

WALSH COUNTY CORRECTIONAL FACILITY RULES & REGULATIONS
NUMBER C-260

SUBJECT: PRISON RAPE ELIMINATION ACT

EFFECTIVE DATE: _____

APPROVED: _____

REFERENCE JAIL RULE: PREA ACT OF 2015

PREA 115.11, 115.12, 115.13, 115.14, 115.15, 115.16, 115.17, 115.18, 115.21, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41, 115.42, 115.43, 115.51, 115.52, 115.53, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.71, 115.72, 115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89, 115.93, 115.401, 115.402, 115.403, 115.404, 115.405, 115.501

CHAPTER TITLE:

Walsh County Policy

POLICY AND PROCEDURES

POLICY AND PROCEDURE NUMBER:

C-270

RELATED STANDARDS:

PREA
115.11, 115.12, 115.13, 115.14, 115.15, 115.16, 115.17, 115.18, 115.21, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41, 115.42, 115.43, 115.51, 115.52, 115.53, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.71, 115.72, 115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89, 115.93, 115.401, 115.402, 115.403, 115.404, 115.405, 115.501

CHAPTER TITLE:

. Operations

SUBJECT:

(PREA) Prison Act of 2003

NOTE: This rule of regulation is for internal use only, and does not enlarge correctional officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

1. **AUTHORITY:** Authority for this policy with procedures is found in chapters 54-23.3 and 12-47 of the North Dakota Century Code and part 115 of Title 28 of the Code of Federal Regulations.
2. **APPLICABILITY:** All employees and inmates of the North Dakota Department of Corrections and Rehabilitation.
3. **DEFINITIONS AND ACRONYMS:** [115.11 (a)-3]
 - a. Abuse: The improper use or treatment of an inmate that directly or indirectly affects the inmate negatively; any intentional act that causes physical, mental or emotional injury to an inmate.
 - b. Behavioral Health Practitioner: A person who by education and experience is professionally qualified to provide counseling interventions designed to facilitate individual achievement of human development goals and mediate mental, emotional, or behavioral disorders, and associated distresses which interfere with behavioral health and development.
 - c. Contractor: A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
 - d. Deoxyribonucleic Acid or DNA: A nucleic acid that contains the genetic instructions used in the development and functioning of all known living organisms
 - e. Exigent Circumstances: Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the facility.
 - f. File Net: An electronic storage database.
 - g. Gender Non-Conforming: A person whose appearance or manner does not conform to traditional societal gender expectations.
 - h. Inmate: Individual confined in a jail or prison.
 - i. Intersex: 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.
 - j. Medical Practitioner: Any person practicing medicine to include the Department of Corrections and Rehabilitation physicians, nurse practitioners, and physician assistants.
 - k. Prison Rape Elimination Act of 2003: Federal law that prohibits and seeks to eliminate sexual assaults and sexual misconduct in correctional institutions and community corrections settings.
 - l. Prison Rape Elimination Act Compliance Manager: The designated facility staff at each facility with sufficient time and authority to coordinate the facility's efforts to comply with the Prison Rape Elimination Act standards.
 - m. Prison Rape Elimination Act Coordinator: A senior-level position that reports directly

to the agency head. The Prison Rape Elimination Act coordinator's responsibilities include developing, implementing, and overseeing the agency's plan to comply with the Prison Rape Elimination Act standards. He or she is also responsible for ensuring the completion of the assessment checklists in compliance with Prison Rape Elimination Act standards.

- n. Sexual Abuse of an Inmate, Detainee, or Juvenile by another Inmate, Detainee, or Juvenile : 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 which may include: persuasion, inducement , enticement or forcible compulsion , subjecting to sexual contact another person who is incapable of giving consent by reason of custodial status; subjecting another person to sexual contact who is incapable of consenting by reason of being physically helpless, physically restrained or mentally incapacitated; prostituting or otherwise sexually exploiting another person.
 - 1. Contact between the penis and vulva or the penis and 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;
 - 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.
- o. Sexual Abuse of an Inmate, Detainee, or Juvenile by a Staff Member, Contractor , or Volunteer: Includes any of the following acts, with or without consent of the inmate, detainee or juvenile
 - 1. Contact between the penis and vulva or the penis and 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 where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - 4. Penetration of the anal or genital opening of another person, however slight , by a hand, finger , object or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse , arouse, or gratify sexual desire;
 - 5. Any other intentional touching , 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;
 - 6. Any attempt , threat or request by a staff member , contractor , or volunteer to engage in the activities described in paragraphs 1-5. of this section;
 - 7. Any display by a staff member , contractor , or volunteer of his or her uncovered genitalia , buttocks, or breast in the presence of an inmate, detainee , or juvenile;
 - 8. Voyeurism by a staff member, contractor, or volunteer.
- p. Sexual Harassment: Includes:
 - 1. Unwelcome sexual advances , requests for sexual favors , or verbal comments,

gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee or juvenile directed toward another;

2. Verbal comments or gestures of a sexual nature to an inmate, detainee or juvenile, 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.
- q. Sexually Transmitted Diseases: Any of various diseases, including cancrroid, chlamydia, gonorrhea, and syphilis, that are usually contracted through sexual intercourse or other intimate sexual contact.
 - r. Substantiated Allegation: Allegation that was investigated and determined to have occurred.
 - s. Transgender: A person whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth.
 - t. Unfounded Allegation: Allegation that was investigated and determined not to have occurred.
 - u. Unsubstantiated Allegation: Allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
 - v. Volunteer: An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
 - w. Volunteer and Contractor Inmate Contact: Any contact with inmates that occurs while the volunteer or contractor is not escorted or observed by staff. These persons will receive Prison Rape Elimination Act training prior to entering Walsh County Jail unescorted or unsupervised. Volunteer and contractor acknowledgement forms shall be retained in the volunteer/contractor's file by designated facility staff.
 - x. Voyeurism by a Staff Member, Contractor, or Volunteer: An invasion of privacy of an inmate, detainee, juvenile or resident by staff for reasons unrelated to official duties, such as peering at an inmate or juvenile who is using a toilet in his or her cell to perform bodily functions; requiring an inmate or juvenile to expose their buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate or juvenile performing bodily functions.
 - y. BCI: Bureau of Criminal Investigation
 - z. DOJ: Department of Justice
 - aa. EMRS: Electronic Medical Records Systems
 - bb. HIV: Human Immune Deficiency Virus
 - cc. PREA: Prison Rape Elimination Act of 2003
 - dd. SAFE: Sexual Assault Forensic
 - ee. SANE: Sexual Assault Nurse Examiner
 - ff. STD: Sexually Transmitted Disease
4. POLICY: Walsh County will have written policy and procedures mandating zero-tolerance towards all forms of sexual abuse, and sexual harassment and outlining Walsh County's approach to prevention, detection, and response to such conduct. Policy and procedure will be in accordance with the DOJ Title 28 Code of Federal Regulations, Part 115, and National Standards, to prevent, detect, and respond to prison rape.

5. PROCEDURES:

a. Prevention Planning

1. **§ 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator**

- a. Walsh County has a zero tolerance toward all forms of sexual abuse and sexual harassment within its facilities. [115.11 (a)-1]
- b. This policy outlines how Walsh County will implement the agency's zero tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment. [115.11 (a)-2]
- c. Walsh County identifies disciplinary sanctions for those found to have participated in prohibited behaviors. [115.11 (a)-4]
 1. Disciplinary sanctions are identified under standards § 115.76, § 115.77, and § 115.78.
- d. Walsh County has a designated upper-level, agency-wide PREA Coordinator who has sufficient time and authority to implement and oversee Walsh County efforts to comply with PREA standards. [115.11(b)-1] [115.11 (b)-2]

1. The PREA Coordinator's responsibilities

- a. Assist with the development and implementation of PREA-related policies.
- b. Develop and coordinate procedures to triage allegations received and identify, monitor, and track incidents of sexual abuse.
- c. Identify and track referrals of allegations to Law Enforcement and prosecutors
- d. Develop and implement a comprehensive system to audit compliance with PREA policies and applicable laws.
- e. Oversee monitoring of PREA compliance with private and non-department public entities contracted for offender and inmate confinement.
- f. Keep management informed on PREA-related issues.
- g. Maintain a memorandum of understanding for external victim advocacy through Domestic Violence Center.
- h. Serve as the PREA liaison for Walsh County.
- e. Walsh County designates a PREA compliance manager with oversight provided by the DOCR PREA Coordinator. The PREA compliance manager has sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. [115.11 (c)-11][15.11 (c)-21]

1. The PREA Compliance Managers responsibilities:

- a. Serve as a point of contact for the PREA Coordinator.
- b. Coordinate audit preparations.
- c. Coordinate corrective action plans and ensure follow up.
- d. Track completion of Risk Management Incident Report forms for all allegations of sexual abuse or sexual harassment.
- e. Ensure checks are performed to verify the PREA hotline telephone number is posted on or near all inmate telephones.
- f. Perform a monthly functionality test of a random sample of inmate telephones to verify the toll-free number is operational.
- g. Perform monthly checks to verify posters and brochures provided by Walsh County are posted in areas accessible to inmates and the public.

- h. Monitor and provide technical resources to the PREA investigator
- 2. **§ 115.12 contracting with other entities for the confinement of inmates.**
 - a. Agencies under contract with Walsh County will include in any new contract or contract renewal to adopt and comply with the PREA standards [115.12 (a)-11
 - b. All new contracts or contract renewals provide for Walsh County contract monitoring to ensure compliance with the PREA standards . [115.12 (a)-21
 - 1. Contract managers will monitor compliance through reported offenses and facility inspections
- 3. **§ 115.13 Supervision and Monitoring**
 - a. Walsh County will develop, document and make the best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable video monitoring, to protect inmates against sexual abuse. [115.13]
 - b. Each time the staffing plan is not complied with, the facility documents and justifies all deviations from the staffing plan. [115.13(b)-1]
 - 1. The security shift supervisors will update the shift schedules to ensure staff are assigned to each shift.
 - 2. It is the responsibility of the Sheriff/Chief Correctional Officer to keep the shift schedule updated.
 - 3. There will be written justification for all deviations from the staffing plan.
 - c. Facility monthly reports will include any deviations from the staffing plan, overtime usage, and summary of current staffing levels.
 - d. At least once every year the facility Sheriff, in collaboration with the PREA Coordinator , will review, determine, and document whether any adjustments are needed in: [115.13 (c)- 1]
 - 1. The staffing plan.
 - 2. The deployment of monitoring technology.
 - 3. The allocation of Walsh County resources to commit to the staffing plan to ensure compliance.
 - e. Intermediate or high level supervisors the Sheriff, the Chief Deputy or the Chief Correctional Officer will conduct unannounced rounds 1 time monthly per shift of the facility to identify and deter staff sexual abuse and sexual harassment [115.13 (d) -1]
 - 1. The unannounced rounds are documented. The entry will be logged as UNNANNOUNCED ROUND. [115.13 (d)-2]
 - a. Unannounced supervisor rounds will be conducted on all shifts. [115.13 (d)-3]
 - b. Staff will not alert other staff members when a supervisor is conducting these unannounced rounds, unless such announcement is related to the legitimate operational functions of the facility. [115.13 (d)-4]
- 4. **§115.14 Youthful Inmates**
 - a. Adjudicated delinquent youths charged with offenses are not housed at the Walsh County Jail.
 - b. Walsh County shall place all persons under the age of 18, at Grand Forks Youth Detention Center who have been adjudicated delinquent.
- 5. **§ 115.15 Limits to cross-gender viewing and searches**

- a. Walsh County employees will not conduct cross-gender strip searches or cross-gender visual body cavity searches (anal or genital opening) except in exigent circumstances or when performed by medical practitioners. Efforts will be made in exigent circumstances to obtain Sheriff's prior approval. [115.15 (a)-1]
 - b. Employees will document in the Daily Jail log or LEDS program all cross-gender strip searches and cross-gender visual body cavity searches.
 - c. Inmates will be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell/dorm checks. [115.15 (d)-1]
 - d. Male and Female staff will announce "Male/Female entering cell" when entering an inmate's housing unit where inmates may be seen using the shower, toilet, or different stages of undress. [115.15 (d)-2]
 - 1. Non-uniformed male/female staff will announce prior to entering an inmate's housing unit where inmates may be seen using the shower, toilet, or different stages of undress.
 - 2. Signage stating Correctional Officers of all genders are working in all areas of the Walsh County Jail will be posted in conspicuous areas for those inmates who may have been absent from the housing unit when the announcement was made.
 - e. Staff will not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. [115.15 (e)-1]
 - 1. If the inmate's genital status is unknown, it may be determined through conversation with the inmate, 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.
 - a. During the initial interview with a transgender or intersex inmate, staff will ask the inmate if they prefer to be searched by a male or female officer. This information will be recorded.
 - f. During initial orientation Correctional Officers are trained to conduct cross-gender pat-down searches and searches of transgender and intersex inmates in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs. [115.15 (f)-1]
- 6. § 115.16 Inmate with disabilities and inmates who are limited English proficient.**
- a. The following services have been established to provide disable and limited English proficient inmates' 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. All inmate education materials will be in formats accessible to all inmates in accordance with Title II of the Americans with Disabilities Act, 28 CFR 35.164 . [115.16 (a)-1] [115.16 (b)-1]
 - 1. Interpreter services for the deaf, blind or hard of hearing inmates, and Non-English speaking inmates.
 - a. Language Link 1-888-338-7394
 - b. Account Number 18371
 - c. Your Full Name: Employee Name

2. Inmates who have intellectual, psychiatric, or speech disabilities will review materials with shift staff to ensure comprehension and followed up by the Chief Correctional Officer.
- b. Walsh County will not rely on inmate interpreters , inmate readers, or other types of inmate assistants except in limited circumstances , and must be fully documented, where an extended delay in obtaining an effective interpreter could compromise : [115.16 (c)-1] [115.16 (c)-2]
 1. The inmate's safety;
 2. The performance of first responder duties under §115.64; or
 3. The investigation of the inmate's allegations.

7. § 115.17 Hiring and Promotion Decisions

- a. Walsh County will not hire or promote anyone who may have contact with inmates, and will not enlist the services of any contractor or volunteer who may have contact with inmates, who :[115.17 (a)-1]
 1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).
 2. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force , or coercion, or if the victim did not consent or was unable to consent or refuse ; or
 3. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph a. or b. of this section.
- b. Walsh County considers any incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. [115.17(b)-1]
- c. Before hiring new employees who may have contact with inmates, Walsh County will: [115.17 (c)-1]
 1. Perform a criminal background records check ; and
 2. Consistent with federal, state and local law, make the 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.
- d. Walsh County will conduct criminal background record check before enlisting the service of any contractor or volunteer who may have contact with inmates. [115.17 (d)-1]
- e. Criminal background checks will be conducted by NCIC trained staff at least every five years on all current employees, volunteers and contractors who may have contact with inmates. [115.17 (e)-1]
- f. Walsh County requires all applicants and employees to disclose any misconduct described in paragraph 1. a., b., and c. of this section through the following ways:
 1. Written applications or interviews for hiring or promotions;
 2. Written self-evaluations conducted as part of current employee reviews.
- g. Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination of employment. [115.17 (g)-1]
- h. Unless prohibited by law, Walsh County shall provide information on substantiated

allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer with whom the employee has applied to work.

8. § 115.18 Upgrades to Facilities and Technologies

- a. Walsh County will consider the effect of the design, acquisition expansion, or modification in reference to the agency's ability to protect inmates from sexual abuse during any planned expansions, modifications, or video equipment updates to the facility. [115.18 (a)-1]
 - 1. Walsh County requires the architect or engineer meet the qualifications outlined in the request for statement of qualifications document, to include familiarization with the PREA standards.
 - 2. Walsh County PREA Coordinator consults with the architect or engineer design team during the planning and construction phase.
- b. Prior to installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the sheriff will conduct an assessment to determine technology capabilities to further protect inmates from sexual abuse. [115.18 (b)-1]
 - 1. When conducting an assessment, the sheriff will give consideration to cost, functionality, findings of inadequacy from judicial or federal investigative agencies, blind spots throughout the facility, and the prevalence of sexual abuse.

9. § 115.21 Evidence Protocol and Forensic Medical Examinations

- a. Walsh County is responsible for conducting administrative investigations into allegations of sexual abuse. [115.21 (a)-1]
- b. The Bureau of Criminal of Investigations conducts criminal investigations of sexual abuse for Walsh County. [115.21 (a)-2]
 - 1. The Bureau of Criminal Investigation's evidence protocol will be based on the , North Dakota Sexual Assault Evidence Collection Protocol 5th edition adapted from the Sexual Assault Protocol developed by the United States Department of Justice. [115.21 (a)-3] [115.21 (b)- 2]
- c. All victims of sexual abuse will be offered access to forensic medical examinations. [115.21 (c)-1]
 - 1. Forensic medical examinations will be offered without financial cost to the victim. Forensic examinations will be conducted at Unity Medical Center or Altru Health Systems, unless exigent circumstances exist. [115.21 (c)-2]
- d. Forensic medical exams are conducted by a SAFE or SANE within 120 hours of the incident at Altru Health Center. [115.21 (c)-3]
 - 1. When a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. Walsh County lead investigator will document its efforts to provide a SAFE or SANE. [115.21 (c)-4][115.21 (c)-5]
- e. The lead investigator will attempt to make a victim advocate from a rape crisis center available to the victim in person or by other means. [115.21 (d)-1]
 - 1. The PREA Coordinator will attempt to establish a Memorandum of Understanding with a rape crisis center
 - a. The PREA Coordinator will document MOU's or efforts to obtain them.

[115.21 (d)-2]

2. Walsh County lead investigation will contact the designated medical provider, who will initiate the Sexual Assault Response Team and request a victim advocate.
 - f. If or when a rape crisis center from Altru is not available to provide victim advocate services, the facility provides a qualified community-based organization staff member from the Domestic Violence Shelter [115.21 (d)-3]
 - g. If requested by the victim, a victim advocate or qualified community-based organization staff member from Altru or the Domestic Violence Center will accompany and support the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.[115.21 (e)-1]
10. **§ 115.22 Policies to ensure referrals of allegations for investigations**
- a. Walsh County lead investigator will ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. [115.22 (a)-1]
 1. For procedures see §115.71 Criminal and Administrative Agency Investigations
 - b. Walsh County lead investigator will ensure criminal allegations of sexual abuse or sexual harassment are referred to the Bureau of Criminal Investigation unless the allegation does not involve potentially criminal behavior. [115.22 (b)-1]
 1. The PREA investigator will document all referrals to the Bureau of Criminal Investigation in the investigative report. This information will be forwarded to the PREA Coordinator. [115.22 (b)-3]
11. **§ 115.31 Employee Training**
- a. Walsh County trains all employees during orientation and every two years thereafter, on the following matters: [115.31 (a)-1]
 1. Zero-tolerance policy for sexual abuse and sexual harassment;
 2. How to fulfill employee responsibilities under Walsh County sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 3. Inmates' right to be free from sexual abuse and sexual harassment;
 4. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 5. The dynamics of sexual abuse and sexual harassment in confinement;
 6. The common reactions of sexual abuse and sexual harassment victims;
 7. How to detect and respond to signs of threatened and actual sexual abuse;
 8. How to avoid inappropriate relationships with inmates;
 9. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
 10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
 - b. Training is tailored to the gender of the inmates in the facility. [115.31 (b)-1]
 - c. Employees are provided with information about current policies regarding sexual abuse and sexual harassment policies through: [115.31 (c)-3]

1. Walsh County PREA training,
2. Coordinated response posters,
3. PREA materials posted throughout the facility,
4. Annual performance evaluations require acknowledgement of the PREA policy.

d. Walsh County documents that employees understand the training they have received through employee signature [115.31 (d)-1]

12. § 115.32 Volunteer and Contractor Training

a. The PREA compliance manager of the respective facility will ensure all volunteers and contractors who have contact with inmates will be trained on their responsibilities regarding sexual abuse and sexual harassment with inmates. Volunteers will not be allowed access to the facility if they have not received training on the PREA standards and have a signed acknowledge form on file. [115.32 (a)-1]

1. The type and level of training is based on the services they provide and the level of contact they have with inmates [115.32 (b)-1]

a. Unescorted or unsupervised contractors or volunteers will receive training on PREA standards.

b. Escorted or supervised contractors will review and acknowledge understanding of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents by signing the, PREA Acknowledgement Form. [115.32 (b)-2].

2. Training is approved by the PREA Coordinator.

b. Volunteers will be trained on policy and procedures relative to PREA. This training will be repeated every two years.

c. Walsh County shall maintain documentation confirming volunteers and contractors understand the training they have received. [115.32 (c)-1]

1. Walsh County will document each contractor or volunteer has completed the PREA training and signed the acknowledgement form, based on their level of contact with inmates.

2. § 115.33 Inmate Education

a. Within 30 days of the facility staff will provide comprehensive education to all inmates by showing the video, 'PREA: What You Need to Know' and providing a verbal comprehensive explanation of the video. The comprehensive education will explain the following : [115.31 (a)- 1] [115.31 (c)-3] (4-4281-1M)

1. Walsh County zero-tolerance policy regarding sexual abuse and sexual harassment;

2. Their right to be free from sexual abuse or sexual.

3. How to report incidents or suspicions of sexual abuse or sexual harassment;

4. Their right to be free from retaliation;

5. The agency's policies and procedure for responding to such incidents.

6. Inmate PREA Information is provided to each inmate in the inmate hand book or through video training with information on self-protection and prevention techniques, treatment, and counseling, and reporting methods.

b. Inmate PREA education is available in accessible formats for all inmates including those who are limited English proficient; deaf ; hearing impaired; visually impaired

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or otherwise disabled or limited in their reading skills. [115.33 (d)-1]

1. Deaf or hearing impaired- Training is available through print or closed captioning.
 2. Visually impaired- Training is available through audio.
 3. Limited English proficiency Interpreter services provided by Language Link
 - a. 1-888-338-7394
 - b. Account Number: 18371
 - c. Your Full name: (Employee Name)
 4. Otherwise disabled or limited reading skills - Training is provided through correctional staff and followed up by the Chief Correctional Officer.
- c. Walsh County shall maintain documentation of inmate participation in these education sessions. [115.33 (e)-1]
1. Walsh County will upload documentation of PREA training into the inmate's LEDS file
 2. Walsh County ensures key information is continuously and readily available or visible to inmates through posters and inmate handbooks. [115.33 (f)-1]

3. §115.34 Specialized training: Investigations

- a. Investigators who investigate allegations of sexual abuse are trained in conducting sexual abuse investigations in confinement settings. This includes: [115.34 (a)-1]
 1. Department of Justice approved PREA investigator training. [115.34 (b)]
 - a. Techniques for interviewing sexual abuse victims; and proper use of Miranda and Garrity Warnings;
 - b. Sexual abuse evidence collection in confinement settings;
 - c. Criteria and evidence required to substantiate a case for administrative action or for prosecution referral.
- b. Walsh County maintains documentation agency investigators have completed the required specialized training in conducting sexual abuse investigations. [115.34 (c)-1]

4. § 115.35 Specialized Training: Medical and Behavioral Health Care

- a. Forensic exams will be conducted at Altru Health Systems [115.35 (b)-1]

5. § 115.41 Screening for risk of sexual victimization and abusiveness

- a. A mental health screening must be completed by shift staff within 24 hours of admission for risk of being sexually abused by other inmates or being sexually abusive toward other inmates. Housing assignments are made accordingly. [115.41 (a)-1] [115.41 (b)-1] [115.41 (c)-1]
- b. The mental health screening considers the following criteria to assess inmates for risk of sexual victimization and sexual abusiveness : [115.41 (d)] [115.41 (e)]
 - a. Whether the inmate has a behavioral, physical, or developmental disability;
 - b. The age of the inmate;
 - c. The physical build of the inmate;
 - d. Whether the inmate has previously been incarcerated;
 - e. Whether the inmate's criminal history is exclusively nonviolent;
 - f. Whether the inmate has prior convictions for sex offenses against an adult or child;

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- g. How does the inmate perceive their sexual orientation; heterosexual; gay; lesbian; bisexual; transgender; intersex; or gender nonconforming?
 - h. Whether the inmate has previously experienced sexual victimization in an institutional setting or in the community.
 - i. The inmate's own perception of vulnerability.
 - c. A follow-up appraisal is completed within 30 days of the inmate's arrival to determine risk of sexual victimization and sexual abusiveness. [115.41 (f)- 1
Inmates identified as high-risk with a history of sexually assaultive behavior will be assessed by the Sheriff or Chief Correctional Officer. Inmates with a history of sexually assaultive behavior are identified and monitored.
 - 1. If an inmate answers affirmatively the inmate has been accused, charged, or convicted of a sexual offense or ever been written up for sexual misbehavior while in jail or prison, information will be documented on the 24 hour intake screening, jail daily log or inmate LEDS file.
 - a. The Sheriff or the Chief Correctional Officer will review the information to determine follow-up action if an inmate is determined to be sexually aggressive.
 - 2. If the inmate reports concerns about the inmate's ability to protect their self or stop sexual advances or pressure for sex a vulnerable risk information will be documented on the 24 hour intake screening, the daily log or inmate LEDS file.
Inmates identified as at risk for sexual victimization will be assessed. Inmates at risk for sexual victimization will be identified and monitored.
 - d. Vulnerable Risk Notification referrals will be sent to supervisory staff and will be monitored to determine potential vulnerability.
 - 1. If determined the inmate to be vulnerable information will be documented on the 24/hour intake screening, daily log or inmate LEDS file.
 - a. An inmate's risk level must be reassessed when warranted because of a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. Any staff may refer an inmate for reassessment. [115.41 (g)-1]
 - b. Inmates who are determined to be potential vulnerable will be monitored for sexual risk, vulnerability or abusiveness.
 - c. If determined the inmate to be vulnerable or abusive, information will be documented on the 24/hour intake screening, daily log or inmate LEDS file.
 - d. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked during screening or assessment. [115.41 (h)-1]
 - e. Walsh County maintains information that limits access to staff and ensures information is not exploited to the inmate's detriment by staff or other inmates. Staff are required to follow Walsh County confidentiality agreement. [115.41 (i)-1]
- 2. **§ 115.42 Use of Screening Information**
 - a. Prior to housing, bed, work, education, and program assignments, staff will review documentation to keep separate inmates who have been identified as high-risk of being sexually victimized inmates identified as high-risk of being sexually abusive to ensure sexual safety of identified inmates . [115.42 (a)-1]

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- b. The facility staff shall make individualized determinations about how to ensure the safety of each inmate by utilizing 24 hour intake screenings and other documentation. [115.42 (b)-1]
 - c. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing assignments staff shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety and whether the placement would present management or security problems . [115.42 (c)-1]
 - 1. Cell assignments for each transgender or intersex inmate shall be reassessed at least twice each year by the Sheriff or Chief Correctional Officer to review any threats to safety experienced by the inmate. [115-42 (d)]
 - a. The Sheriff or the Chief Correctional Officer will complete this task and document the information.
 - b. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration. [115.42 (e)]
 - d. Transgender and intersex inmates must have the opportunity to shower separately from other inmates.[115.42 (f)]
 - 1. Inmates who identify themselves as transgender or intersex during the mental health screening will be advised they can request the opportunity to shower separately from other inmates.
 - e. Walsh County shall not place lesbian, gay, bisexual, transgender, or intersex inmates in housing units solely on the basis of such identification or status unless such placement is in a dedicated facility, unit or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates. [115.42 (g)]
- 3. §115.43 Protective Custody**
- a. Inmates at high-risk for sexual victimization may not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely abusers . If assessment can't be completed immediately, the inmate may be held in involuntary segregated housing for less than 24 hours while the shift staff completes the assessment this will be followed up by the Sheriff or the Chief Correctional Officer. [115.43 (a)-1]
 - b. Inmates placed in segregated housing for this purpose shall have access to all privileges to the extent possible. If the facility restricts access to privileges the facility shall document: [115.43(b)]
 - 1. The privileges that have been limited;
 - 2. The duration of the limitation; and
 - 3. The reasons for any limitations
 - c. Inmates will only be assigned to involuntary segregated housing until an alternative means of separation from likely abusers can be arranged. The assignment may not ordinarily exceed a period of 30 days. [115.43 (c)]
 - 1. Every effort shall be made to keep the victim in the victim's normal housing unit to prevent re-traumatization.

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- d. If an involuntary segregated housing assignment is made pursuant to substandard [115.43 (a)-1] of this section, shift staff shall clearly document: [115.43(d)]
 - 1. The basis for the concern for the inmate's safety; and
 - 2. The reason why no alternative means of separation can be arranged.
 - 3. Every 30 days, each inmate will be reviewed by the Sheriff or Chief Correctional Officer to determine whether there is a continuing need for separation from the general population. Information will be documented.
- 4. **§ 115.51 Inmate Reporting**
 - a. Walsh County allows for internal reporting, by inmates to report privately to agency officials about sexual abuse, sexual harassment, staff neglect or responsibilities contributing to sexual abuse or sexual harassment and retaliation by other inmates or staff for reporting sexual abuse or sexual harassment. Inmates can report in the following ways : [115.51 (a)-1]
 - 1. Verbal reporting to any staff member
 - 2. Third party reporting
 - 3. Inmate request forms
 - 4. Inmate grievance forms
 - b. Walsh County allows for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency in the following ways: [115.51 (b)-1]
 - 1. Write to, Just Detention International 3325 Wilshire Blvd., Suite 340 Los Angeles, CA 90010 Correspondence (privileged mail not reviewed by staff).
 - 2. National Sexual Abuse Hotline – 1-800-656-4673 (toll free, non-recorded line).
 - 3. Local Domestic Violence Shelter – 701-352-4242 (toll free, non-recorded)
- 5. **§ 115.52 Exhaustion of Administrative Remedies**
 - a. There is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. Inmates are not required to use an informal grievance process or to otherwise attempt to resolve with staff an alleged incident of sexual abuse. [115.52 (b)-1] [115.52 (b)-2]
 - b. Walsh County ensures that:
 - 1. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; [115.52 (c)-1]
 - 2. Such grievance is not referred to a staff member who is the subject of the complaint. [115.52 (c)-2]
 - a. Refer to section 115.61 (a) for response steps
 - c. The Sheriff will issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. [115.52 (d)-1]
 - 1. Computation of the 90-day time period must not include time consumed by inmates in preparing any administrative appeal.
 - d. The Sheriff may claim an extension of time to respond, up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. [115.52 (d)-5]

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1. The investigating officer shall notify the inmate in writing of any extension and provide a date by which a decision will be made. [115.52 (d)-6]
- e. Third parties, including inmates, staff members, family members, attorneys, and outside advocates, may assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and to file such requests on behalf of inmates. [115.52 (e)-1]
- f. If a third-party files a request on behalf of an inmate, the alleged victim must agree to have the request filed on the victim's behalf. The alleged victim must also agree to personally pursue any subsequent steps in the administrative remedy process.
 1. If the inmate declines to have the request processed on his behalf, the assigned investigator shall document the inmate's decision and verify by inmate signature. [115.52 (e)-2]
- g. An inmate may file an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse. [115.52 (f)-1]
 1. Once received, staff shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to the Sheriff for which immediate corrective action may be taken.
 2. The Sheriff will provide an initial response within 48 hours. [115.52 (f)2]
 3. The Sheriff will issue a final decision within five calendar days. [115.52 (f)5]
 4. The initial response and final decision will document the Sheriff's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
 5. After a decision is made, a copy of the emergency grievance and all responses will be forwarded to the PREA Coordinator.
- h. An inmate may be disciplined for filing a grievance related to alleged sexual abuse only when there is determination the inmate filed the grievance in bad faith. (115.52 (g)-1]

6. § 115.53 Inmate access to outside confidential support services.

- a. Inmates are provided with access to outside victim advocates for emotional support services related to sexual abuse through mailing addresses and telephone numbers, including toll-free hotline numbers to the organizations listed below. In the event of sexual abuse, a trained behavioral health staff member through Domestic Violence Shelter will be available to provide support services. The facility shall enable reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible. [115.53 (a)-1]
 1. Write to, Just Detention International, 3325 Wilshire Blvd., Suite 340, Los Angeles, CA 90010 (Privileged mail not reviewed by staff)
 2. National Sexual Abuse Hotline - 1-800-656-4673 (toll free, non-recorded line).
 3. Local Domestic Violence Shelter 701-352-4242 (toll free non-recorded)
- b. Sheriff or the Lead Investigator shall inform inmates, prior to giving them access to outside victim advocates, 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. 115.53 (b)-1] [115.53 (b)-2]

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- c. Walsh County maintains or attempts to enter into Memorandum of Understanding or other agreements with community service providers able to provide inmates with confidential emotional support services related to sexual abuse. Walsh County shall maintain copies of these agreements or documentation showing attempts to enter into such agreements. [115.53 (c)-1] [115.53 (c)-2] [115.53 (c)-3] (115.53 (c)-4]

7. § 115.54 Third-Party Reporting

- a. Walsh County posts information on how to report inmate sexual abuse or sexual harassment on behalf of inmates. [115.54 (a)-1] (115.54 (a)-2]

8. § 115.61 Staff and agency reporting duties

- a. All Walsh County staff are required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of Walsh County. [115.61 (a)-1]
 - 1. Staff shall accept reports of sexual abuse and sexual harassment made; verbally, in writing, anonymously, and from third parties. [115.51 (c)-1]
 - 2. Staff shall immediately notify the Sheriff or Chief Correctional Officer of any verbal report of sexual abuse or sexual harassment against inmates or staff. Documentation of inmate verbal reports will be completed and turned in to the Sheriff or Chief Correctional Officer by the end of shift. [115.51 (c)-2] [115.61 (a)-2]
 - 3. Walsh County shall immediately report any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation. [115.61 (a)-3]
 - a. Walsh County employees may privately report sexual abuse and sexual harassment of inmates to their supervisor or any other facility supervisor. [115.51 (d)-1]
 - 4. For response procedures see § 115.65 Coordinated Response.
- e. Apart from reporting to designated supervisors or officials, staff may 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. [115.61 (b)-1]
- f. Unless otherwise precluded by federal, state or local law, medical and behavioral health practitioners shall report sexual abuse and inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. [115.61 (c)-1]
- g. If the alleged victim is considered a vulnerable adult under a state or local vulnerable persons' statute, behavioral health or medical staff shall report the allegation to the Department of Human Services under applicable mandatory reporting laws. [115.61 (d)-1]
- h. The sheriff shall assign an investigator for all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports., [115.61 (e)-1]

1. § 115.62 Agency Protection Duties

- a. When facility staff learn an inmate is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the inmate.[115 .62 (a)-1]
 - 1. Initiate§ 115.65 Coordinated Response, as applicable.

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2. § 115.63 Reporting to other confinement facilities

- a. Upon receiving an allegation an inmate was sexually abused while confined at another facility, the shift staff who received the allegation shall notify the Sheriff or the Chief Correctional Officer who shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. [115.63 (a)-1]
- b. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation .[115.63 (b)-11]
- c. Walsh County Sheriff who receives such notification shall ensure the allegation is investigated in accordance with this policy. [115.63 (d)-11]

3. § 115.65 Coordinated Response - Investigations of sexual abuse or sexual harassment

- a. Walsh County Jail shall use this procedure as a plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, investigators, and facility leadership.[115 .65 (a)-1]
- b. When a shift staff receives a report of possible sexual abuse or sexual harassment, the Sheriff shall ensure an investigation is conducted. (4-4281-3M)
- c. All allegations of non-criminal staff sexual abuse will be handled internally
- d. Sexual Abuse by an inmate, staff member, contractor or volunteer:

1. First responder:

- a. The first staff member responding to an allegation of sexual abuse must immediately separate the alleged victim from the alleged abuser.
- b. Immediately notify the Sheriff or Chief Correctional Officer of the alleged incident.
- c. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence.
- d. If the alleged abuse occurred within the past 120 hours, request that the alleged victim not take any action that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, eating or drinking.
- e. Any employee who receives information about staff sexual abuse on inmate will immediately inform the Sheriff or Chief Correctional Officer. The Sheriff shall notify the PREA compliance manager. Information may include rumors from staff or inmates. Failure to report information about staff sexual abuse may result in disciplinary action, up to and including termination.
- f. Ensure the alleged abuser does not destroy evidence.
- g. Immediately notify the North Dakota State Jail Investigator of the incident.

2. Supervising staff:

- a. Immediately notify the Sheriff of the incident (In cases of staff, contractor, or volunteer)
- b. The Sheriff will consult with human resources, the PREA Coordinator to select an investigator.
- c. Ensure duties of first responder are completed. Ensure alleged abuser does not destroy evidence.

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- d. Contact Domestic Violence Shelter for external victim advocate services.
 - e. Immediately notify medical staff and have alleged victim escorted to Altru Healthcare Center. Notify medical staff an investigator will be assigned.
 - f. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. The area will remain secured as a crime scene until released by the Lead Investigator.
 - g. The Sheriff shall assign an investigator to investigate the incident. If it is determined a crime has been committed the Lead Investigator shall request assistance from the Bureau of Criminal Investigations and work as a liaison with the investigative agency in the investigation.
 - h. The shift staff shall complete the Incident Reporting form within 24 hours of notification.
 - i. The Sheriff, Chief Correctional Officer or Lead Investigator shall separate to the extent possible the inmate and the affected staff during the investigation. This separation does not represent a form of punishment for the inmate or affected staff.
- 3. Medical staff:**
- a. Reassure the alleged victim medical services are involved only to ensure that the proper evaluation and treatment of any injuries is obtained, and psychological support is offered immediately.
 - b. If a sexual assault examination is appropriate, explain the necessity and process of a sexual assault examination to the victim. Sexual assault examinations must be performed by a trained SANE or SAFE at Altru Medical Center. The examination may include a DNA mouth swab test, so the victim should not have anything to eat or drink. The victim must avoid using the bathroom before an examination. The victim must be advised to not wipe or touch the areas of injury or sexual contact or apply any treatment, including ointment, or ice to the area of injury or sexual contact.
 - c. If the alleged victim refuses to be examined, staff shall document the refusal and have the inmate sign an Against Medical Advice Release from Responsibility form.
 - d. In the event transportation is necessary, it will be in accordance with transport policy. The Sheriff will approve any exceptions.
 - e. If the inmate victim must change to transport clothes the following process will be followed.
 - f. The inmate must undress on exam paper. Each item of clothing must be placed in a paper bag (no plastic) and closed with evidence tape. Each item and the folded paper the victim undressed on must be placed in separate paper bags sealed with evidence tape. The Lead Investigator shall start a Chain of Possession of Evidence on the evidence.
 - g. Communicate the facts known about the incident, including the infectious disease status of the aggressor, if known, to the outside medical staff.
 - h. Contact the designated medical provider, who will initiate the Sexual Assault Response Team and request a victim advocate.

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- i. Ensure qualified victim advocate/behavioral health staff is available to provide services to the inmate, if requested.
- j. Document all actions taken and communications with the inmate
- k. Communicate the events to the County Health Nurse.
- l. Ensure STD testing has occurred and prophylactic treatment is completed.
- m. Ensure pre and post HIV counseling has been conducted.
1. Ensure follow-up infectious disease testing is completed and that infectious disease testing is completed on the abuser if the allegation is substantiated.
4. Final determination of allegation:
 - a. The allegation will be considered substantiated if a preponderance (More than 50 percent) of the evidence supports this finding. [115.72 (a)-1]
 - b. If the investigation produced insufficient evidence to make a final determination as to whether or not the incident occurred, it will be considered unsubstantiated.
 - c. If the investigation determines the incident did not occur the allegation will be considered unfounded.
 - d. If it is determined an inmate made a false accusation of sexual abuse or sexual harassment, the inmate may be subject to appropriate disciplinary action.
 - e. Following the investigation, the Lead Investigator or a staff member designated by the Lead Investigator will inform the inmate or inmates verbally whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The investigator will deliver in person a statement of findings which will require a signature of the inmate or inmates. If the inmate refuses to sign the findings form, the investigator will document the refusal and have a staff member witness and sign the refusal. [115.73 (a)-1] [115.73 (e)-1]
5. PREA Investigator:
 - a. At the completion of the investigation, the Lead Investigator will compile all documentation, including the investigative report, incident reports with disposition, medical and counseling findings, recommendations for post-release treatment, and send this information to the PREA Coordinator.
6. Bureau of Criminal Investigation :
 - a. Walsh County investigator will meet with the inmate and review the inmate's statement
 - b. If it is determined a crime may have been committed, the Lead Investigator shall request assistance from the Bureau of Criminal Investigations and work as a liaison with the investigative agency in the investigation.
 - c. If it is determined a crime has not been committed, the Lead Investigator shall interview the staff member.
 - d. During the investigation employees shall cooperate fully by providing all pertinent information. Failure of an employee to answer any inquiry will

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- be grounds for disciplinary action.
 - e. Employees interviewed or implicated may not make any attempt to contact the inmate victim from the time the allegation is first made until the completion of the investigation.
 - f. Employees are prohibited from any form of retaliation against an inmate who makes an allegation of staff sexual misconduct or staff sexual abuse.
 - g. False accusations:
 1. If the investigation reveals an inmate made a false allegation, disciplinary action may be imposed.
 - h. Employees, contractors, volunteers, official visitors or agency representatives who are found to have committed staff sexual abuse as defined in these procedures will be subject to internal discipline in accordance with Walsh County personnel policies
- e. Sexual Harassment:
1. By an inmate:
 - a. Supervising staff
 1. Immediately separate to the extent possible the alleged victim from the inmate accused of sexual harassment.
 2. Offer the alleged victim the opportunity to speak with a counselor through the Domestic Violence Shelter.
 3. Ensure an investigation into the alleged incident is initiated.
 4. Notify the Sheriff and the PREA compliance manager of the investigation.
 2. By a staff member, contractor or volunteer:
 - a. All allegations of staff sexual harassment will be handled internally.
 - b. Any employee who receives information about staff sexual harassment on inmate will immediately inform the Sheriff or Chief Correctional Officer. The Sheriff shall notify the PREA compliance manager. Information may include rumors from staff or inmates. Failure to report information about staff sexual harassment may result in disciplinary action, up to and including termination.
 - c. The Sheriff will:
 1. Immediately notify the North Dakota State Jail Inspector of the incident, the PREA Coordinator and select a Lead Investigator.
 2. The Sheriff, Chief Correctional Officer and Lead Investigator shall separate to the extent possible the inmate and the affected staff during the investigation. This separation does not represent a form of punishment for the inmate or affected staff.
 - d. The Lead Investigator will meet with the inmate and review the inmate's statement.
 - e. If it is determined a crime may have been committed, the investigator shall request assistance from the Bureau of Criminal Investigations and work as a liaison with the Lead Investigative in the investigation.
 - f. If it is determined a crime has not been committed, the investigator shall interview the staff member.
 - g. During the investigation employees shall cooperate fully by providing all

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- h. Employees interviewed or implicated may not make any attempt to contact the inmate victim from the time the allegation is first made until the completion of the investigation.
- i. Employees are prohibited from any form of retaliation against an inmate who makes an allegation of staff sexual misconduct or staff sexual harassment.
- j. False accusations :
 - 1. If the investigation reveals an inmate made a false allegation, disciplinary action may be imposed.
 - k. Employees, contractors, volunteers, official visitors or agency representatives who are found to have committed staff sexual harassment as defined in these procedures will be subject to internal discipline in accordance with Walsh County personnel policies.
- 3. Final determination of allegation:
 - a. The allegation will be considered substantiated if a preponderance (More than 50 percent) of the evidence supports this finding. [115.72 (a)-1]
 - b. If the investigation produced insufficient evidence to make a final determination as to whether or not the incident occurred, it will be considered unsubstantiated.
 - c. If the investigation determines that the incident did not occur, the allegation will be considered unfounded.
 - d. If an inmate is determined to have committed sexual harassment against another inmate, the inmate will be subject to appropriate disciplinary action.
 - e. Following the investigation, the Lead Investigator or a staff person designated by the Lead Investigator will inform the inmate or inmates verbally whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The Lead Investigator will deliver in person a statement of findings which will require a signature of the inmate or inmates. If the inmate refuses to sign the findings form, the Lead Investigator will document the refusal and have a staff member witness and sign the refusal.
- 4. Lead Investigator:
 - a. At the completion of the investigation, the Lead Investigator will compile all documentation, including the investigative report, incident reports with disposition, medical and counseling findings and recommendations send this information to the Sheriff and PREA Coordinator.

4. § 115.66 Preservation of ability to protect inmates from contact with abusers

- a. Standard § 115.66 does not apply to North Dakota since there are no collective bargaining agreements. North Dakota is a right to work state.

5. § 115.67 Agency Protection against Retaliation

- a. Walsh County PREA coordinator protects all inmates and staff who report sexual

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abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. [115.67 (a)-1] [115.67 (a)-2]

1. The PREA coordinator in conjunction with the Sheriff shall ensure to the extent possible multiple protection measures are available, including housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims and emotional support services with the Domestic Violence Shelter for inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. [115.67 (b)]
 - b. For at least 90 days following a report of sexual abuse or sexual harassment, the PREA coordinator shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse or sexual harassment of inmates who were reported to have suffered sexual abuse or sexual harassment to determine if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. [115.67 (c)-1]
 1. Items the facility should monitor include inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. Walsh County shall continue monitoring beyond 90 days if the initial monitoring indicates a continuing need. [115.67 (c)-4]
 - c. In the case of inmates, monitoring shall also include monthly status checks documented. [115.67 (d)]
 - d. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Sheriff or the Chief Correctional Officer shall take appropriate measures to protect that individual against retaliation. [115.67 (e)]
 - e. Walsh County's obligation to monitor terminates if the Lead Investigator determines that the allegation is unfounded. [115.67 (f)]
- 6. § 115.68 Post-Allegation Protective Custody**
- a. Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of standard § 115.43 Protective Custody.
- 7. § 115.71 Criminal and Administrative Agency Investigations**
- a. When Walsh County conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall initiate a thorough and objective investigation for all allegations within 24 hours or as circumstances dictate, including third-party and anonymous reports. [115.71 (a)-1]
 - b. Where sexual abuse is alleged, Walsh County shall utilize investigators who have received Department of Justice approved sexual abuse investigation training. [115.71 (b)]
 - c. Investigators shall gather and preserve direct and circumstantial evidence, including available physical and DNA evidence and available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. [115.71 (c)]
 - d. When the quality of evidence appears to support criminal prosecution, the Lead Investigator will stop the administrative investigation while the criminal investigation

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is being conducted, unless otherwise directed by the Sheriff. Information obtained during the investigation will be shared between the criminal and administrative investigators. [115.71 (d)]

- 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 inmate or staff. Walsh County may not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. [115.71 (e)]
- f. Administrative investigations : [115.71 (f)] Must include an effort to determine whether staff actions or failures to act contributed to the abuse; and
- g. Must 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.
- h. Criminal investigations must be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. [115.71 (g)]
- i. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. [115.71 (h)-1]
- j. Walsh County shall retain all administrative and criminal written reports referenced for as long as the alleged abuser is incarcerated or employed by the agency, plus ten years or in accordance with state statute. [115.71 (i)-1]
- k. Investigations are completed regardless of employee status or inmate custody status. [115.71 U)]
- l. When the Bureau of Criminal Investigations investigates sexual abuse, Walsh County investigators shall cooperate with outside investigators and shall remain informed about the progress of the investigation. [115.71 (I)]

8. §115.72 Evidentiary standard for administrative investigations

- a. Walsh County may not impose a standard higher than a preponderance (More than 50 percent) of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. [115.72 (a)-1]

9. §115.73 Reporting to inmates

- a. Following an investigation, the Lead Investigator or staff member designated by the Lead Investigator will inform the inmate or inmates verbally whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The Lead Investigator will deliver in person a statement of findings which will require the signature of the inmate or inmates. If the inmate refuses to sign the findings form, the Lead Investigator will document the refusal and have a staff member witness and sign the refusal. [115.73 (a)-1]
- b. If the Bureau of Criminal Investigations conducts an investigation, Walsh County shall request the relevant information in order to inform the inmate of the outcome of the investigation. [115.73 (b)-1]
- c. If there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against an inmate, the agency must subsequently inform the inmate whenever : [115.73 (c)-1]
 - 1. The staff member is no longer posted within the inmate's unit;

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2. The staff member is no longer employed at the facility;
 3. Walsh County learns that the staff member has been charged or convicted on a an offense related to sexual abuse within the facility;
 - d. Following an inmate's allegation that he or she has been sexually abused by another inmate in a Walsh County facility, Lead Investigator subsequently informs the alleged victim whenever : [115.73(d)-1]
 1. Walsh County learns that the alleged abuse has been indicted or convicted on a charge related to sexual abuse within the facility.
 - e. All notifications or attempted notifications of the final determination of the allegation is documented.
 - f. Walsh County's obligation to report under this standard terminates if the inmate is released from Walsh County custody.
1. Discipline: Any sexual contact or sexual harassment between staff and inmate, volunteer and inmate, or contract personnel and inmate, regardless of consent, is prohibited and subject to administrative disciplinary and criminal sanctions.
 2. **§ 115.76 Disciplinary sanctions for Walsh County Staff**
 - a. Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. [115.76 (a)-1]
 1. Employees shall cooperate fully by providing all pertinent information during the investigation. Failure of an employee to answer any inquiry fully will be grounds for disciplinary action. Employees may not make any attempt to contact the inmate victim from the time the allegation is first made, until the completion of the investigation.
 - b. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse with an inmate or ward of the state of North Dakota. [115.76 (b)]
 - c. Disciplinary sanctions for violations of Walsh County policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must 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 . [115.76(c)-1]
 - d. All terminations for violations of Walsh County 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 by the Sheriff, unless the activity was clearly not criminal and to any relevant licensing bodies. [115.76 (d)-1]
 3. **§ 115.77 Corrective action for contractors and volunteers**
 - a. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, by the Sheriff unless the activity was clearly not criminal and to relevant licensing bodies. [115.77 (a)-1] [115. (a)-2]
 - b. The Sheriff shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of Walsh County sexual abuse or sexual harassment policies by a contractor or volunteer. [155.77 (b)-1]
 4. **§ 115.78 Disciplinary sanctions for inmates**

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- a. Inmates shall be subject to disciplinary sanctions pursuant to Walsh County disciplinary process following an administrative or criminal finding of guilt that the inmate engaged in inmate-on-inmate sexual abuse [115.78 (a)-1] [115.78 (a)-2]
 - b. Sanctions must be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. [115.78 (b)]
 - c. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. [115.78 (c)]
 - d. Walsh County may discipline an inmate for sexual contact with staff only upon a finding the staff member did not consent to the contact. [115.78 (e)-1]
 - e. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred may not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. [115.78 (f)-1]
- i. **Medical and Mental Health Care**
- 1. **§ 115.81 Medical and Mental Health Screenings; history of sexual abuse**
 - a. If the screening indicates an inmate has experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the inmate is offered a follow-up meeting with Walsh County Health to schedule a referral with medical staff at Unity Medical Center or Altru Medical Center within 14 days of the intake screening. [115.81 (a)/(c)-1] [115.81 (a)/(c)-2] [115.81 (b)-1] [115.81 (b) -2]
 - b. Disclosure of information related to sexual victimization or abuse that occurred in an institutional setting must be strictly limited to staff, as necessary, to make security and management decisions, including treatment plans, housing, bed, work, education and program assignment or as required by state, federal or local law, [115.81(d)-2]
 - c. Medical and behavioral health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. [115.81 (e)-1]
 - 2. **§ 115.82 Access to emergency medical and behavioral health services**
 - a. Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope determined by medical and behavioral health practitioners from Domestic Violence Shelter, Unity Medical Center or Altru Healthcare Center according to their professional judgment. [115.82 (a)-1] [115.82 (a)-2]
 - b. If qualified medical or behavioral health practitioners are not on duty at the time a report of recent abuse is made, the Lead investigator, security staff or first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and behavioral health practitioners at Domestic Violence Shelter, Unity Medical Center and/or Altru Healthcare Center. [115.82 (b)]
 - c. Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted

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standards of care where medically appropriate. [115.82 (c)-1] [115.83 (f)-1]

- d. Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. [115.82 (d)-1] [115.83 (f)-1]

3. § 115.83 Ongoing medical and behavioral health care for sexual abuse victims and abusers

- a. The facility shall offer medical and behavioral health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. [115.83 (a)-1]
- b. The evaluation and treatment of such victims must 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. [115.83 (b)]
- c. The facility shall provide such victims with medical and behavioral health services consistent with the community level of care. [115.83 (c)]
- d. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. [115.83 (d)-1]
- e. If pregnancy results from the conduct described in (4) above in this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. [115.83 (e)-1]

4. § 115.86 Data Collection and Incident Reviews

- a. The facility shall conduct a sexual abuse incident review pursuant to PREA Standard 115.87 at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded. [115.86 (a)-1]
- b. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team may include the Sheriff PREA coordinator, facility Lead Investigator, and assigned facility staff. The results of the review will be provided to the Sheriff. [115.86 (c)-1]
- c. The Sheriff and lead investigator shall: [115.86 (d)-1- (d)-5]
 - 1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;
 - 2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity ; lesbian, gay, bisexual, transgender, or intersex identification status; or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - 3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse
 - 4. Assess the adequacy of staffing levels in that area during different shifts;
 - 5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - 6. Prepare a report of its findings, including determinations and any recommendations for improvement and submit such report to the PREA

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Coordinator and the Sheriff.

7. The Sheriff shall provide a written response to NDSP within 60 days of receiving the findings report of the review team. The Sheriff's response must include an implementation plan of recommendations and the justification for not implementing recommendations.

5. § 115.87 Data collection

- a. Walsh County 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. [115.87(a)/(c)-1]
 1. Walsh County utilizes the Department of Justice, Bureau of Justice Statistics form SSV-2, Survey of Sexual Violence for State Prison Systems. [115.87(a)/(c)-2]
 2. In addition, data is collected in the State Risk Management Incident Report Data system.
- b. Walsh County PREA Coordinator shall aggregate the incident- based sexual abuse data at least annually. [115.87 (b)-1]
- c. Walsh County shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. [115.87 (d)-1]
 1. The PREA Coordinator will compile data and statistics on the number of sexual abuse and sexual harassment incidents that occurred the prior calendar year. These statistics will be forwarded to the Department of Justice annually, upon request.

6. § 115.88 Data review for correction action

- a. The PREA Coordinator in conjunction with the facility Sheriff shall review data collected and aggregated pursuant to PREA Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training to include: [115.88 (a)-1]
 1. Identifying problem areas;
 2. Taking corrective action on an ongoing basis; and
 3. Preparing an annual report of its findings and corrective actions for each facility and the agency as a whole.
 - a. The report must include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse. [115.88 (b)-1]
[115.88 (b)-2]
 - b. Walsh County's report shall be approved by NDSP and made readily available to the public through a website or other means. [115.88 (c)-1]
[115.83 (c)-3]
 - c. Walsh County may redact specific material from the reports when publication presents a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. [115.88 (d)-1] [115.88 (d)-2]

7. § 115.89 Data storage, publication and destruction

- a. Walsh County ensures that data collected pursuant to § 115.87 are securely

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retained. [115.89 (a)- 1]

- b. Before making aggregated sexual abuse data publicly available, Walsh County shall remove all personal identifiers. [115.89 (c)-1]
- c. The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise. [115.89 (d)-1]

8. § 115.93, 115.401 Audits of Standards

- a. Effective and during each three-year period thereafter, Walsh County shall ensure, is audited at least once.
- b. Walsh County will utilize an audit instrument developed by the DOJ to provide guidance on the conduct of and contents of the audit.
- c. The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.
- d. The auditor shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.
- e. The auditor shall have access to, and shall observe, all areas of the audited facilities.
- f. The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
- g. The auditor shall retain and preserve all documentation including, video tapes and interview notes relief upon in making audit determinations. Such documentation shall be provided to the DOJ upon request.
- h. The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.
- i. The auditor shall review a sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.
- j. The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.
- k. Inmates, residents and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
- l. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

9. §115.402 Auditor Qualifications

- a. Auditors must be certified by the DOJ.
- b. An auditor must be a member of a correctional monitoring body that is not part of, or under the authority of, Walsh County but may be part of, or authorized by, North Dakota state or local government.
- c. An auditor must be a member of an auditing entity such as an inspector general's or ombudsperson's office that is external to Walsh County.
- d. Auditors may be other outside individuals with relevant experience.
- e. No audit may be conducted by an auditor who has received financial compensation from Walsh County within three years prior to Walsh County's retention of the auditor.
- f. Walsh County shall not employ, contract with, or otherwise financially compensate

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the auditor for three years subsequent to Walsh County's retention of the auditor, with the exception of contracting for subsequent PREA audits.

10. § 115.403 Audit Content and Findings

- a. Each audit must include a certification by the auditor that no conflict of interest exists with respect to their ability to conduct an audit of Walsh County.
- b. Audit reports must state whether Walsh County directives, policies and procedures comply with relevant PREA standards.
- c. For each PREA standard , the auditor shall determine whether the audited facility reaches one of the following findings:
 1. Exceeds Standard:
 - a. Substantially exceeds requirements of the standard.
 2. Meets Standard:
 - a. Substantial compliance; complies in all material ways with the standard for the relevant review period.
 3. Does Not Meet Standard:
 - a. Requires corrective action.
 4. The audit summary must indicate, among other things, the number of provisions the facility has achieved at each grade level.
 5. The audit reports must describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and must include recommendations for any required corrective action.
 6. Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to Walsh County upon request, and may provide such information to the DOJ.

11. § 115.404 Audit corrective action plan

- a. A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.
- b. The auditor and Walsh County shall jointly develop a corrective action plan to achieve compliance.
- c. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan including reviewing updated policies and procedures or re-inspecting portions of the facility.
- d. After the 180-day corrective action period ends, the auditor shall issue a final determination whether the facility has achieved compliance with those standards requiring corrective action.
- e. If Walsh County does not achieve compliance with each standard, it may (at Walsh County discretion and cost) request a subsequent audit once it believes compliance has been achieved.

12. § 115.405 Audit appeal

- a. Walsh County may lodge an appeal with the DOJ regarding a specific audit finding it believes is incorrect. The appeal must be lodged within 90 days of the auditor's final determination.
- b. If the DOJ determines Walsh County has stated for good cause for a re-evaluation, Walsh County may commission a re-audit by an auditor mutually agreed upon by

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the DOJ and Walsh County. Walsh County shall bear the costs of this re-audit.

c. The findings of there-audit shall be considered final

13. § 115.501 State determination and certification of full compliance

a. In determining pursuant to 42 U.S.C 15607 (c) (2) whether Walsh County is in full compliance with the PREA standards, the Governor shall consider the results of the most recent Walsh County audits.

b. The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.

j. Audit Requirements:

Walsh County will comply with all audit requirements from the DOJ.

6. SIGNATURE: This policy with procedures becomes effective when signed by the Director of the Department of Corrections and Rehabilitation.

This copy has been approved by the Sheriff with the original signature on file.

- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of an inmate, detainee or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate, detainee or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to an inmate, detainee or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

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

606.2 POLICY

This office has zero tolerance with regard to sexual abuse and sexual harassment in this facility. This office will take appropriate affirmative measures to protect all inmates from sexual abuse and harassment, and promptly and thoroughly investigate all allegations of sexual abuse and sexual harassment (NDCFR 90).

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606.3 PRESERVATION OF ABILITY TO PROTECT INMATES

The Office shall not enter into or renew any labor agreement or other agreement that limits the office's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted (28 CFR 115.66).

606.4 PREA COORDINATOR

The Chief Correctional Officer shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee office efforts to comply with the PREA standards. The PREA coordinator shall review facility policies and practices and make appropriate compliance recommendations to the Chief Correctional Officer (28 CFR 115.11).

The PREA coordinator's responsibilities shall include:

- (a) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and facility management to an incident of sexual abuse. The plan must also outline the office's approach to identifying imminent sexual abuse toward inmates and preventing and detecting such incidents (28 CFR 115.11; 28 CFR 115.65; 28 CFR 115.62).
- (b) Ensuring that within 30 days of intake, inmates are provided with comprehensive education, either in person or through video, regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding the office's policies and procedures for responding to such incidents (28 CFR 115.33).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees from sexual abuse. This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration (28 CFR 115.13):
 1. Generally accepted detention and correctional practices.
 2. Any judicial findings of inadequacy.
 3. Any findings of inadequacy from federal investigative agencies.
 4. Any findings of inadequacy from internal or external oversight bodies.
 5. All components of the facility's physical plant, including blind spots or areas where staff or inmates may be isolated.
 6. The composition of the inmate population.
 7. The number and placement of supervisory staff.
 8. Institution programs occurring on a particular shift.

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9. Any applicable state or local laws, regulations, or standards.
 10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
 11. Any other relevant factors.
- (d) Ensuring that, when designing, acquiring, expanding, or modifying facilities, or when installing or updating a video-monitoring system, electronic surveillance system, or other monitoring technology, consideration is given to the office's ability to protect inmates from sexual abuse (28 CFR 115.18).
 - (e) Ensuring that any contract for the confinement of office detainees or inmates includes the requirement to adopt and comply with the PREA standards including obtaining incident-based and aggregated data, as required in 28 CFR 115.187. Any new contract or contract renewal shall provide for office contract monitoring to ensure that the contractor is complying with the PREA standards (28 CFR 115.12).
 - (f) Making reasonable efforts to enter into agreements with community service providers to provide inmates with confidential emotional support services related to sexual abuse. The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. Persons detained solely for civil immigration purposes shall be given contact information for immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible. The facility shall inform inmates, 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 (28 CFR 115.53).
 - (g) Ensuring the protocol describing the responsibilities of the Office and of another investigating agency, if another law enforcement agency will be responsible for conducting any sexual abuse or sexual harassment investigations, is published on the facility website or by other means, if no website exists (28 CFR 115.22).
 - (h) Implementing a process by which inmates may report sexual abuse and sexual harassment to a public/private entity or an office that is not part of the Office and that the outside entity or office is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to the Chief Correctional Officer, allowing the inmate anonymity (28 CFR 115.51).
 - (i) Establishing a process to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under the direct control of this office, using a standardized

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instrument and set of definitions. Upon request, the Office shall provide all such data from the previous calendar year to the U.S. Department of Justice (DOJ) no later than June 30 (28 CFR 115.87).

1. The 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 U.S. DOJ.
 2. The data shall be aggregated at least annually.
- (j) Establishing a process to monitor the conduct and treatment of detainees or staff who have reported sexual abuse and the conduct and treatment of detainees who were reported to have suffered sexual abuse.
- (k) Ensuring that the following are published on the office website or by other means, if no website exists:
1. Office policy governing investigations of allegations of sexual abuse and sexual harassment or the referral of such investigations of sexual abuse or sexual harassment (unless the allegation does not involve potentially criminal behavior) (28 CFR 115.22)
 2. Information on how to report sexual abuse and sexual harassment on behalf of an inmate (28 CFR 115.54)
- (l) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 (28 CFR 115.93).
- (m) Implementing a protocol requiring mid-level or higher-level supervisors to conduct and document unannounced inspections to identify and deter sexual abuse and sexual harassment. The protocol shall prohibit announcing when such inspections are to occur, unless it is necessary for operational considerations (28 CFR 115.13).
- (n) Ensuring agreements with outside investigating agencies include PREA requirements, including a requirement to keep the Walsh County Sheriff's Office informed of the progress of the investigation (28 CFR 115.71).
- (o) Ensuring the Office conducts follow-up criminal background records checks at least once every five years on members or contractors who may have contact with inmates or has in place a system for otherwise capturing such information (28 CFR 115.17).

606.5 REPORTING SEXUAL ABUSE, HARASSMENT AND RETALIATION

Any employee, agency representative, volunteer or contractor who becomes aware of an incident of sexual abuse, sexual harassment or retaliation against inmates or staff shall immediately notify a supervisor, who will forward the matter to a sexual abuse investigator (28 CFR 115.61). Staff may also privately report sexual abuse and sexual harassment of inmates (e.g., report to the Chief Correctional Officer) (28 CFR 115.51).

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The facility shall provide information to all visitors or third parties on how they may report any incident, or suspected incident, of sexual abuse or sexual harassment to a staff member (28 CFR 115.54).

Inmates may report sexual abuse or sexual harassment incidents anonymously or to any staff member they choose. Staff shall accommodate all inmate requests to report allegations of sexual abuse or harassment. Staff shall accept reports made verbally, in writing, anonymously or from third parties and shall promptly document all verbal reports (28 CFR 115.51).

Threats or allegations of sexual abuse and sexual harassment, regardless of the source, shall be documented and referred for investigation. Sexual abuse and sexual harassment reports shall only be made available to those who have a legitimate need to know, and in accordance with this policy and applicable law (28 CFR 115.61).

606.5.1 REPORTING TO OTHER FACILITIES

If there is an allegation that an inmate was sexually abused while he/she was confined at another facility, the Chief Correctional Officer shall notify the head of that facility as soon as possible but not later than 72 hours after receiving the allegation. The Chief Correctional Officer shall ensure that the notification has been documented (28 CFR 115.63).

606.6 RETALIATION

All inmates and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations, shall be protected from retaliation.

Protective measures, including housing changes, transfers, removal of alleged abusers from contact with victims, administrative reassignment or reassignment of the victim or alleged perpetrator to another housing area, and support services for inmates or staff who fear retaliation shall be utilized (28 CFR 115.67).

The Chief Correctional Officer or the authorized designee shall assign a supervisor to monitor, for at least 90 days, the conduct and treatment of inmates or staff who report sexual abuse or sexual harassment, as well as inmates who were reported to have suffered sexual abuse, to determine if there is any possible retaliation. The supervisor shall act promptly to remedy any such retaliation. The assigned supervisor should consider inmate disciplinary reports, housing or program changes, negative staff performance reviews or reassignment of staff members. Monitoring may continue beyond 90 days if needed. Inmate monitoring shall also include periodic status checks. The Chief Correctional Officer should take reasonable steps to limit the number of people with access to the names of individuals being monitored and should make reasonable efforts to ensure that staff members who pose a threat of retaliation are not entrusted with monitoring responsibilities.

If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall take reasonable measures to protect that individual against retaliation (28 CFR 115.67).

606.7 FIRST RESPONDERS

If an allegation of inmate sexual abuse is made, the first jailer to respond shall (28 CFR 115.64): (a)

Separate the parties.

- (b) Request medical assistance as appropriate. If no qualified health care or mental health professionals are on-duty when a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate qualified health care and mental health professionals (28 CFR 115.82).

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- (c) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (d) If the time period allows for collection of physical evidence, request that the alleged victim, and ensure that the alleged abuser, do not take any actions that could destroy physical evidence (e.g., washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, eating).
- (e) Consider whether a change in classification or housing assignment for the victim is needed or whether witnesses to the incident need protection, both of which may include reassignment of housing.
- (f) Determine whether the alleged perpetrator should be administratively segregated or administratively transferred during the investigation.

If the first responder is not a jailer, the responder shall request the alleged victim to refrain from any actions that could destroy physical evidence and then immediately notify a jailer.

Should an investigation involve inmates who have disabilities or who have limited English proficiency, the first responder shall not rely on inmate interpreters, inmate readers or other types of inmate assistants, except in limited circumstances where an extended delay in obtaining an interpreter could compromise inmate safety, the performance of first responder duties or the investigation of sexual abuse or sexual harassment allegations (28 CFR 115.16).

606.8 SEXUAL ABUSE VICTIMS

Inmates who are victims of sexual abuse shall be transported to the nearest appropriate location for treatment of injuries and collection of evidence, and for crisis intervention services (28 CFR 115.82). Depending on the severity of the injuries, transportation may occur by a staff member or by ambulance, in either case with appropriate security to protect the staff, the inmate, and the public, and to prevent escape.

A victim advocate from a rape crisis center should be made available to the victim. If a rape crisis center is not available, the Office shall make available a qualified member of a community-based organization, or a qualified health care or mental health professional from the Office, to provide victim advocate services. Efforts to secure services from a rape crisis center shall be documented. A rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 34 USC § 12511, to sexual assault victims of all ages. A rape crisis center that is part of a government unit may be used if it is not part of the criminal justice system (such as a law enforcement agency) and it offers a level of confidentiality comparable to the level at a nongovernmental entity that provides similar victim services (28 CFR 115.21).

606.9 EXAMINATION, TESTING AND TREATMENT

Examination, testing and treatment shall include the following:

- (a) Forensic medical examinations shall be performed as evidentiarily or medically appropriate, without financial cost to the victim. Where possible, these examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs). If

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- neither SAFEs nor SANEs are available, other qualified medical practitioners can perform the examination. The Office shall document its efforts to provide SAFEs or SANEs (28 CFR 115.21).
- (b) If requested by the victim, a victim advocate, a qualified office staff member or a qualified community organization staff member shall accompany the victim through the forensic medical examination process and investigatory interviews. That person will provide emotional support, crisis intervention, information and referrals (28 CFR 115.21).
 - (c) Provisions shall be made for testing the victim for sexually transmitted diseases (28 CFR 115.82).
 - (d) Counseling for the treatment of sexually transmitted diseases, if appropriate, shall be provided.
 - (e) Victims shall be offered information about, and given access to, emergency contraception, prophylaxis for sexually transmitted infections and follow-up treatment for sexually transmitted diseases (28 CFR 115.82; 28 CFR 115.83). This shall be done in a timely manner.
 - (f) Victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the abuse, such victims shall receive comprehensive information about, and access to, all lawful pregnancy-related medical services (28 CFR 115.83). This shall be done in a timely manner.
 - (g) Victims shall be provided with 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 (28 CFR 115.83).
 - (h) 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 (28 CFR 115.82; 28 CFR 115.83).
 - (i) The health authority or mental health staff shall obtain informed consent from inmates before reporting information to jail staff about prior sexual victimization that occurred somewhere other than an institutional setting, unless the inmate is under the age of 18 (28 CFR 115.81).
 - (j) Medical and mental health practitioners shall ensure that information related to sexual victimization that occurred in an institutional setting is limited to medical and mental health practitioners and other staff unless it is necessary to inform jail staff about security or management decisions (28 CFR 115.81).

606.10 SEXUAL ABUSE AND SEXUAL HARASSMENT INVESTIGATIONS

An administrative investigation, criminal investigation or both shall be completed for all allegations of sexual abuse and sexual harassment (28 CFR 115.22). Administrative investigations shall include an

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effort to determine whether the staff's actions or inaction contributed to the abuse. All administrative and/or criminal investigations 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. Only investigators who have completed office-approved training on sexual abuse and sexual harassment investigation shall be assigned to investigate these cases (28 CFR 115.71).

When practicable, an investigator of the same sex as the victim should be assigned to the case. Sexual abuse and sexual harassment investigations should be conducted promptly and continuously until completed. Investigators should evaluate reports or threats of sexual abuse and sexual harassment without regard to an inmate's sexual orientation, sex or gender identity.

Investigators should not assume that any sexual activity among inmates is consensual.

The departure of the alleged abuser or victim from the employment or control of the jail or office shall not provide a basis for terminating an investigation (28 CFR 115.71).

If the investigation is referred to another agency for investigation, the Office shall request that the investigating agency follow the requirements as provided in 28 CFR 115.21 (a) through (e). The referral shall be documented. The Office shall cooperate with the outside agency investigation and shall request to be informed about the progress of the investigation (28 CFR 115.71). If criminal acts are identified as a result of the investigation, the case shall be presented to the appropriate prosecutor's office for filing of new charges (28 CFR 115.71).

Evidence collection shall be based on a uniform evidence protocol that is developmentally appropriate for youth, if applicable, and adapted from or otherwise based on the most recent edition of the DOJ'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 (28 CFR 115.21).

Inmates alleging sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation (28 CFR 115.71).

If a victim is under 18 or considered a vulnerable adult under state law, the assigned investigator shall report the allegation to the designated social services agency as required (28 CFR 115.61). 606.10.1

INVESTIGATIVE FINDINGS

All completed written investigations shall be forwarded to the Chief Correctional Officer or if the allegations may reasonably involve the Chief Correctional Officer, to the Sheriff. The Chief Correctional Officer or Sheriff shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.71; 28 CFR 115.72).

The staff shall be subject to disciplinary sanctions, up to and including termination, for violating this policy. Termination shall be the presumptive disciplinary sanction for staff members who have engaged in sexual abuse. All discipline 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.

All terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the law enforcement agency that would handle any related investigation and to any relevant licensing bodies (28 CFR 115.76).

606.10.2 REPORTING TO INMATES

The Chief Correctional Officer or the authorized designee shall inform a victim inmate in writing whether an allegation has been substantiated, unsubstantiated or unfounded. If the Office did not conduct the investigation, the Office shall request relevant information from the investigative agency in order to

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inform the inmate.

If a staff member is the accused (unless the Office has determined that the allegation is unfounded), the inmate shall also be informed whenever:

- (a) The staff member is no longer assigned to the inmate's unit or employed at the facility.
- (b) The Office learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility.

If another inmate is the accused, the alleged victim shall be notified whenever the Office learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility. All notifications or attempted notifications shall be documented. When notification is made while the inmate is in custody, the inmate will sign a copy of the notification letter. The letter will be added to the case file (28 CFR 115.73).

606.11 SEXUAL ABUSE AND SEXUAL HARASSMENT BETWEEN STAFF AND INMATES

Sexual abuse and sexual harassment between staff, volunteers or contract personnel and inmates is strictly prohibited. The fact that an inmate may have initiated a relationship or sexual contact is not a defense to violating this policy.

Any incident involving allegations of staff-on-inmate sexual abuse or sexual harassment shall be referred to the Chief Deputy for investigation.

606.11.1 SEXUAL ABUSE BY CONTRACTOR OR VOLUNTEER

Any contractor or volunteer who engages in sexual abuse within the facility shall be immediately prohibited from having any contact with inmates. He/she shall be promptly reported to the law enforcement agency that would investigate such allegations and brought to the attention of any relevant licensing bodies (28 CFR 115.77).

606.12 PROTECTIVE CUSTODY

Inmates at high risk for sexual victimization shall not be placed in involuntary protective custody unless an assessment of available alternatives has been made and it has been determined that there is no reasonably available alternative means of separation. Inmates may be held in involuntary protective custody for less than 24 hours while an assessment is completed.

If an involuntary protective custody assignment is made because of a high risk for victimization, the Chief Correctional Officer shall clearly document the basis for the concern for the inmate's safety and the reasons why no alternative means of separation can be arranged (28 CFR 115.43).

The facility shall assign these inmates to involuntary protective custody only until an alternative means of separation from likely abusers can be arranged, not ordinarily in excess of 30 days.

Inmates placed in temporary protective custody shall continue to have reasonable access to programs, privileges, education and work opportunities. If restrictions are put in place, the Chief Correctional Officer shall document the following:

- (a) The opportunities that have been limited
- (b) The duration of the limitation
- (c) The reasons for such limitations

Every 30 days, the Chief Correctional Officer shall afford each such inmate a review to determine whether there is a continuing need for protective custody (28 CFR 115.43).

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606.13 SEXUAL ABUSE INCIDENT REVIEW

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded (28 CFR 115.86). The review should occur within 30 days of the conclusion of the investigation.

The review team shall include upper-level management officials and seek input from line supervisors, investigators and qualified health care and or mental health professionals, as appropriate:

- (a) Consider whether the investigation indicates a need to change policy or practice in order to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification status or perceived status; gang affiliation; or other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers may enable abuse.
- (d) Assess the adequacy of staffing levels in the area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
- (f) Prepare a written report of the team's findings, including, but not limited to, determinations made pursuant to paragraphs (a)-(e) of this section, and any recommendations for improvement. The report should be submitted to the Sheriff and the PREA coordinator.

The Chief Correctional Officer or the authorized designee shall implement the recommendations for improvement or document the reasons for not doing so.

606.14 DATA REVIEWS

This office shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training by:

- (a) Identifying problem areas.
- (b) Identifying corrective actions taken.
- (c) Recommending corrective actions.
- (d) Comparing current annual data and corrective actions with those from prior years.
- (e) Assessing the office's progress in addressing sexual abuse.

The reports shall be approved by the Chief Correctional Officer and made available through the office website. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the facility. However, the nature of the redacted material shall be indicated (28 CFR 115.88).

All aggregated sexual abuse data from Walsh County Sheriff's Office facilities and private facilities with

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which it contracts shall be made available to the public at least annually through the office website. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.89).

606.15 RECORDS

All case records and reports associated with a claim of sexual abuse and sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment or counseling, shall be retained in accordance with confidentiality laws.

The Office shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Office, plus five years (28 CFR 115.71).

All other data collected pursuant to this policy shall be securely maintained for at least 10 years after the date of the initial collection, unless federal, state or local law requires otherwise (28 CFR 115.89).