accompanied by one or more SMR employees.
5. SMR shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with clients or have in place a system for otherwise capturing such information for current employees.
6. SMR shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. SMR shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.
7. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
8. Unless prohibited by law, SMR shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

218 Upgrades to facilities and technologies

1. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the effect of the design, acquisition, expansion, or

modification upon the agency's ability to protect clients from sexual abuse will be considered.

2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect clients from sexual abuse.

Responsive Planning

221 Evidence protocol and forensic medical examinations

1. To the extent SMR is responsible for investigating allegations of sexual abuse, a uniform evidence protocol will be followed that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. SMR primarily acts as first responder for investigating allegations of sexual abuse and will assist the authority responsible for the investigation, if requested.
2. The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.
3. All victims of sexual abuse shall have access to forensic medical examinations whether on-site or at an outside facility, without financial cost. Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) will perform the examinations when possible. If SAFEs or SANEs cannot be made available, other qualified medical practitioners will be perform the examination. SMR will document its efforts to provide SAFEs or SANEs.
4. A victim advocate from a rape crisis center shall be made available to all victims. If a rape crisis center is not available to provide victim advocate services, SMR shall make available a qualified staff member from a community-based organization or a qualified agency staff member. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.
5. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.
6. SMR is not responsible for investigating allegations of sexual abuse. Therefore, a request will be made that the investigating agency to follow the requirements of paragraphs of this section.

222 Policies to ensure referrals of allegations for investigations

1. An administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. SMR staff will conduct administrative investigations and rely on outside agencies to conduct criminal investigations.
2. All potentially criminal allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations. All such referrals shall be documented. The policy regarding investigations will be published on SMR's website.
3. The agency responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have a policy in place governing the conduct of such investigations.

Training and Education - Community Confinement**231 Employee training**

1. SMR shall train all employees who may have contact with residents on:
 - Its zero-tolerance policy for sexual abuse and sexual harassment;
 - How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - Clients' right to be free from sexual abuse and sexual harassment;
 - The right of clients and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - The dynamics of sexual abuse and sexual harassment in confinement;
 - The common reactions of sexual abuse and sexual harassment victims;
 - How to detect and respond to signs of threatened and actual sexual abuse;
 - How to avoid inappropriate relationships with clients;
 - How to communicate effectively and professionally with clients, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
 - How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
2. Such training shall be tailored to the gender of the clients at the facility. Employees shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.
3. All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards. SMR shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, SMR shall provide refresher information on current sexual abuse and sexual harassment policies.
4. SMR shall document, through employee signature or electronic verification, that employees understand the training they have received.

232 Volunteer and contractor training

1. SMR shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. In emergency situations, contractors without training will be permitted in the facility if accompanied by one or more SMR employees.
2. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
3. SMR shall maintain documentation confirming that volunteers and contractors understand the training they have received.

233 Client education

1. During the intake process, clients shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.
2. SMR shall provide refresher information whenever a client is transferred to or from a different facility.
3. SMR shall provide client education in formats accessible to all clients, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to clients who have limited reading skills.
4. Documentation of client participation in these education sessions shall be maintained.
5. In addition to providing such education, key information shall be continuously and readily available or visible to clients through posters, client handbooks, or other written formats.

234 Specialized training: Investigations

1. To the extent SMR staff conducts sexual abuse investigations, staff investigators will receive documented specialized training that shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. In most circumstances the contracting agency will be primarily responsible for all investigations. SMR will request that the agency ensure that its agents and investigators receive like training. This request will be documented.

235 Specialized training: Medical and mental health care

1. SMR shall ensure that all medical and mental health care practitioners who work regularly in its facilities have been trained in:
 - How to detect and assess signs of sexual abuse and sexual harassment;
 - How to preserve physical evidence of sexual abuse;
 - How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
 - How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Southern Missouri Reentry does not have medical and mental health practitioners that work regularly in the facility. All medical care is provided by and at unrelated health care organizations.

2. Medical and mental health care practitioners (contractors and volunteers) shall also receive the training mandated for employees depending upon the practitioner's status at the agency.

Southern Missouri Reentry does not have medical and mental health practitioners that work regularly in the facility. All medical care is provided by and at unrelated health care organizations.

Screening for Risk of Sexual Victimization and Abusiveness

241 Screening for risk of victimization and abusiveness

1. All clients shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other clients or sexually abusive toward other clients.
2. Intake screening shall ordinarily take place within 72 hours of arrival at the facility.
3. Such assessments shall be conducted using an objective screening instrument.
4. The intake screening shall consider, at a minimum, the following criteria to assess clients for risk of sexual victimization:
 - Whether the client has a mental, physical, or developmental disability;
 - The age of the client;
 - The physical build of the client;
 - Whether the client has previously been incarcerated;
 - Whether the client's criminal history is exclusively nonviolent;
 - Whether the client has prior convictions for sex offenses against an adult or child;
 - Whether the client is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or transsexual;
 - Whether the client has previously experienced sexual victimization; and
 - The client's own perception of vulnerability.

5. The intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing clients for risk of being sexually abusive.
6. Within a set time period, not to exceed 30 days from the client's arrival at the facility, the facility will reassess the client's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.
7. A client's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the client's risk of sexual victimization or abusiveness.
8. Clients may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to this section.
9. Sensitive information shall not be disseminated unnecessarily to guard against exploit to the client's detriment by staff or other clients.

242 Use of screening information

1. Information from the risk screening shall be used to inform housing, bed, work, education, and program assignments with the goal of keeping separate those clients at high risk of being sexually victimized from those at high risk of being sexually abusive.
2. The contracting agency shall determine the gender of the client by virtue of program assignment and SMR shall make individualized determinations about how to ensure the safety of each client.
3. In deciding whether to assign a transgender or intersex client to a facility for male or female clients, and in making other housing and programming assignments, SMR shall consider on a case-by-case basis whether a placement would ensure the client's health and safety, and whether the placement would present management or security problems.
4. A transgender or intersex client's own views with respect to his or her own safety shall be given serious consideration.
5. Transgender and intersex clients shall be given the opportunity to shower separately from other clients at designated times as coordinated and managed by security staff for the client's privacy and safety.
6. SMR shall not place lesbian, gay, bisexual, transgender, or intersex clients in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such clients.

Reporting

251 Client reporting

1. Multiple internal ways for clients to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents will be provided.

2. Clients will be informed of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.
3. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. Staff receiving verbal reports should document the allegation in writing as soon as possible, while ensuring all safety and investigative concerns are handled properly, but report must be completed and filed prior to the reporting staff shift has ended on day allegation is received.
4. Staff may privately report sexual abuse and sexual harassment of residents either in person or in writing.

252 Exhaustion of administrative remedies

1. An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.

The Bureau of Prisons' Program Statement 1330 is the governing document for grievances and administrative remedies. The responsibility for responding to client grievances rests with the Bureau. SMR is exempt from this standard. Clients wishing to file a grievance are directed to the Program Director or designee. The Program Director will provide the client with proper forms and a stamped, addressed envelope to Residential Reentry Manager's office, located in St. Louis, MO. This office is located in a one-day zone, so mailings will be delivered the next business day.

253 Client access to outside confidential support services

1. SMR shall provide clients with access to outside victim advocates for emotional support services related to sexual abuse by giving clients mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between clients and these organizations, in as confidential a manner as possible.
2. SMR shall inform clients, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. SMR shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide clients with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

254 Third-party reporting

Third-party reports of sexual abuse and sexual harassment can be received by written correspondence, the SMR website, and phone calls.

Official Response Following a Client Report

261 Staff and agency reporting duties

1. All staff are required to report, immediately and according to SMR policy, any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in or outside of a facility, whether or not it is part of the agency; retaliation against clients or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
2. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, to make treatment, investigation, and other security and management decisions.
3. Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform clients of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
4. If the alleged victim is under the age of 18 or considered a vulnerable adult, SMR shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws.
5. SMR shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the contracting authority(ies).

262 Agency protection duties

1. Upon learning that a client is subject to a substantial risk of imminent sexual abuse immediate action shall be taken to protect the client by separating the victim from perpetrator and attending the needs of the victim while not impeding in the investigation.

263 Reporting to other confinement facilities

1. Upon receiving an allegation that a client was sexually abused while confined at another facility, the Program Director or designee shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation and such notification shall be followed up in writing.
3. SMR will maintain documentation of all notifications.
4. SMR will fully investigate allegations received from other facilities and agencies in accordance with these standards.

264 Staff first responder duties

1. Upon learning of an allegation that a client was sexually abused, the first staff member to respond to the report shall be required to:
 - Separate the alleged victim and abuser;
 - Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. Non-compliance of this request will be documented.

NOTE:

Clients are prohibited from engaging in all acts listed under the “Sexual abuse of a client by a staff member, contractor, or volunteer:” section of the Zero Tolerance Sexual Abuse and Harassment form while in the facility.

First responder duties are in order anytime staff witnesses sexual acts between clients. Always separate those involved; after clients are separated, request that each client provide a statement as to the activities witnessed. Always record the statement or record if the client decided not provide one.

If there are no allegations of abuse, the local Resident Re-entry Manager or duty officer must be contacted as soon as possible – attempt to contact the Program Director, first – but proceed to BOP contact if no response. Be prepared to give complete details of the event, including client statements – or refusal to give one.

265 Coordinated Response

To coordinate actions taken in response to an incident of sexual abuse, all claims shall be immediately reported to the Program Director, Associate Director or the PREA Coordinator, the investigative agency, and medical and mental health treatment and victim advocacy offered.

266 Preservation of ability to protect clients from contact with abusers

1. Neither the agency nor any other governmental entity responsible for collective bargaining on the agency’s behalf shall enter into or renew any collective bargaining

agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with clients pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

2. Nothing in this standard shall restrict the entering into or renewal of agreements that govern the conduct of the disciplinary process or whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

267 Protection against retaliation

1. All clients and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other clients or staff and shall designate which staff members or departments are charged with monitoring retaliation. The Associate Director and Program Director are the primary staff positions charged with monitoring retaliation. They may designate other staff appropriate to specific incidents.
2. Multiple protection measures may be employed, such as housing changes or transfers for client victims or abusers, removal of alleged staff or client abusers from contact with victims, and emotional support services, for clients or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least 90 days following a report of sexual abuse, the Program Director shall monitor and document the conduct and treatment of clients or staff who reported the sexual abuse and of clients who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by clients or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any client disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The Associate Director or designee will perform these duties if the Program Director was involved in the allegation.
4. The monitoring of clients will include periodic status checks.
5. If any other individual who cooperates with an investigation expresses a fear of retaliation, the local Program Director and Associate Director shall take appropriate measures to protect that individual against retaliation.
6. SMR's obligation to monitor shall terminate if it is determined by the investigative agency that the allegation is unfounded.

271 Criminal and administrative agency investigations

- (a) SMR will conduct administrative investigations into allegations of sexual abuse and sexual harassment, and shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Criminal investigations will be conducted by outside agencies at the direction of the Federal Bureau of Prisons, normally

Residential Reentry Manager or designee. SMR will notify the Saint Louis Police Department in emergency situations where evidence preservation or life safety issues may be compromised due to delayed response.

- (b) SMR will ensure that staff conducting administrative investigations of allegations where sexual abuse is alleged will have received special training in sexual abuse investigations pursuant to the current PREA Community Confinement Standards.
- (c) During administrative investigations, investigators shall gather and preserve direct and circumstantial evidence, including video from the camera monitoring, interviews of relevant persons, staff personnel files and attendance, and information in client files (including prior complaints and reports of abuse of suspects), as well as information stored in software-based programming tools. SMR will take necessary steps to preserve physical and DNA evidence for the criminal investigators of sexual abuse allegations.
- (d) SMR will assist outside agencies when the quality of evidence appears to support criminal prosecution. The outside agency will be the decision maker in regards to any criminal prosecution.
- (e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No client alleging sexual abuse will be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- (f) Administrative investigations:
 - (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- (g) SMR will request that investigators from outside agencies provide a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
- (h) SMR will request that investigators from outside agencies refer all substantiated allegations of conduct that appears to be criminal for prosecution.
- (i) SMR will retain all available written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
- (j) The departure of the alleged abuser or victim from the employment or control of the facility or agency will not provide a basis for terminating an investigation.
- (k) SMR will request that any state entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
- (l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

272 Evidentiary standard for administrative investigations

1. SMR will not use a standard higher than the preponderance of evidence.

273 Reporting to clients

1. Following an investigation into a client's allegation of sexual abuse suffered in the facility, SMR and/or the contracting agency shall inform the client as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. The Program Director shall request the relevant information from the investigative agency in order to inform the client.
3. Following a client's allegation that a staff member has committed sexual abuse against the client, SMR and/or the contracting agency shall subsequently inform the client (unless the agency has determined that the allegation is unfounded) whenever:
 - The staff member is no longer posted within the client's unit;
 - The staff member is no longer employed at the facility;
 - It is learned that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - It is learned that the staff member has been convicted on a charge related to sexual abuse within the facility.
4. Following a client's allegation that he or she has been sexually abused by another client, SMR and/or the contracting agency shall subsequently inform the alleged victim when SMR receives notification by the contracting agency that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications shall be documented.
6. SMR's obligation to report shall terminate if the client is released from the agency's custody.

Discipline

276 Disciplinary sanctions for staff

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
3. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
4. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

277 Corrective action for contractors and volunteers

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with clients and shall be reported to law enforcement agencies and relevant licensing authorities.
2. SMR shall take appropriate remedial measures, and shall consider whether to prohibit further contact with clients, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

278 Disciplinary sanctions for clients

1. Clients shall be subject to disciplinary sanctions pursuant to the formal disciplinary process following an administrative finding that the client engaged in client-on-client sexual abuse or following a criminal finding of guilt for client-on-client sexual abuse.
2. Sanctions recommended to the contracting agency will be commensurate with the nature and circumstance of the offense, consider the client's disciplinary history, and comparable to previously considered offenses committed by other clients.
3. The client's mental disabilities or illnesses, if any, will also be considered when determining sanctions.
4. SMR prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Medical and Mental Care**281 Reserved****282 Access to emergency medical and mental health services**

1. Client victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
2. Client-victims of sexual abuse shall be offered timely information about, and timely access to, emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
3. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

283 Ongoing medical and mental health care for sexual abuse victims and abusers

1. SMR shall offer medical and mental health evaluation and, as appropriate, treatment to all clients who have been victimized by sexual abuse in prison, jail, lockup, or juvenile facility.

2. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
3. SMR shall provide such victims with medical and mental health services consistent with the community level of care.
4. Client victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
5. If pregnancy results from specified conduct of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
6. Client victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
7. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
8. SMR shall attempt to conduct, or have conducted, a mental health evaluation of all known client-on-client abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners along with the contracting authority.

Data Collection and Review - Community Confinement

286 Sexual abuse incident reviews

1. SMR shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
2. The review shall ordinarily occur within 30 days of the conclusion of the investigation.
3. The review team shall include upper-level management officials, with input from line supervisors, investigators, and third-party medical or mental health practitioners.
4. The review team shall:
 - Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - Assess the adequacy of staffing levels in that area during different shifts;
 - Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - A report shall be prepared of its findings and any recommendations for improvement, and it will be submitted to the PREA Coordinator, Program Director, Associate Director, and the Executive Director.

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

287 Data collection

1. SMR shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
2. SMR shall aggregate the incident-based sexual abuse data at least annually.
3. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
4. The collected data shall be reviewed and maintained as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews.
5. The PREA Coordinator also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its clients.
6. Upon request, SMR shall provide all such data from the previous calendar year to the Department of Justice.

288 Data review for corrective action

1. The PREA coordinator shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
 - Identifying problem areas;
 - Taking corrective action on an ongoing basis; and
 - Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
2. The report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
3. The report shall be approved by the Program Director and made readily available to the public through its website.
4. SMR may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

289 Data storage, publication, and destruction

1. SMR will ensure that data collected are securely retained.

2. SMR shall maintain aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or other means.
3. SMR will remove all personal identifiers before making aggregated sexual abuse data publicly available.
4. SMR shall maintain sexual abuse data collected for substantiated cases for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.