

TITLE: Prison Rape Elimination Act (PREA)
WARD COUNTY JUVENILE DETENTION CENTER
MINOT, NORTH DAKOTA
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Approved by: Ward County Commissioners
Prison Rape Elimination Act (PREA) of 2003
ND Juvenile Detention Rules (DJS): # 22, 23B

Policy Objectives- The intent of this Policy is to ensure that: Staff and residents are informed of the Ward County Juvenile Detention (WCJD) zero-tolerance philosophy in regards to sexually abusive behavior. Standard procedures are in place to detect and prevent sexually abusive behavior at the WCJD and Contract facilities-Victims of sexually abusive behavior receive prompt and effective response to their physical, psychological and security needs. Allegations of sexually abusive behavior receive prompt intervention upon report. The perpetrators of sexually abusive behavior will be disciplined and, when appropriate, prosecuted in accordance with the WCJD's policy and State or Federal law.

AUTHORITY: The authority for this policy is the Prison Rape Elimination Act (PREA) of 2003

The Federal Prison Rape Elimination Act (PREA) of 2003 establishes a zero tolerance standard for the incidence of inmate sexual assault and rape; makes prevention of inmate sexual assault and rape a top priority in each corrections facility; develops/implements national standards for the detection, prevention, and punishment of prison rape; increases available data and information of the incidence of inmate sexual assault and rape; standardizes the definitions used for data collection; increases accountability of corrections officials who fail to detect, prevent, reduce and punish prison rape; and protect the Eighth Amendment rights of federal, state and local inmates.

PURPOSE: To ensure detection and prevention of juvenile sexual assaults while in custody.

APPLICATION: Ward County Juvenile Detention (department wide)

POLICY: The WCJDC will act to reduce sexual assault of juveniles through juvenile orientation, screening, assessment, classification, staff training, data collection and monitoring, counseling, and investigation of alleged sexual assaults. This will ensure detection and prevention of juvenile sexual assault while in custody. (Pursuant to Prison Rape Elimination Act (PREA) of 2003)

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

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

Facility head means the principal official of a facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff means employees.

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.

115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.

(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.

The intent of this policy is to ensure that:

- Staff and residents are informed that this policy implements the WCJD's "zero tolerance" of sexually abusive behavior, and sexual harassment, as defined in this policy;
- Policy and procedures are in place to detect and prevent sexually abusive behavior and sexual harassment at WCJD; ref, WCJD Policy, Code of Conduct 8.11
- Victims of sexually abusive behavior and sexual harassment receive timely and effective responses to their physical, psychological, and security needs;
- Allegations of sexually abusive behavior and sexual harassment receive timely intervention upon report; and
- The perpetrators of sexually abusive behavior and sexual harassment will be disciplined and, when appropriate, prosecuted in accordance with the WCJD's and State or Federal law.

(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

The PREA Coordinator's responsibilities include developing, implementing, and overseeing the Jails compliance with PREA. The PREA Coordinator assists with training staff and inmates and in providing the required information to the Sheriff Office and NDDOCR. The PREA Coordinator also coordinates with the contracted facilities to ensure compliance with PREA Standard 115.11.

(c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

With the WCJD being a single facility, the PREA coordinator will fulfill these duties. The PREA Coordinator maintains responsibility for the Sexually Abusive Behavior Prevention and Intervention Program. This individual must provide supervisory oversight to ensure the coordination of Juvenile staff in prevention, detection, intervention, and response, as specified in this Policy. This individual will serve as a point of contact for the PREA. This individual will coordinate audit preparations. This individual will coordinate corrective action plans and ensure follow up. This individual will track all allegations of sexual abuse or sexual harassment. This individual will ensure checks are performed to verify the PREA hotline telephone number is posted on or near all inmate telephones. This individual will perform a **yearly functionality test of a random sample of inmate telephones to verify the toll free number is operational. This individual will perform monthly checks to verify posters and brochures are posted in areas accessible to inmates and the public. The Sheriff may appoint supervisory staff as PREA points of contact.**

115.312 Contracting with other entities for the confinement of residents.

(a) A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.

(b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

The WCJD must ensure its contracts with other secure jails, facilities, and Residential Reentry Centers include their obligation to adopt and comply with the PREA standards. Contract Juvenile facilities staff must include PREA compliance monitoring within their scheduled contract monitoring activity. PREA Coordinator will monitor compliance through reported offenses and facility inspections.

115.313 Supervision and monitoring.

(a) The agency shall ensure that each facility it operates shall develop, implement, 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, facilities shall take into consideration:

- (1) Generally accepted juvenile detention and correctional/secure residential 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 residents may be isolated)
- (6) The composition of the resident population;
- (7) The number and placement of supervisory staff;
- (8) Institution programs occurring on a particular shift;

- (9) Any applicable State or local laws, regulations, or standards;
- (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (11) Any other relevant factors.

Ward County Sheriff's Office and the WCJD will have a staffing plan in place that discuss all eleven considerations listed above.

- (b) The agency shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.

Any deviation to the staffing plan will be documented and delivered to the Jail Commander.

- (c) Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance;
- (d) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.311, the agency 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 adherence to the staffing plan.

A staffing plan will be generated by the meeting that discusses these items

- (e) Each secure facility shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

Unannounced rounds by supervisory staff conducted with the intent of identifying and deterring sexual abuse and sexual harassment will be conducted by management staff on a monthly basis, including all shifts and all areas. The Jail Commander, the Assistant Jail Commander and the Juvenile Lieutenant conduct and document the unannounced rounds in the New World system. The Jail PREA Coordinator or designee will review the logs books to ensure rounds are completed. Intermediate-level supervisors do daily rounds, every shift.

115.315 Limits to cross-gender viewing and searches

- (a) 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 in exigent circumstances or when performed by medical practitioners;

See the current version of this 3.09 Search policy.

- (b) The agency shall not conduct cross-gender pat-down searches except in exigent Circumstances.

(Note. This provision's prohibition on cross-gender pat-down searches of female residents is not allowed at WCJD.)

- (c) The facility shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.
- (d) 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 a resident housing unit. In facilities (such as group homes) that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

This section applies to all inmates at the WCJD. This section is to provide general notice; specific notice to individual residents is not required. Residents will be appropriately clothed in all common areas of the facility.

Residents should only shower, perform bodily functions, and change clothing in designated areas (i.e. cells, shower rooms, bathrooms). Officers of the opposite gender, or any other cross-gender staff, may view breasts, buttocks, or genitalia only in an exigent circumstances, or when incidental to security checks of these designated areas of the Detention Center.

Staff are not required to make announcements when responding to temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or the order running of this facility, or when incidental to routine cell checks, to include circumstances such as responding to alarms, contraband detection, or detecting behavior which would constitute a resident prohibited acts, for example.

Residents will be notified of the presence of opposite-gender staff members in several ways:

■ **Residents are advised of the requirement to remain clothed, and the presence of cross-gender staff generally, during the Booking process.**

■ **The following notice will be posted on inmate Kiosks and within Juvenile units, including segregated housing areas: “NOTICE TO RESIDENTS: Male and female staff routinely work and visit resident housing areas.**

■ **WCJD officers-a general announcement is made at the beginning of primary shifts at 0800 and 2000. The verbal announcement to each housing unit, including segregated housing areas, will be “Male and female staff routinely work and visit inmate housing areas.” This announcement is made using the general public address system (i.e., from Control).**

■ **An announcement will be made by all officer conducting cross gender cell checks every time they enter a cellblock of the opposite gender, excluding the lights out times of 2200-0500.**

The announcement will consist of the officer stating “Male in the block” or “Female in the block. “

Nothing in this section should preclude opposite-gender staff from viewing live or recorded video, or participating in an inmate suicide watch or in exigent circumstances.

(e) The facility 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.

This provision does not limit searches of inmates to ensure the safe and orderly running of Juvenile. Staff will not search or physically examine a transgender or intersex resident for the sole purpose of determining the residents genital status. If the residents genital status is unknown, it may be determined through conversation with the resident, by the booking officer. If unable to obtain this information an examination may be conducted in private by a medical practitioner to determine genital status. During booking process with a transgender or intersex resident, staff will ask the resident if they prefer to be searched by a male or female officer. This information will

be recorded in the Pass **On** Log. During initial orientation, security staffs are trained 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 WCJD security needs.

- (f) The agency 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.

The Training Officer updates and maintains training materials on conducting pat-down searches of transgender and intersex residents.

115.316 Residents with disabilities and residents who are limited English proficient.

(a) The agency 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.

PREA Coordinator should reach out to local disabilities assistance offices, as a resource, to ensure the facility is providing effective communication accommodations when a need for such an accommodation is known. Staff will take reasonable action to ensure that available methods of communication are provided to all residents with disabilities for complete access to its efforts of preventing, detecting, and responding to sexual abuse and sexual harassment.

(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.

The PREA Coordinator should reach out to available interpretation services to ensure the facility is providing effective communication accommodations when a need for such an accommodation is known. Staff will take reasonable action to ensure that available methods of communication are provided to all residents who are limited English proficient for complete access to its efforts of preventing, detecting, and responding to sexual abuse and sexual harassment. Residents who have intellectual, psychiatric, or speech disabilities will review materials with staff to ensure comprehension. **Officers are equipped with Spartan device that has google translate.**

(c) The agency 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 115.364, or the investigation of the resident's allegations.

115.317 Hiring and promotion decisions.

(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.

For the purposes of this section, consideration of incidents of sexual harassment of residents will not automatically preclude any current staff member from being transferred into another position or promoted within the County, in accordance with its disciplinary/adverse action process, and applicable laws, rules, and regulations. Individual who have been civilly or administratively adjudicated to have engaged in sexual misconduct will be carefully reviewed. The WCJD will review the following incidents, sexual misconduct or sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997) or having 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.

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

(1) Perform a criminal background records check;

(2) Consult any child abuse registry maintained by the State or locality in which the employee would work; and

(3) 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.

Before hiring new employees who may have contact with inmates, the WCJD performs a criminal background records check; and 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) The agency shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents;

The WCJD will conduct criminal background record check before enlisting the service of any contractor or volunteer who may have contact with juveniles

(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.

Criminal background checks will be conducted at least every five years on all current employees, volunteers, and contractors who may have contact with residents

(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 selfevaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

The WCJD requires all applicants and employees to disclose any misconduct described in paragraph 1. a., b., and c. of this section through the following written applications or interviews for hiring or promotions. Continuing affirmation is achieved by the annual review where all employees are required to report any misconduct

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

Material omissions regarding such misconduct or the provision of materially false information shall be grounds for disciplinary/adverse action.

(h) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

The WCJD complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.

115.318 Upgrades to facilities and technologies.

(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.

The current facility design and the new facility design and upgrades of technology will include consideration of how it could enhance the WCJD ability to protect against sexual abuse. The WCJD will seek approval for design and expansion or modification through the ND DOCR Office of Facility Inspection. The Office of Facility Inspection and the WCJD will consult with architect and engineers during the planning and construction phase to ensure that facility complies with (ACA) American Correctional Association and state guidelines. This is to ensure county's ability to protect residents and staff from sexual abuse. Approval will also consist of video monitoring, electronic monitoring and any additional technology to protect residents from sexual abuse.

Responsive Planning

115.321 Evidence protocol and forensic medical examinations.

(a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) The protocol shall be developmentally appropriate for youth 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.

The Ward County Sheriff's Office response to sexual assault follows the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," dated April 2013, or the most current version.

(c) The agency shall offer all residents who experience sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiarily 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.

When there is a report of a recent incident of sexual abuse, or there is a strong suspicion that a recent serious assault may have been sexual in nature, a physical examination of the alleged victim is conducted at Trinity Hospital unless exigent circumstance exists. The victim is provided the opportunity for a forensic examination as soon as possible. Physical evidence collection may also include an examination of and collection of physical evidence from the suspected perpetrator(s). Forensic medical examinations will be offered without financial cost to the victim. In the case of resident-on-staff sexual abuse, community medical/mental health resources and services will be made available to the staff member immediately.

(d) The agency 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.

The PREA Coordinator has entered into agreement with a rape crisis center and/or Trinity Hospital to make available a victim advocate to residents being evaluated for the collection of forensic evidence. Forensic medical exams are conducted by a SAFE or SANE within 120 hours of the incident. When a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. WCJD will document its efforts to provide a SAFE or SANE in the event Trinity Hospital or Rape Crisis center is unable to provide victim advocate. Chaplaincy Services may provide victim services locally, if a rape crisis center is not available

(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.

Victim advocates from the community used by the WCJD are preauthorized by the agreement established in section (d). The victim advocate serves as emotional and general support, navigating the inmate through the treatment and evidence collection process. The victim advocate has access to the resident similar to that of medical staff at the facility. This individual is not authorized to make decisions regarding resident care, or interfere with escort and or security procedures.

(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 juvenile facilities; and
- (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities.

(c) 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.

A qualified community based staff member who meets the education requirement of this section by virtue of the individual's degree or vocational training, or through specialized training.

115.322 Policies to ensure referrals of allegations for investigations.

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

The WCJD will ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment

(b) The agency 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.

The Ward County PREA policy is available on the Ward County website. PREA statistics will be posted annually under this section, criminal investigations are referred consistent with the County State's Attorney Criminal 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 juvenile 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 juvenile facilities shall have in place a policy governing the conduct of such investigations.

Training and Education

115.331 Employee training.

- (a) The agency 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 juvenile facilities;
 - (6) The common reactions of juvenile victims of sexual abuse and sexual harassment;
 - (7) How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents
 - (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;

Ward County trains all employees during orientation and every year thereafter, on the above listed topics. Staff training includes a component on crime scene preservation for first responders, taking into consideration the physical design of the facility, as indicated in section 115.64.

(11) Relevant laws regarding the applicable age of consent.

(b) Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities and 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.

Training takes the gender of the resident population at the Juvenile facility into account. New staff members receive gender-appropriate training, all staff receive refresher training or staff who request training or staff who supervisor feel that training would be appropriate

(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.

■ **New Employees-** For new employees, a discussion of the Sexually Abusive Behavior Prevention and Intervention Program must be a part of Introduction to County Correctional Officer Basic Specific staff responsibilities included in policy are outlined.

■ **Current Employees-** For current staff, information about the program is included as a part of refresher Training. The Training Officer may designate a staff member to conduct this training from the areas responsible for policy implementation Training Officer has required employees to complete E-courses on PREA.

■ **Specialized Training.** Discipline-specific training is available to staff who are likely to be most involved in the management and treatment of sexually abused victims and the perpetrators (Lieutenants, Sergeants, and Jail Commander etc.). Specialized training is provided as part of their comprehensive training

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

Participation must be documented through employee signature or electronic verification. Participation documentation will note that employees understood the training they have received. At the conclusion of the training, employees are asked to seek additional supervisory direction, if necessary, to ensure understanding of the training.

115.332 Volunteer and contractor training.

(a) The agency 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.

The PREA Coordinator will ensure all volunteers and contractors who have contact with residents will be trained on their responsibilities regarding sexual abuse and sexual harassment with residents

(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.

The type and level of training is based on the services they provide and the level of contact they have with residents. Unescorted or unsupervised contractors or volunteers will receive training on PREA. Escorted or supervised contractors will review and acknowledge understanding of the Jail Facility zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents by signing the, PREA Acknowledgement Form.

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

Participation must be documented through employee signature or electronic verification. Participation documentation will note that **volunteers/contractors understood the training they have received. At the conclusion of the training, volunteers and contractors are asked to seek additional information from Juvenile staff, if necessary, to ensure understanding of the training.**

115.333 Resident education.

(a) During the intake process, residents shall receive information explaining, in an age appropriate fashion, the agency's zero tolerance policy regarding sexual abuse and sexual

harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. **The WCJD pamphlet on Sexually Abusive Behavior Prevention and Intervention is provided to each resident at intake screening. It describes the key elements of the program and informs residents of the Ward County zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents of sexual abuse. It also provides inmates notice that male and female staff routinely work and visit resident housing areas.**

(b) Within 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents 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 agency policies and procedures for responding to such incidents.

The PREA Coordinator or designee presents the Sexually Abusive Behavior Prevention and Intervention Program. This presentation will include:

Definitions of sexually abusive behavior and sexual harassment.

WCJD zero-tolerance policy regarding sexual abuse and sexual harassment

Residents and staffs right to be free from sexual abuse or sexual harassment

Residents right to be free from retaliation

Prevention strategies the resident can take to minimize his/her risk of sexual victimization while in custody.

Methods of reporting an incident of sexually abusive behavior, and for reporting allegations of sexually abusive behavior involving other residents, including reporting procedures directly to Sheriff's Office, if desired.

Treatment options available to resident victims of sexually abusive behavior and sexual harassment.

Monitoring, discipline, and prosecution of sexual perpetrators.

Notice that male and female staff routinely work and visit resident housing areas.

A Resident Orientation PREA Information fact sheet is provided to each resident during orientation, with information on definitions

In addition, where residents do not participate or are unable to participate, the Training officer or designate will ensure these residents receive information on the Ward County Sexually Abusive Behavior Prevention and Intervention Program within 10 days of intake. This is documented in the same manner as for residents who participated during the regularly booking process.

(c) Current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the resident's new facility differ from those of the previous facility.

(d) The agency 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 to residents who have limited reading skills.

Resident PREA education is available in accessible formats for all residents including those who are limited English proficient; deaf; hearing impaired; visually impaired or otherwise disabled or limited in their reading skills.) Deaf or hearing impaired – Training is available through print. Visually impaired – Training is available through audio. Limited English proficiency – Interpreter services. Otherwise disabled or limited reading skills – Will be handled case by WCJD staff.

(e) The agency shall maintain documentation of resident participation in these education sessions.

The Signature page are filed on the Residents Central File that the Resident has read and understands the PREA education.

(f) 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.

In each housing unit, the following will be posted:

A notice to residents stating, "Male and female staff routinely work and visit resident housing areas."

A poster reflecting the Ward County Juvenile zero tolerance for sexual abuse and harassment and contact information for resident reporting of sexual abuse allegations.

WCJD will ensure key information is continuously and readily available or visible to residents through posters and resident handbooks.

115.334 Specialized training: Investigations.

(a) In addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

The Sheriff Office will ensure Officers/staff who conduct investigations are appropriately trained under this section.

(b) Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Ward County investigators and or Bureau of Criminal Investigators train on the rights and warnings applicable in the County, State and Federal law.

(c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

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

115.335 Specialized training: Medical and mental health care.

(a) The agency 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 juvenile victims of sexual abuse and sexual harassment; and
- (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Trinity Health ensures medical staffs are appropriately trained under this section. Please note, training under this section does not refer to certifications needed to conduct forensic examinations.

(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 115.331 or for contractors and volunteers under 115.332, depending upon the practitioner's status at the agency.

Screening for Risk of Sexual Victimization and Abusiveness

115.341 Obtaining information from residents.

(a) Within 72 hours of the resident's arrival at the facility and periodically throughout a resident's confinement, the agency shall obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident.

All residents during booking process are screened. The following steps should be taken:

■ **Residents with a history of sexual victimization while in Ward County custody.** When, during the intake screening process, staff identify residents with a history of sexual victimization within Ward County Juvenile custody (e.g., from self-report or from review of available documents.), they must notify the **PREA Coordinator**. This report of residents victimization is to ensure that appropriate steps (investigation, documentation, any other concerns, etc.) have been addressed.

■ **Residents with a history of sexual victimization while in another setting-** If victimization occurred in another setting, staff should document information, and appropriate steps and monitoring will be provided if needed.

■ **Residents with a history of sexual predation-** When, during the intake screening process, staff identify residents with a history of sexual predation (e.g., from self-report or from review of available documents.), staff must take additional steps.

If incidents of sexual predation have not previously been documented, staff must notify the **PREA Coordinator** of the residents history of predation to ensure that appropriate steps (investigation, documentation, other concerns, etc.) have been taken. The Jail Commander will inform staff of the residents status pertaining to the alleged perpetrator

(b) Such assessments shall be conducted using an objective screening instrument. **Staff are required to use PREA Classification Screening, which outlines issues and steps to take during the intake screening process generally, including issues concerning sexual abuse and sexual assault. The Booking Officers uses the PREA Classification Screening during the intake process or within 72 hours depending on intoxication level or the residents behavior.**

The PREA Classification Screening should be completed objectively by using only information available to staff at the time of intake, and with the purpose of referring the resident for further assessment if needed.

(c) At a minimum, the agency shall attempt to ascertain information about:

- (1) Prior sexual victimization or abusiveness;
- (2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
- (3) Current charges and offense history;
- (4) Age;
- (5) Level of emotional and cognitive development;
- (6) Physical size and stature;
- (7) Mental illness or mental disabilities;
- (8) Intellectual or developmental disabilities;
- (9) Physical disabilities
- (10) The resident's own perception of vulnerability; and
- (11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

Potential Victim Screening

1. When a resident receives a score of **more than three** the resident will be considered at a high risk of being victimized. The booking officer will consult with the shift supervisor and decide on appropriate housing.
2. The booking officer will make a copy of the PREA Potential Victim screening and forward it to the PREA Coordinator.
3. After the fourteen-day classification process, the **Booking Officer** will forward the residents classification results to the PREA Coordinator.
4. Within thirty days, the PREA Coordinator will reassess the resident risk of victimization based on the classification results and any relevant information received since intake.

5. The PREA Coordinator will reassess a residents risk level when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the residents risk of sexual victimization or abusiveness.

Potential Perpetrator Screening

1. When a resident receives a score of **more than three** the resident will be considered at a high risk of being a perpetrator. The booking officer will consult with the shift supervisor and decide on appropriate housing.
2. The booking officer will make a copy of the PREA Potential Perpetrator screening and forward it to the PREA Coordinator.
3. If the resident answers that they have to register as a sex offender and they do not score a three on the screening, a copy of the screening will still be sent to the PREA Coordinator. The resident will then have to fill out the sex offender paperwork if they are still incarcerated after three days.
4. After the fourteen-day classification process, the Field Training Officer will forward the residents classification results to the PREA Coordinator.
5. Within thirty days, the PREA Coordinator will reassess the resident risk of being a perpetrator based on the classification results and any relevant information received since intake.
6. The PREA Coordinator will reassess a residents risk level when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the residents risk of sexual victimization or abusiveness.

(d) This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files

(e) The agency 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.

Some residents pose a serious risk of engaging in sexually abusive behavior while in custody because of their history of sexually abusive behaviors while in Detention (stalking, excessive sexual preoccupation, etc.), or from the criminal history. In the case

of residents “at risk”, the PREA Coordinator should notify the Correctional staff to monitor for this behavior.

115.342 Placement of residents in housing, bed, program, education, and work assignments.

(a) The agency shall use all information obtained pursuant to 115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.

Once an resident has been identified as a victim or perpetrator, or as “at risk” for victimization or perpetration, Staff must notify the PREA Coordinator who will review options, to ensure the residents safety. These options may include transfer to a greater or lesser security facility, or changes in housing units or cell assignments.

(b) Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, agencies shall not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

(c) Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.

(d) 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.

In deciding whether to assign a transgender or intersex resident the correct floor for male or female residents, shall consider on a case-by-case basis whether a placement would ensure the residents health and safety and whether the placement would present management or security problems.

- (e) Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident.
- (f) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
- (g) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

All residents are required to shower separately.

- (h) If a resident is isolated pursuant to paragraph (b) of this section, the facility shall clearly document:
 - (1) The basis for the facility's concern for the resident's safety; and
 - (2) The reason why no alternative means of separation can be arranged.
- (i) Every 30 days, the facility shall afford each resident described in paragraph (h) of this section a review to determine whether there is a continuing need for separation from the general population.

115.351 Resident reporting.

(a) The agency 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.

The WCJD residents are encouraged to report allegations to staff at all levels, including Jail Commander , Sheriff's Office and Rape Crisis Line 1-800-398-1098/1-701-857-2500 and Domestic Violence Crisis Center PO Box 881 Minot ND 58702. They are also currently provided with avenues of internal reporting, or by mail to an entity such as (States Attorney Office). WCJD allows for residents to report sexual abuse or sexual harassment to a State entity or office that is not part of the Juvenile Detention in the following ways:

**(North Dakota Department of Corrections)
Central Office, P.O. 1898, 3100 Railroad Ave, Bismarck, ND 58502
or Bureau of Criminal Investigation BCI
P.O. Box 1348
Minot, ND 58502**

(b) The agency shall also provide at least one way for residents 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. Residents detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.

Residents are provided contact information and access and Rape Crisis Line 800-398-1098/1-701-857-2500 and Domestic Violence Crisis Center PO Box 881 Minot ND 58702. They are also currently provided with avenues of internal reporting, or by mail to an outside entity such as (States Attorney Office, NDDOCR North Dakota Department of Corrections, Bureau of Criminal Investigation BCI),

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

For the purpose of this section, information received anonymously refers to “drop-notes” or other written communication. Non-investigatory staff do not offer anonymity to residents.

(d) The facility shall provide residents with access to tools necessary to make a written report.

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

For the purposes of this section, staff may contact any supervisory staff at Juvenile or the Sheriff’s Office, or (States Attorney Office, NDDOCR North Dakota Department of Corrections, Bureau of Criminal Investigation (BCI),

115.352 Exhaustion of administrative remedies.

See the Resident Hand Book.

There will be no time line on when an resident may submit a grievance regarding an allegation of sexual abuse. Residents are not required to use an informal grievance process or to otherwise attempt to resolve with staff an alleged incident of sexual abuse. Ward County will ensure that:

- **An resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint**

- Such grievance is not referred to a staff member who is the subject of the complaint.
- Sheriff Office 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.
- Computation of the 90-day time period must not include time consumed by residents in preparing any administrative appeal.
- Sheriff or designee may authorize an extension of time to respond, up to 60 days, if the normal time period for response is insufficient to make an appropriate decision.
- The investigating officer shall notify the resident in writing of any extension and provide a date by which a decision will be made.

Third parties, including residents, staff members, family members, attorneys, and outside advocates, may assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and to file such requests on behalf of residents.

If a third-party files a request on behalf of an resident, 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.

If the resident declines to have the request processed on his behalf, the assigned investigator shall document the residents decision and verify by resident signature. This documentation will be placed on his central file.

A resident may file an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse.

Once received, staff shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to the Lieutenant, Captain, and Commander or Sheriff's office for which corrective action may be taken.

The initial response and final decision will document Ward County's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

After the Sheriff's Office or Commanders decision is made, a copy of the emergency grievance and all responses will be forwarded to the PREA Coordinator.

A resident may be disciplined for filing a grievance related to alleged sexual abuse only when there is determination the resident filed the grievance in bad faith

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

- (1) The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.
- (2) The agency may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.
- (3) The agency 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) The agency 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) The agency 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, other than a parent or legal guardian, 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.

(4) A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

(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.

(3) 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.

(a) 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.

115.353 Resident access to outside support services and legal representation.

(a) The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.

The PREA Coordinator, with the assistance of Sheriff Office staff, seeks to establish an agreement with community service providers who are able to provide confidential emotional support services as it relates to sexual abuse. If an agreement is not feasible, the attempts are documented. Staff will take reasonable action to ensure that information on available resources is provided to all residents so that they have access to the Ward County efforts

in preventing, detecting, and responding to sexual abuse and sexual harassment. Staff will also provide contact information and confidential communication services, as reasonably as possible.

“Confidential” communications under this section are distinguished from privileged communications, such as in attorney-client relationship.

Communications are monitored in a manner consistent with Juvenile security practices, and should be addressed in any memorandum of understanding with the outside victim advocacy organization.

- (b) The facility 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) The agency 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.
- (d) The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

115.354 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.

WCJD posts publicly, and maintains, the third-party reporting avenue on its public website and there is a sign posted in the public lobby

Official Response Following a Resident Report

115.361 Staff and agency reporting duties.

(a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive 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.

All staff must report information concerning incidents or possible incidents of sexual abuse or sexual harassment to any supervisor, or, Sheriff’s Office, or (States Attorney Office, NDDOCR North Dakota Department of Corrections, Bureau of Criminal Investigation (BCI), in accordance with the Employees Code of Conduct policy.

Staff shall provide a written follow-up memorandum to the Jail Commander and or Sheriff to document such a report. The Jail Commander will notify the PREA Coordinator.

Report must indicate whether the allegation involved Abusive Sexual Contact or a Non-Consensual Sexual Act.

Once reported, an evaluation by the PREA Coordinator and Jail Commander on whether a full response protocol is needed will be made (see section 115.65).

In addition to reporting information, staff intervene as appropriate (e.g., writing an incident report), in behaviors that may subsequently lead to an incident of sexual abuse. Staff should be aware of the following in determining what information to report:

Detection requires an awareness by staff of the Juvenile climate and the behaviors of residents – through actively paying attention to the following, for example:

- Resident communications
- Comments to staff
- Resident interactions
- Changes in resident behavior (eating, sleeping, hygiene, work habits, etc.)
- Isolated or “hot” areas of Juvenile

By observing factors such as these, staff will be able to better detect sexually abusive behavior, and possibly deter problems before they occur, or before they escalate.

(b) The agency shall also require all staff to comply with any applicable mandatory child abuse reporting laws.

(c) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing 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.

The information concerning the identity of the alleged resident victim and the specific facts of the case are limited to staff who need to know because of their involvement with the victim’s welfare and the investigation of the incident. This is important not only to preserve the victim’s privacy but to preserve maximum flexibility to investigate the allegations. It is appropriate under this section to forward reports to the Jail Commander or designee.

(d)(1) Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.

(2) Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.

(e)(1) Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.

(2) If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.

(3) If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.

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

Staff must report and respond to allegations of sexually abusive behavior, regardless of the source of the report (e.g., "third party").

The PREA Coordinator refers the incident for investigation to the appropriate office, and reviews the incident for any further response and notifies the Sheriff of the actions taken. As the severity of the sexually abusive behavior increases, so should the level of response.

115.362 Agency protection duties.

When an agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.

The Senior Officer is notified immediately and immediately safeguards the resident (which will vary depending on the severity of the alleged sexually abusive behavior and could include monitoring the situation, changing housing assignments, placing alleged victim and perpetrator in Special Housing, etc.). The Senior Officer promptly refers all residents reported or suspected of being the victim of sexually abusive behavior to Lieutenant for assessment. The Senior Officer also notifies the PREA Coordinator.

115.363 Reporting to other confinement facilities.

(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 and shall also notify the appropriate investigative agency.

In cases where there is an allegation that sexually abusive behavior occurred at another facility, the Lieutenant (or designee) of the victim's current facility reports the allegation to the Administrator of the identified institution. In cases alleging sexual abuse by staff at another facility, the Administrator of the residents current facility refers the matter directly to the Administrator or Sheriff of that facility.

For privatized facilities, jails, juvenile facilities, and Residential Reentry Centers, the Sheriff or Jail Commander (or designee) will contact the appropriate office of the facility.

- (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (c) The agency 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.

115.364 Staff first responder duties.

- (a) Upon learning of an allegation that a resident was sexually abused, the first 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.

The staff first responder must preserve the crime scene. Sheriff's Office Deputies are responsible for collecting information/evidence. The investigation, in coordination with Juvenile to which the case may be referred, must follow the guidance given in Juvenile policies and practices concerning evidence gathering and processing procedures.

Senior Officer: MUST

Notify the Lieutenant, Captain, and Commander of the incident who will notify the Sheriff (In cases of staff, contractor, or volunteer). The Sheriff will consult with human resources

115.365 Coordinated response.

The facility 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.

All staff report incidents of sexual abuse to the Lieutenant (or designee) (see section 115.61).

The Lieutenant (or designee) immediately safeguards the resident (see sections 115.43, 115.62).

The Lieutenant (or designee) promptly refers all residents reported or suspected of being the victim of sexually abusive behavior to Trinity Hospital and the on-call clinician for physical assessment and documentation of injuries (see sections 115.21, 115.82).

Staff will refer all residents reported or suspected of being the victim of sexually abusive behavior to Lieutenant (or designee) for assessment of vulnerability and treatment needs (see section 115.82).

The Lieutenant (or designee) SHALL ensure that the Sheriff and PREA Coordinator are notified during business hours. During non-business hours, the Senior Officer will ensure that the Lieutenant, Captain, and Commander (or designee) and the Sheriff are notified.

The PREA Coordinator reviews relevant factors and makes a determination whether or not to proceed with full activation of the Response Protocol. Not all allegations of sexually abusive behavior require full activation of the protocol. In some cases, the PREA Coordinator will determine that there is not sufficient reason to proceed (the alleged victim credibly recanted; the alleged perpetrator was not in detention on the date of the allegation, etc.) and the Response Protocol may be terminated.

In cases where more information is needed, or where there is a credible and serious allegation or instance of sexually abusive behavior, the full Response Protocol shall be implemented.

Once the PREA Coordinator determines that the intervention should continue, a sensitive and coordinated response is necessary. Services will be provided in an environment that meets both security and therapeutic needs.

The full Response Protocol, monitored by the PREA Coordinator, involves the following components:

■ Correctional Services shall safeguard the resident (see section 115.62); Sheriff Investigator's shall engage in evidence collection and preservation at Juvenile, including resident clothing, footwear, towels, bedding and other necessary items that can be consider as evidence (see section 115.64); investigate cases involving resident perpetrators (see section 115.71); arrange for outside medical trips if necessary.

■ Trinity Hospital, Jail Medical staff or North Central Services Center may recommend crisis intervention, or other treatment options related to the alleged victim (see section 115.82). Trinity Hospital, Jail Medical Staff or North Central Services Center staff will also notify the qualified agency staff member or the outside victim advocate, if necessary, to assist the resident (see section 115.21).

■ Trinity Hospital is responsible for assessment, examination, documentation, and treatment of resident injuries arising from incidents of sexual abuse, including testing when appropriate for pregnancy, HIV, and other sexually transmissible infections (STIs) (see sections 115.82 and 115.83). Trinity Hospital will provide STD testing and prophylactic treatment if necessary. Trinity Hospital will provide pre- and post-HIV counseling if necessary.

Trinity Hospital and the WCJD will provide follow-up infectious disease testing, and infectious disease testing on the abuser if the allegation is substantiated.

Communicate the facts known about the incident, including the infectious disease status of the aggressor, if known, to Trinity Hospital staff.

Contact the Trinity Hospital, who will initiate the Sexual Assault Response Team and let them know that victim advocate may be visiting the resident if requested.

Where indicated, medical staff, trained in the collection of sexual assault evidence (e.g., “rape kit”) should conduct an examination for physical evidence that may be used later in formal investigations, or may refer the inmate to trained health care professionals from the local community or at the local community facility equipped (in accordance with local laws) to evaluate and treat sexual assault victims (see sections 115.21 and 115.81). Reassure the alleged victim medical services are involved only to ensure that the proper evaluation and treatment of any injuries are obtained and medical and psychological support is offered.

If a sexual assault examination is appropriate, explain the necessity and process of a sexual assault examination to the victim. 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.

If the alleged victim refuses to be examined, staff shall document the refusal and have the resident sign a refusal medical treatment form. In the event transportation is necessary, it will be in accordance with transport policy. The Sheriff or Jail Commander will approve any exceptions.

If the resident victim must change to transport clothes, the following process will be followed. The resident must undress, and each item of clothing must be placed in a separate paper bag (no plastic) and closed with evidence tape.

The Investigator or staff shall start a Chain of Evidence on the evidence.

After responding to the initial incident, staff noted above have additional responsibilities for follow-up with the resident victim, which are covered in sections 115.66-68, 115.76-78, and 115.81-83.

115.366 Preservation of ability to protect residents from contact with abusers.

- (a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with 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 §§ 115.372 and 115.376; 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.

This standard does not apply to Ward County; there are no collective bargaining agreements with Ward County.

115.367 Agency protection against retaliation.

- (a) The agency shall establish a policy to 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) The agency 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 who 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 agency shall monitor the conduct or 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.

The PREA Coordinator monitors staff and residents who have reported sexual abuse allegations to protect them from retaliation for 90 days. However, if the initial monitoring indicates a continuing need, periodic status checks occur.

(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.

If any other individual who cooperates with an investigation expresses a fear of retaliation, the Juvenile Lieutenant, Captain, and Commander shall take appropriate measures to protect that individual against retaliation

(f) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

Ward County's obligation to monitor terminates if the Commander or PREA Coordinator determines that the allegation is unfounded.

115.368 Post-allegation protective custody.

Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of 115.342.

Investigations

115.371 Criminal and administrative agency investigations.

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

At the conclusion of the investigation, the allegations must be indicated as:

■ **Substantiated.**

■ **Unsubstantiated (may have occurred, but insufficient evidence to prove).**

■ **Unfounded (evidence proves that this could not have happened).**

Upon activating the full Response Protocol, the investigation phase is initiated and the following notification(s) must be made:

(1) Resident Perpetrator on Resident Victim. In the event that a resident is alleged to have perpetrated sexually abusive behavior against another resident, the Sheriff Department investigator is notified immediately.

(2) Staff Perpetrator on Resident Victim. In the event that a staff member is alleged to have perpetrated sexually abusive behavior against an resident, the Sheriff is notified immediately. The Sheriff notifies the States Attorney Office and the NDDOCR.

(3) Resident Perpetrator on Staff Victim. In the event that an resident is alleged to have perpetrated sexually abusive behavior against a staff

member, the Juvenile Lieutenant (or his/her designee) must be contacted immediately, with follow-up notification to the Sheriff. The Sheriff refers these matters for criminal investigation and possible prosecution in State Law.

- (b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to § 115.334.
- (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.

Note- this is a separate responsibility from staff first responders addressed in section 115.64. These duties are carried out by the appropriate investigative agency (e.g. Sheriff Office, States Attorney's Office, and BCI Bureau of Criminal Investigation).

Previous unsubstantiated or unfounded complaints and reports may not be used as evidence.

- (d) The agency shall not terminate an investigation solely because the source of the allegation recants the allegation.
- (e) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (f) 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.
- (g) 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.

Administrative investigations should also consider information on whether other factors such as physical layouts, staffing patterns, Juvenile operations, etc., contributed to the abuse.

(h) 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.

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

(j) The agency shall retain all written reports referenced in paragraphs (g) and (h) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.

(k) 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.

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

(m) 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.

115.372 Evidentiary standard for administrative investigations.

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

WCJD applies this section in accordance with its disciplinary/adverse action process and applicable laws, rules, and regulations. Ward County shall 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

115.373 Reporting to residents.

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

The Commander or the Investigator will provide notification to the residents required under this section. The Commander or the Investigator will deliver in person a statement of the findings which will require the signature of the resident. If the resident refuses to sign the findings, just document the refusal and have a staff member witness and sign the refusal.

(b) If the agency 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) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

An assessment of whether actions described in (c)(1) - (4) above are warranted is made in accordance with section 115.365, and may not be appropriate in all cases. Residents are notified only if there is a nexus between the listed actions in this section and an incident of sexual abuse. The timing of such notifications should not interfere with any pending criminal or administrative investigations. All notifications are made in accordance with the Freedom of Information Act/Privacy Act

(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) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- (2) The agency 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.

Documentation is maintained in the investigation file

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

The WCJD's obligation to report terminates if the resident-victim is released from the agency's custody.

Discipline

115.376 Disciplinary sanctions for staff.

Ward County Sheriff Department employees are subject to the Standards of Employee Conduct and Ethics Policy, and employment-based laws, rules, and regulations.

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

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 resident 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.

If evidence supports that a staff member engaged in sexual abuse, as defined in section 115.6, the matter will first be referred for criminal prosecution. Administrative discipline (including proposed removals for sexual abuse) will be conducted using the Standards of Employee Conduct and Ethics Policy, Human Resource Management Manual. Any decision made on the proposal will be in accordance with all applicable laws, rules, and regulations.

- (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.

115.377 Corrective action for contractors and volunteers.

- (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) The facility 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.

Generally, this section is applied in cases where administrative investigation/actions would be appropriate

115.378 Interventions and disciplinary sanctions for residents.

(a) A resident may be subject to disciplinary sanctions only 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) Any disciplinary 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. In the event a disciplinary sanction results in the isolation of a resident, agencies shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

(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.

(d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. The agency may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

(e) The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

Sexual abuse and sexual harassment of staff members should be addressed through other existing statutes, policies, and procedures, such as using the resident discipline system and referral to criminal prosecutions as appropriate. Please refer to section 115.6 concerning staff victims.

(f) 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 shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

The maintenance of an effective sexual abuse prevention policy, and general secure and orderly running of the WCJD, requires that residents be held responsible for manipulative behavior and intentionally making false allegations.

(g) An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

All sexual activity between residents is prohibited, and is subject to discipline.

Medical and Mental Care

115.381 Medical and mental health screenings; history of sexual abuse.

(a) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

(b) If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

Residents considered high risk for sexual re-offending will be referred to North Central Human Services Center they will recommend crisis intervention, or psychiatric referral and other treatment.

If a resident perpetrator is determined in need of treatment services and refuses treatment, the Lieutenant will document the refusal; place it in the Resident Central File. Documentation of treatment compliance or refusal ensures continuity of care within Juvenile.

(c) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

It is appropriate under this section to provide staff information on an residents history of being a sexual abuser; for example, such as placing the inmate in the Pass On's, to maintain the safe, secure, and orderly running of the facility.

(d) Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

115.382 Access to emergency medical and mental health services.

(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.

See section 115.365 for details concerning emergency mental health services. Procedures for Resident Victims- Trinity Hospital staff are responsible for examination, documentation, and treatment of resident injuries arising from sexually abusive behaviors, including testing when appropriate for pregnancy and sexually transmissible infections (STIs), including HIV.

When a resident self-reports, or is referred to the WCJD, Sheriff Investigators will request an injury assessment from Trinity Hospital. The injury assessment, and the residents subjective/objective findings, is documented fully in the health record and the investigators report. Trinity Hospital staff will perform the injury assessment without compromising forensic evidence.

The forensic examination is performed by qualified sexual assault examiners (e.g., Sexual Assault Nurse Examiner, Forensic Nurse Examiner, or Sexual Assault Forensic Examiner).

Trinity Hospital staff with appropriate qualifications may conduct a forensic examination at Juvenile. If Resident is examined at the Juvenile Facility by a qualified health care professional from Trinity Hospital, or at a local community facility (e.g., rape crisis center) equipped to conduct such examinations. The forensic examination should occur as soon as practicable, but within 72 hours of Juvenile staff becoming aware that an resident reported involvement in a sexually abusive assault. A residents refusal of a forensic examination is documented in the health record.

When Trinity Hospital care is completed, the WCJD providers render follow-up care, including screening for infectious disease (HIV, viral hepatitis, or other sexually transmissible infections), pregnancy testing for female victims, and administration of prophylactic medication (if exposure to blood borne pathogens is suspected) if these services were not already rendered during the Hospital visit.

Procedures for Alleged Resident Perpetrators- Trinity Hospitals clinicians will also perform a physical injury assessment on any alleged resident perpetrators without compromising forensic evidence. Providers document the assessment in the health record and provide a copy to the Ward County Juvenile Detention for insertion in the investigation packet.

Forensic examinations of resident perpetrators will be in consultation with relevant Sheriff's Office and outside law enforcement agencies, and consistent with applicable laws and policies.

- (b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.

The Lieutenant (or designee) takes preliminary steps, as stated in section 115.365.

- (c) Resident 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.

Information and access to care as indicated in this section is offered to all resident victims, as clinically indicated.

- (d) 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.

Juvenile policies concerning resident cost for medical treatment shall not be applied to victims of sexual abuse.

115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.

- (a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
- (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 the 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.

The WCJD will provide prenatal counseling and care for pregnant female offenders that were victims of sexual assault at no cost.

(f) Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

(g) 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.

(h) 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 Collection and Review

115.386 Sexual abuse incident reviews.

(a) The facility 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.

In cases of unsubstantiated allegations, the Commander will review the incident to assess the facility's response to the allegations. All factors noted within PREA Standard 115.386 (d) noted below are considered. The PREA Coordinator documents the review in a report, including recommendations for improvements, if any. If the unsubstantiated allegation involved a staff member, the report under this section must not include the staff member's personally identifiable information. The report is submitted to the Sheriff, who ensures implementation of the recommendations or documents the reason for not following them.

In cases of unsubstantiated or substantiated sexual abuse, Sheriff and executive Staff will review the incident to assess the facility's response. All factors noted within PREA Standard 115.386 (d) noted below are considered. The PREA Compliance Manager documents the review in a report, including recommendations for improvements, if any. The report is submitted to the Sheriff, who ensures implementation of the recommendations or documents the reason for not following them. A copy of this report is forwarded to the NDDCOR, States Attorney office.

Consideration for staff affected by the incident is necessary. Efforts to mitigate potential stress associated with these events should be offered to affected staff, such as offering Employee Assistance Program information.

(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, investigators, and medical or mental health practitioners.

The review team will include input from staff. Staff will be provided an opportunity to input to the draft and submit the recommendations, taking the time frames of this section into account.

The staff's recommendations are included in the review team's final report and recommendations as an addendum. Adoption of the staff recommendations in the final report is at the discretion of the review team.

(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;

(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 but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

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

115.387 Data collection.

(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.

WCJD tracks information concerning sexual abuse using the methods listed below. In disseminating this information within Ward County, or releasing information to a third party, The WCJD complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.

The Juvenile Lieutenant (or designee) must maintain secure investigative files and data, which include:

- **The victim(s) and perpetrator(s) of sexually abusive behavior.**
- **A factual description of the events.**
- **Formal and informal action(s) taken.**

- All collateral reports, supporting memoranda, and videotapes.
- Medical forms (e.g. injury assessments).
- Any other evidentiary materials pertaining to the allegation.

The Lieutenant prepares cumulated data on the resident victims of staff and resident sexually abusive behavior to report at the end of each fiscal year. The Lieutenant or PREA Coordinator collects and reports on the data to NDDOCR and to Bureau of Justice Statistics Survey of Sexual Violence.

(4) Data. The Lieutenant (or designee) is responsible for accurate assignments related to sexually abusive behavior. Access to these assignments must be limited to those staff who are involved in managing the resident victim or resident perpetrator, or investigating the incident.

■ Unverified= This is to ensure that alleged resident victims of residents or staff, and alleged resident perpetrators, are identified, evaluated, and monitored as soon as the allegation is made. These assignments are Juvenile records of the alleged victim at the time an allegation of sexually abusive behavior is reported. It remains current until it is found to be unsubstantiated or unfounded (in which case it is discontinued), or until it is verified and changed only by the Commander is made. It remains current until it is found to be unsubstantiated or unfounded (and discontinued), or until it is verified and changed..

■ Verified= Is used when there is a substantial evidence of sexually abusive behavior against an resident, or by an resident:

There should be an assignment when a sexually abusive behavior has been committed against an resident victim. It remains current for the length of the resident victim's incarceration.

There should be an assignment when a sexually abusive behavior has been committed against an resident victim by a staff member after the allegation has been sustained.

There should be assignment when there has been a sustained finding (incident report or legal finding) against an resident perpetrator who has engaged in sexually abusive behavior towards another resident.

There should be an assignment when there has been a sustained finding (incident report or legal finding) against an resident perpetrator who has committed a sexually abusive behavior against a staff member.

(b) The agency shall aggregate the incident-based sexual abuse data at least annually. **The PREA Coordinator will review data from all sources 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. **The PREA Coordinator collects all uniform data for all allegations of sexual abuse based on incidents reports and investigation file this aggregate data will be report on the Ward County Web site. www.co.ward.nd.us**

(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. **The PREA Coordinator reviews and compiles data in a written report which will be made available that include all incidents that occurred at the WCJD. A review of these incident will be conducted and this review team will consist of upper level managers, investigators and staff that and direct knowledge of the incident, and if possible medical and mental health professional.**

The Ward County Sheriff Department complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.

115.388 Data review for corrective action.

(a) The agency shall review data collected and aggregated pursuant to 115.387 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. **Ward County PREA Coordinator reviews data and compiles this data and issues a report to the Commander and the Sheriff on an annual basis, meeting the requirements of this section.**

(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 agency'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) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. **The WCJD complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.**

115.389 Data storage, publication, and destruction.

(a) The agency shall ensure that data collected pursuant to 115.387 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. **The Ward County Sheriff's Department complies with the Federal Privacy Act and Freedom of Information Act, and all other applicable laws, rules, and regulations.**

(d) The agency shall maintain sexual abuse data collected pursuant to 115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

Audits

115.393 Audits of standards.

The agency shall conduct audits pursuant to 115.401–405.

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. **This section refers to in-person interviews. The WCJD will use an appropriate area, taking juvenile security concerns into account.**

(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. **Residents are able to use Resident Complaint Forms or Special Mail procedures relevant to attorneys and legal counsel when sending confidential information or correspondence to PREA auditors. The Lieutenant will notify staff when the PREA audit is beginning and ending, which will determine the time frame for PREA auditor, mail to be treated as Special Mail.**

(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.

(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.

- (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. **The final report will be posted on the Ward County's public website within 15 working days of receipt. The most recent final report for each facility must be posted.**

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. **To allow the auditor 60 days to write and submit a final report, the Ward County Juvenile Detention will have 120 days to develop, implement, and submit corrective action(s) from the date the preliminary report is received.**
- (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.

(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. **Audit findings shall ordinarily be appealed during the 90-day corrective action period. Appeals regarding the final report shall be submitted within 15 working days of receipt**

(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. **Re-audits are funded by Ward County.**

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

State Compliance

115.501 State determination and certification of full compliance.

(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.