



PREA standards for community confinement facilities

Sullivan County Community Corrections (HHSE)

2014

Policies and Procedures

Community Residential Facility



PRISON RAPE ELIMINATION ACT NATIONAL STANDARDS – COMMUNITY CONFINEMENT

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Standards for Community Confinement Facilities

§ 115.5 General definitions.

For purposes of this part, the term—

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

Agency head means the principal official of an agency.

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

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

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

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

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

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

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

Facility head means the principal official of a facility.



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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

Staff means employees.

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

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

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

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

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

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

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

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

§ 115.6 Definitions related to sexual abuse.
For purposes of this part, the term—

Sexual abuse includes—

(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and



(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part 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, 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 contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (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 resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual harassment includes—

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and



(2) 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.



Policies and Procedures

Policy § 115.211 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) Any form of sexual abuse and sexual-harassment will not be tolerated. The following policies have been developed in order to provide for the prevention, detection and responding to such misconduct.

Policy §115.212 Contracting with other entities for the confinement of residents.

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) The company does not enter into a contract for the confinement of residents at outside agencies.
- (b) The contractual role of Sullivan County Community Corrections (HHSE) is under the supervision of the Tennessee Department of Corrections.
- (c) Residents who were placed in treatment facilities for special needs during their residential stay at Sullivan County Community Corrections will be under the supervision of said agency for their stay.
- (d) Sullivan County Community Corrections will work closely with the treatment agency to ensure that they have policies and standards developed under the PREA.

Policy §115.213 Supervision and Monitoring

It is the policy of Sullivan County Community Corrections (HHSE) to:

§ 115.213 Supervision and monitoring.

(a) For each facility, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:

- (1) The physical layout of each facility;
- (2) The composition of the resident population;
- (3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and



(4) Any other relevant factors.

(b) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

(c) Whenever necessary, but no less frequently than once each year, the facility shall assess, determine, and document whether adjustments are needed to:

(1) The staffing plan established pursuant to paragraph (a) of this section;

(2) Prevailing staffing patterns;

(3) The facility's deployment of video monitoring systems and other monitoring technologies; and

(4) The resources the facility has available to commit to ensure adequate staffing levels

§ 115.214 Reserved.

§ 115.215 Limits to cross-gender viewing and searches.

Policy: The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except when performed by medical practitioners.

Procedure:

(1) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 residents, the facility shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances. Facilities shall not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision.

(2) HHSE shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female residents conducted by PD or other agencies.

(3) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

Procedure:



1. HHSE facilities provide residential care for men and women at different locations. Male staff will be utilized at the male facility and female staff will be utilized at the female facility.
2. Showers are private and afford the offender privacy for daily hygiene needs and dressing.
3. Should a male or female staff be required to enter a facility – they will be allowed in and the on duty security officers will remain with them until they leave the living quarters.

(4) HHSE personnel shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, 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.

(H) HHSE personnel shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Policy §115.216 Residents with disabilities and Residents who are limited English proficient

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

(b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.



(c) HHSE shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective Interpreter could compromise the resident's safety, the performance of first-response duties under § 115.264, or the investigation of the resident's allegations.

Procedure:

- (1) HHSE will provide bilingual staff to provide interpretation services.
- (2) HHSE will utilize outside services to aid in meeting all needs of offenders sentenced to the program with special needs.

Policy §115.217 Hiring and Promotion Decisions

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who—

(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) (2) of this section.

(b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

(c) Before hiring new employees who may have contact with residents, the agency shall:

(1) Perform a criminal background yearly background records check; and

(2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

(d) HHSE shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents in the event they are utilized for services.

(e) HHSE shall either conduct criminal background records checks at least every year - of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.



(f) HHSE shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Policy §115.217 Hiring and Promotion Decisions

It is the policy of Hay House Inc. that:

(a) The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who--

(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) (2) of this section.

(b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

(c) Before hiring new employees who may have contact with residents, the agency shall:

(1) Perform a criminal background records check yearly; and

(2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

(d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents.

(e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.



(f) The agency shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

(g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Sullivan County Community Corrections (HHSE)
PREA Standards
Policies and Procedures

**Employee PREA
Statement Understanding
Policy 115.217**

I, _____, verify and confirm that I have not engaged in sexual abuse in prison, jail, lockup, community confinement center, juvenile facility, or other institutions as defined in U.S.C. # 1997.

I, _____ also understand and agree, that if I am found to violate any PREA standards or protocol which leads to termination – the standard and protocol violated will be placed on my employee separation notice and forwarded to other agencies as required under PREA protocol.

Further, I _____, have not 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 have been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a) (2) of this section.

Employee Name: _____	Date: _____
Witness Name: _____	Date: _____

Policy §115.218 Upgrades to facilities and technologies

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse.
- (b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect residents from sexual abuse.

Responsive Planning

Policy §115.221 Evidence protocol and forensic medical examinations

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) HHSE shall not hold itself responsible for investigating allegations of sexual abuse; the agency shall utilize qualified professional organizations will utilize a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

Procedure:

- (1) All incidents or reporting of any type of sexual abuse will be forwarded to the Sullivan County District Attorney's office for investigation.
 - (2) The HHSE SART will call the Kingsport Police Department immediately in the case of an incident.
 - (3) Victims will be taken to Holston Valley Hospital with their agreement.
 - (4) Victim advocates will be contacted and brought in to work directly with the victim.
 - (5) In all cases the victim will be treated with respect and dignity.
 - (6) The crime scene will be blocked-off for the police investigation.
 - (7) The victim will be taken to 440 East Sullivan Street – Victims location room.
- (b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.
- (c) HHSE shall offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the

examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(d) HHSE shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

(e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse; the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:

(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in community confinement facilities; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in community confinement facilities.

(h) For the purposes of this standard, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

Policy §115.222 Policies to ensure referrals of allegations for investigations.

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

(b) HHSE shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such

policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

(c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

(d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have in place a policy governing the conduct of such investigations.

(e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities shall have in place a policy governing the conduct of such investigations.

Policy §115.231 Employee training

It is the policy of Sullivan County Community Corrections (HHSE) that:

All employees will be trained in regard to:

(a) HHSE shall train all employees who may have contact with residents on:

(1) Its zero-tolerance policy for sexual abuse and sexual harassment;

(2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;

(3) Residents' right to be free from sexual abuse and sexual harassment;

(4) The right of residents 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 residents;

(9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and

(10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(b) Such training shall be tailored to the gender of the residents at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.

(c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

(d) The HHSE shall document, through employee signature or electronic verification that employees understand the training they have received.

Hiring Training Modules:

- ❖ ABC's of Prevention
- ❖ Cultural Diversity
- ❖ LGBT Training
- ❖ PREA- Over Familiarity
- ❖ Offender Manipulation
- ❖ Sexual Assault Response Training

Other as mandated or required

Policy §115.232 Volunteer and contractor training

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. (HHSE does not utilize outside contractors)

(b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

(c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

Policy §115.233 Resident education

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) During the intake process, residents shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. (See intake policy)
- (b) HHSE shall provide refresher information whenever a resident is transferred to a different facility.
- (c) HHSE shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills.
- (d) HHSE shall maintain documentation of resident participation in these education sessions.
- (e) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

Policy §115.234 Specialized training: Investigations.

It is the policy of Sullivan County Community Corrections (HHSE) that:

HHSE shall utilize outside agencies – Kingsport Police Department, Sullivan County Sheriff's department to investigate all complaints of sexual abuse and sexual harassment

Procedure:

1. Upon complaint (verbal or written) HHSE will contact local authorities to investigate the allegation.
 2. HHSE will contact the Second Judicial District Attorney's office and provide all information to the DA's office.
 3. HHSE Sexual Assault Response Team will work diligently to track the investigation while meeting all other requirements of the Prison Rape Elimination Act.
- (a) In addition to the general training provided to all employees pursuant to § 115.231, the agency shall ensure that, to the extent that HHSE itself conducts itself in sexual abuse investigations, its employees will received training in conducting such investigations in confinement settings as required by the TDOC.

(c) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

Policy §115.235 Specialized training: medical and mental health care.

It is the policy of Sullivan County Community Corrections (HHSE) that;

In the event part time or full time medical and mental health care workers are hired by HHSE:

Procedure:

(a) HHSE shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

- (1) How to detect and assess signs of sexual abuse and sexual harassment;
- (2) How to preserve physical evidence of sexual abuse;
- (3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
- (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

(d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.231 or for contractors and volunteers under § 115.232, depending upon the practitioner's status at the agency.

Screening for risk of sexual victimization and abusiveness

Policy §115:241 Screening for risk of victimization and abusiveness

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) All residents shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents.

(b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

(c) Such assessments shall be conducted using an objective screening instrument.

(d) The intake screening shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:

- (1) Whether the resident has a mental, physical, or developmental disability;
- (2) The age of the resident;
- (3) The physical build of the resident;
- (4) Whether the resident has previously been incarcerated;
- (5) Whether the resident's criminal history is exclusively nonviolent;
- (6) Whether the resident has prior convictions for sex offenses against an adult or child;
- (7) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the resident has previously experienced sexual victimization; and
- (9) The resident's own perception of vulnerability.

(e) The intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing residents for risk of being sexually abusive.

(f) Within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

(g) A resident's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

(h) Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section.

(i) HHSE shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.

Policy §115.242 Use of screening information

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall use information from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The agency shall make individualized determinations about how to ensure the safety of each resident.

(c) In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.

(d) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.

(e) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

(f) HHSE shall not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.

§ 115.243 Reserved.

Reporting

Policy §115.251 Resident reporting

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

(b) HHSE shall also inform residents of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.

(c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

(d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.

Procedure:

1. Pay phones have a 1-800- number for direct contact to the PREA Reporting Center. Or they may dial *91 to reach the Center.
2. Phone numbers are posted by each pay phone.
3. A PREA drop box is located in the foyer of the downstairs area.
4. Offenders may approach any staff member with complaints.
5. HHSE is open 24 hours daily.
6. At intake – each new offender is given a PREA handbook that contains phone numbers of various agencies which provide victim services.

Policy §115.252 Exhaustion of administrative remedies

It is the policy of Sullivan County Community Corrections (HHSE) that:

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

(1) HHSE shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

(2) HHSE may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

(3) HHSE shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict the agency's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

(c) The agency shall ensure that—

(1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

(d)(1) HHSE shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(2) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.

(3) HHSE may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.

(4) At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

(e)(1) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.

(2) If a third party files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf,

and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(3) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.

(f)(1) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.

(2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(g) The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

Policy §115.253, Resident access to outside confidential support services

It is the policy of Sullivan County Community Corrections (HHSE) will afford the offender access to outside confidential support services.

Procedure:

(a) HHSE shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible. The offender handbook notes the name and number of local helping agencies.

(b) At intake, HHSE shall inform residents, 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.

(c) HHSE shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

Policy §115.254 Third-party reporting.

The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident.

Official response following and Resident Report

Policy §115.261 Staff and agency reporting duties

It is the policy of Sullivan County Community Corrections (HHSE) that:

Procedure:

(a) HHSE requires all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

(b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

(c) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

(d) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

(e) HHSE shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

Policy §115.262 Agency protection duties

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) When HHSE learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.

Procedure:

1. Offenders who are at risk will be relocated to the PREA room at 400 East Sullivan Street.

2. Case Officers will find suitable housing for the at - risk offender and report to the sentencing Judge.
3. The offender will be placed in suitable housing at another location and the authorities will be contacted immediately.

Policy §115.263 Reporting to other confinement facilities

It is the policy of Sullivan County Community Corrections HHSE will adhere to the following procedure in regard to reporting allegations of sexual abuse:

Procedure:

- (a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (c) HHSE shall document that it has provided such notification.
- (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

Policy §115.264 Staff first responder duties

It is the policy of Sullivan County Community Corrections (HHSE) will meet the first responder requirements of the Prison Rape Elimination Act by carrying out the following procedure:

Procedure:

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

(4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

(b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

Policy §115.265 Coordinated response.

It is the policy of Sullivan County Community Corrections (HHSE) that:

HHSE shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

Sexual assault can be terrifying and life-threatening. Victims may experience a wide variety of responses such as anger fear or confusion. Some may be unable to clearly recall all the details of assault during the initial interview. Injuries are not always immediately apparent.

Once the assault is over and the victim has survived, the struggle to recover and to take back control begins. It is of the utmost importance that acceptance and support be given to the victim, regardless of the HHSE for his/her emotional response.

The first responder's actions and attitudes may be critical to length of time to which the victim copes with the trauma and to the length of time it may take to recover. In order to gain the victims trust and cooperation and to enable the victim to provide accurate, complete information about the crime, the first responder must make every effort to suspend judgment and to treat the victim with respect and unconditional support.

Procedure:

First Responder Duties

As with any other violent crime, the first officer on scene must ensure the victim receives medical attention. Paramedics must bring the victim to a hospital for medical care and a physical examination to establish the crime of rape or sexual assault. Investigators will take the victim's garments as evidence, so officers should bring a change of clothes for the victim to the hospital whenever possible. The time to plan for this is early in the interaction. Many victims will have an advocate or friend with them to call on their behalf. Give this person the assignment of getting a change of clothing for the victim. Maintaining the chain of evidence is crucial, and a police officer, preferably a female officer, should accompany the victim in the ambulance.

In addition to following normal procedures in protecting primary and secondary crime scenes, one of the first responders should conduct a preliminary interview with the victim in private to determine if he/she knows or can identify the person who abused them. The officer should obtain a physical description of the rapist and ask the victim to explain what happened. The investigator, a rape counselor, or another care provider will conduct a detailed follow-up interview in a setting most comfortable to the victim.

Goals for Protecting the Crime Scene for Police:

Remember: The crime scene encompasses all areas in which people connected with a crime were located shortly before and after the crime. Both the perpetrator and victim moved through physical locations in order for crime to be committed, while the crime was committed and after the crime was committed. In searching a crime scene, we operate under the premise that whenever human beings interact with any inanimate or animate object, something is either taken away or left behind. The objectives of the search of a crime scene in a forcible rape case are the same as in any other major case:

1. Reconstruct what happened and establish that a crime occurred;
2. Identify, document and collect evidence of what occurred;
3. Link the victim and the suspect to the scene of the crime;
4. Identify and locate any witnesses; and
5. Identify and apprehend the person(s) who committed the crime.

Your role as a First Responder:

- 1. Identify yourself by name and badge – call 911**
- 2. Ensure the immediate safety and security of the victim.**
- 3. Assess the victim’s well-being and express concern and assurance.**

Confirm or establish the following information:

- Victim’s name
- Location, date, and time of assault
- Name and/or description of offender
- Direction and means of offender’s flight
- If a weapon was used

—Brief description of the assault

Relay information regarding the offender to the dispatcher/Officer.

Preserve evidence on the victim. Do not allow the victim to drink, brush teeth, bathe or remove clothing.

Secure the crime scene.

Contact the local rape crisis center.

Transport the victim to a designated medical facility if an ambulance is not called or failed to arrive –
follow the POLICE OFFICERS LEAD!

When the perpetrator is unknown:

A primary issue of the investigation is identification.

Physical description (facial features, identifying marks, appearance, clothing, odors, etc.)

When and where the assault occurred

How the victim was approached

Any use of force or weapon

Any threats made by the offender

Any objects used during the assault

Amount and type of restraint used

Type and sequence of acts

Verbal exchanges between the offender and the victim

Any possible witnesses before, during or after the assault

When the Perpetrator is known:

Key investigative issues in these cases are consent and use of force. (Force may be defined as forcible compulsion or physical helplessness.)

1. Identify the nature, duration and intensity of the relationship.
2. Document visible physical injuries and observations about the victim's emotional state.
3. Document details concerning the assault.

Evidence collection:

1. Encourage the victim and to have a physical medical examination immediately. Any Physician, SANE, or other appropriate personnel should collect the evidence.

2. Explain that medical personnel will check for injuries and discuss STD's and pregnancy prophylaxis. (Prophylaxis definition: .Prevention of or protective treatment for disease)
3. Evidence collected during the exam may be useful for DNA identification of the offender.
4. Notify the hospital if the victim chooses to go.
5. Explain to the victim that his\her clothing may be taken as evidence and suggest bringing along extra clothing.
6. Transport the victim to the hospital in the case and ambulance or police officer is not available to transport them.

Some facts about drug facilitated sexual assault:

Sexual assaults can be facilitated by the use of drugs, though street and legal. While alcohol is often a factor in sexual assaults, illegal drugs (also called club drugs) can also be a factor. Some victims are drugged without their knowledge when the drugs are slipped into their drink.

They drugs can produce an anesthesia-like effect, rendering the victim unconscious or unable to give consent. Watch for symptoms that may indicate drug facilitated sexual assault.

1. Victim thinks he/she has been assaulted, but is not sure (unexplained soreness or injuries, woke up in a different place, etc.)
2. Victim's recollection of the assault is patchy and confused: he/she may remember only parts of the assault, or none at all.
3. Victim remembers the assault, but was unable to move or speak. Experience may seem detached (it was like I was watching the whole thing, I tried to scream – but no words came out).
4. Victim felt his/her intoxication level did not correlate the amount of alcohol consumed.

Whenever drug facilitated sexual assault is suspected, arrange for the collection of blood and or urine specimens as soon as possible. It is important to determine whether ingestion of the drug occurred in the last 72 hours (three days).

Interviewing the Victim

Conducting the interview is the responsibility of the Police Investigator. However, if you find yourself in a position that have are required to do an investigation - please utilize us the following:

Conduct the in-depth interview only after the victim's immediate medical and emotional needs are met.

Goals of the in-depth interview should be to:

1. Determine how the crime occurred.
2. Maintain the victim's cooperation and emotional Well-Being.

The interviewer should:

1. They prepared for all types of emotional reactions, including calmness don't interpret composure as evidence that the assault did not occur.
2. Introduce himself /herself by name and title. As tell the victim would like to be addressed.

3. Explain why and how the interview will be conducted.
4. Conduct the interview in a private and secure place.
5. Offer to contact a family member or friend of the victim.
6. Be aware of his/her body language and reactions. Demonstrate concern by placing himself/herself at or below the victim's level rather than standing over the victims who are seated.
7. Use short sentences and pauses.
8. Avoid clinical terminology. Use simple terms.
9. Use the victim's own terminology to ask clarifying questions.
10. Ask open-ended questions.
11. Avoid interrupting as the victim tells the story and allow the victim to express their emotions.
12. Be aware of the victim's body language (tone of voice, gestures and eye contact).
13. Offer breaks if necessary.
14. Allow the victim to temporarily skip questions that are too upsetting to answer. Return to them later in the interview.
15. Avoid mentioning prosecution until after the interview is completed.
16. Ask the victim to write out a statement of exactly what happened and collect it at the next interview.

Concluding the interview

Explain the role of the investigative officer and what will happen next (filling out the report, investigation, subsequent interviews.)

Avoid making promises or predictions about the outcome. Inform the victim that the decision to arrest and prosecute is complex and will be made by the police and the prosecuting Attorney.

Reassure the victim of law enforcement's role in the investigation.

Provide the victim with written information on how to contact the investigating officer.

Ask if the victim has any questions.

Encourage the victim to contact the investigating officer for questions or for other help.

Policy §115.266 Preservation of ability to protect Residents from contact with abusers.

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) Neither HHSE nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

(b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:

(1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.272 and 115.276; or

(2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

Policy §115.267 Agency protection against retaliation

It is the policy of Sullivan County Community Corrections (HHSE) that retaliation for reporting sexual abuse is strictly prohibited. The following procedures are set in place to deter any type of retaliation:

Procedure:

(a) HHSE shall protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.

(b) HHSE shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) For at least 90 days following a report of sexual abuse, the HHSE shall monitor the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

(d) In the case of residents, such monitoring shall also include periodic status checks.

(e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

(f) HHSE's obligation to monitor shall terminate if it is determined that the allegation is unfounded.

§ 115.268 Reserved.

Policy §115.271 Criminal and administrative agency investigations

It is the policy of Sullivan County Community Corrections (HHSE) shall conduct internal administrative investigations. In the case of sexual abuse - the District Attorney's office and local police will be responsible to perform the investigation:

Procedure:

(a) When HHSE conducts its own investigations into allegations of sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

(b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.234.

(c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

(d) When the quality of evidence appears to support criminal prosecution, the HHSE and supporting agencies shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident 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.

(f) Administrative investigations:

(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

(g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

(i) HHSE shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

(j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

(k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

(l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

Policy §115.272 Evidentiary standard for administrative investigations

It is the policy of Sullivan County Community Corrections (HHSE) that:

HHSE shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Policy §115.273 Reporting to Residents.

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the HHSE shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(b) If HHSE did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.

(c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:

(1) The staff member is no longer posted within the resident's unit;

(2) The staff member is no longer employed at the facility;

(3) HHSE learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

(4) HHSE learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:

(1) HHSE learns that the alleged abuser has been indicted on a charge related to sexual within the facility; or

(4) HHSE learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:

(1) HHSE learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) HHSE learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

(e) All such notifications or attempted notifications shall be documented.

(e) HHSE's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

Policy §115.276 Disciplinary sanctions for staff

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

(b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

(c) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

(d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Policy §115.277 Corrective actions for contractors and volunteers

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(b) HHSE shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

Policy §115.278 Disciplinary action/sanctions for Residents

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
- (b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
- (c) The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

Medical and Mental Care

§ 115.281 Reserved.

Policy §115.282 Access to emergency medical and mental health services

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
- (b) Medical or mental health practitioners are employed by HHSE - at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.262 and shall immediately notify the appropriate medical and mental health practitioners.
- (c) Resident of HHSE are not incarcerated and are free to come and go at their own will. 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 standards of care, where medically appropriate.

Policy §115.283 Ongoing medical and mental health care for sexual abuse victims and abusers

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) HHSE shall locate medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse.
- (b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

(c) The facility shall provide such victims with medical and mental health services consistent with available community level of care.

(d) Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

(e) If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

(f) Resident victims of sexual abuse shall be taken to an outside provider and offered tests for sexually transmitted infections as medically appropriate.

(g) The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Data collections and review

Policy §115.286 Sexual abuse incident reviews

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) HHSE shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

(b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

(c) The review team shall include upper-level management officials, with input from line supervisors, and other professionals.

(d) The review team shall:

(1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

(2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

Data collections and review

Policy §115.287 Data collection

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) The agency 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.
- (b) The agency shall aggregate the incident-based sexual abuse data at least annually.
- (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- (d) The agency shall maintain, review, and collect data as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews.
- (e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.
- (f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

Policy §115.288 Data review for corrective action

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) HHSE shall review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
 - (1) Identifying problem areas;
 - (2) Taking corrective action on an ongoing basis; and
 - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (c) The HHSE's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.
- (d) HHSE may redact specific material from the reports when publication would present a clear and specific threat

Policy §115.289 Data storage, publication, and destruction.

It is the policy of Sullivan County Community Corrections (HHSE) that:

- (a) The agency shall ensure that data collected pursuant to § 115.287 are securely retained.
- (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.
- (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
- (d) The agency shall maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Policy §115.293 Audits of standards

It is the policy of Sullivan County Community Corrections (HHSE) that:

Audits will be conducted pursuant to §115.401 – §115.405.

§ 115.401 Frequency and scope of audits.

- (a) During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once.
- (b) During each one-year period starting on August 20, 2013, the agency shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.
- (c) The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.
- (d) The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.
- (e) The agency shall bear the burden of demonstrating compliance with the standards.
- (f) The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.
- (g) The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.

- (h) The auditor shall have access to, and shall observe, all areas of the audited facilities.
- (i) The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
- (j) The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.
- (k) The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.
- (l) The auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited.
- (m) The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.
- (n) Inmates, residents, and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
- (o) Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

§ 115.402 Auditor qualifications.

It is the policy of Sullivan County Community Corrections (HHSE) that:

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

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

§ 115.403 Audit contents and findings.

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

(b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.

(c) For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

(d) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.

(e) Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.

(f) The agency shall ensure that the auditor's final report is published on the agency's website if it has one, or is otherwise made readily available to the public.

§ 115.404 Audit corrective action plan.

It is the policy of Sullivan County Community Corrections (HHSE) that:

(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 the agency 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, such as reviewing updated policies and procedures or re-inspecting portions of a facility.

(d) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.

(e) If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

§ 115.405 Audit appeals.

It is the policy of Sullivan County Community Corrections (HHSE) that:

(a) An agency may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.

(b) If the Department determines that the agency has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the agency. The agency shall bear the costs of this re-audit.

(c) The findings of the re-audit shall be considered final.

State Compliance

§ 115.501 State determination and certification of full compliance.

It is the policy of Sullivan County Community Corrections (HHSE) that:

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

(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.

Community Confinement Law & Legal Definition

Community confinement is a condition of probation or supervised release. It involves residence in a halfway house, restitution center, community treatment center, mental health facility, alcohol or drug rehabilitation center, or other community facility. It also includes participation in gainful employment, employment search efforts, vocational training, treatment, community service, educational programs, or similar other facility approved programs during their nonresidential hours. Basically community confinement is imposed as a condition of prerelease custody and programming, before serving the last ten percent of the prison sentence. Community confinement is given for a period not exceeding six months.