

SUBJECT: Prison Sexual Misconduct Reporting, Response, Investigation, and Prevention of Retaliation	PAGE <u> 1 </u> OF <u> 15 </u>
	NUMBER: 79-ISA-02
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	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to provide procedural guidelines for the reporting, response, and investigation of allegations of sexual misconduct, and to prevent retaliation against persons who have reported sexual abuse.

III. APPLICABILITY

This policy applies to all inmates, persons employed by the Ohio Department of Rehabilitation and Correction (DRC), volunteers, and independent contractors assigned to an institution.

IV. DEFINITIONS

Abuser - A high risk inmate who has been found guilty of committing one (1) or more instances of sexual abuse in an institutional setting.

Agency PREA Coordinator - The staff member designated by the Director to oversee the agency efforts to comply with PREA standards in all facilities. The agency PREA coordinator shall be the Operation Support Center liaison for the Institution Operational Compliance Managers (OCMs).

Indecent Exposure - Any display by a staff member, contractor, or volunteer of his/her uncovered genitalia, buttocks, or breast in the presence of an inmate.

Institution Operational Compliance Manager - The staff person designated by the managing officer at each facility to coordinate the institution's efforts to comply with PREA standards.

LGBTI - An acronym for a group of sexual minorities including lesbian, gay, bisexual, transgender, and intersex individuals.

PREA Accommodation Strategy (PAS) - A strategy plan prepared by the unit management chief (UMC) or in their absence, the acting unit management chief (UMC) for an inmate's housing, bed, work, education and program assignments based upon the PREA classification determined by the PREA Risk Assessment System, the needs of the individual inmate, the structure/security level of the facility, and the correctional judgment of the staff member.

PREA Accommodation Strategy Team (PAST) - A team, consisting of the institution operational compliance manager (OCM), unit management chief (UMC), medical and mental health staff, and other staff as necessary, established to complete a PREA accommodation strategy in accordance with DRC policy 79-ISA-04, PREA Risk Assessments and Accommodation Strategies, for all transgender and intersex inmates. The team shall be chaired by the institution OCM.

PREA Classifications - For purposes of tracking risk of sexual abuse, all inmates shall be designated as either an abuser, victim, potential abuser, victim, or no classification based upon screening results from the PREA Risk Assessment System.

PREA Risk Assessment System - A computer system designed to assist the institutions assessing risk of sexual abuse for an individual inmate and to assist in tracking and sharing information about PREA classifications and LGBTI inmates. The electronic PREA risk assessment forms shall be utilized until the automated system becomes available.

Recent Sexual Abuse - Oral sexual abuse that has occurred within twenty-four (24) hours; vaginal or anal abuse that has occurred within ninety-six (96) hours.

Sexual Abuse - Any behavior or act of a sexual nature, or any attempt, threat or request for same, directed toward an inmate by an employee, contractor, or volunteer, which may include one or more of: 1) sexual conduct, 2) sexual contact, 3) voyeurism, or, 4) indecent exposure; OR any behavior or act of a sexual nature, 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, directed toward an inmate by another inmate which may include one or more of: (1) sexual conduct or (2) sexual contact.

Sexual Conduct - Vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and without relation to official duties, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

Sexual Contact - Any touching of an erogenous zone of another including without limitation the thigh, genitals, buttocks, pubic region, or if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Sexual Harassment - (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 toward another, OR (2) repeated verbal comments or gestures of a sexual nature to an inmate 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.

Sexual Misconduct - Any behavior or act of a sexual nature directed toward an inmate by an employee, contractor, or volunteer or other inmate which may be sexual harassment, sexual abuse or a combination of both as defined in this policy.

Substantiated Allegation - An allegation that was investigated and determined to have occurred.

Unfounded Allegation - An allegation that was investigated and determined not to have occurred.

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

Victim - A high risk inmate who has been the victim of sexual abuse in an institutional setting, which has been confirmed by disciplinary records of the abuser and/or inmate on inmate assault records

Victim Support Person - A designated employee that has been specially trained to support a victim of sexual abuse which may include: (1) Accompanying the victim to the hospital; (2) Supporting the victim through the forensic medical examination and investigatory interview; and/or (3) Providing emotional support, crisis intervention information, and referrals.

Voyeurism - An invasion of privacy of an inmate by a staff member, contractor, or volunteer 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 any inmate performing bodily functions.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to provide a safe, humane, and appropriately secure environment, free from the threat of sexual misconduct for all inmates by maintaining clear procedures for reporting, detecting, responding, and investigating sexual misconduct. Sexual misconduct among inmates and by staff, volunteers and independent contractors towards inmates is strictly prohibited. Retaliation against persons who report sexual misconduct is also strictly prohibited. All allegations of sexual misconduct and/or retaliation shall be administratively and/or criminally investigated.

VI. PROCEDURES

A. Reporting of Sexual Misconduct and Retaliation

1. Reporting by Inmates, Third Parties and Outside Entities.
 - a. An inmate may report allegations of sexual misconduct or retaliation by other inmates or staff verbally or in writing. In addition, inmates may report staff neglect or violations of responsibilities that may have contributed to incidents of sexual misconduct. Allegations may be reported to any staff member, volunteer or independent contractor.
 - b. Inmates may also report allegations to an outside entity that is not part of the DRC by using the phone number and/or address provided. This outside entity shall then report

the allegations to the PREA coordinator/designee. Inmates shall be given the opportunity to remain anonymous upon request to the outside entity.

- c. The agency PREA coordinator/designee shall establish an e-mail link on the DRC's official internet site that allows for third-party reports of sexual misconduct on behalf of an inmate. Notification of the purpose and use of this e-mail account shall be posted in the inmate visiting areas and entry buildings.
- d. There shall be no time limit on when an inmate may report sexual misconduct.

2. Staff Reporting

- a. Pursuant to DRC policy 01-COM-08, Incident Reporting and Notification, staff shall report immediately any knowledge, suspicion, or information regarding an incident of sexual misconduct that occurred in an institution, whether or not it is part of the DRC. Staff shall also report retaliation against inmates or staff who report such incidents and any staff neglect or violation of responsibilities that may be contributed to an incident or retaliation. Unless otherwise precluded by federal, state, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to this section and to inform inmates of the practitioner's duty to report and the limitations of confidentiality at the initiation of services.
- b. Staff may privately report sexual misconduct by completing an Incident Report (DRC1000), marked confidential and submitting it directly to the institution OCM or agency PREA coordinator. The Institution OCM and/or the agency PREA coordinator shall ensure the allegation is investigated in accordance with this policy while maintaining the anonymity of the reporting staff. The institution OCM or agency PREA coordinator shall maintain a confidential file of the privately reported allegations either in the managing officer's office at the institutions or the agency PREA coordinator's office at the Operation Support Center.
- c. Any staff member that observes incidents or behaviors that cause a reasonable concern that an inmate may be at significant risk of sexual victimization shall document this incident or observation on an Incident Report form (DRC1000), marked confidential, consistent with DRC policy 01-COM-08, Incident Reporting and Notification. A copy of this report shall immediately be forwarded to the institution investigator, shift supervisor, UMC, and the PREA coordinator.

3. Routing of Reports

- a. All reports of allegations of sexual misconduct and retaliation, including third-party and anonymous reports, shall be reported to the institution investigator.
- b. 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

required by law. Staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary.

- c. Any employee that receives a verbal or written report from an inmate, an anonymous source, or a third party of sexual misconduct or retaliation shall immediately notify the shift supervisor and complete an Incident Report (DRC1000), marked confidential, with a copy to the institution OCM and institution investigator. If it is a report of sexual abuse, staff shall request the alleged victim not take any actions that could destroy physical evidence. Professionals are further obligated to report any communications indicating a danger to any other person or the person making the communication, regardless of any established professional privilege. Allegations of sexual misconduct shall be reported as a special incident pursuant to DRC policy 01-COM-08, Incident Reporting and Notification.
- d. Upon receiving an allegation that an inmate was sexually abused while confined at another institution, the managing officer/designee of the institution that received the allegation shall notify the managing officer/designee of the institution or appropriate office of the agency where the alleged abuse occurred.
 - i. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. The notification shall be documented on an Incident Report (DRC1000).
 - ii. The managing officer or agency office that receives such notification shall ensure the allegation is investigated in accordance with applicable provisions of this policy.

B. Initial Response and Protection

1. First Responders

The Sexual Abuse First Responder Checklist (Appendix D) shall be used upon report of an allegation of inmate sexual abuse. The first initial actions of security and non-security staff members are noted below:

The first security supervisor to respond to the report shall be required to:

- a. Separate the alleged victim and abuser;
- b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence pursuant to DRC policy 310-SEC-13, Protection of a Crime Scene, and Appendix A of this policy;
- c. Request the alleged victim not take any actions that could destroy physical evidence;
- d. Ensure the alleged abuser does not take any actions that could destroy physical evidence.

The first non-security or the first line security staff member to respond to the report shall be required to:

- a. Separate the alleged victim and abuser;
- b. Request the alleged victim not take any actions that could destroy physical evidence and then notify the security shift supervisor.

If it is learned that an inmate is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the inmate at risk of victimization.

2. Medical Services Responsibilities

In cases of alleged completed sexual abuses, medical services shall follow Medical Protocol B-11, Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse, which includes instructions for assuring appropriate examination, documentation, transport to the local emergency department, testing for sexually transmitted diseases, counseling, prophylactic treatment, follow-up, and referral for mental health evaluation. Specific responsibilities of the institution's medical services and services provided by the local emergency department, when utilized, are detailed in the protocol.

3. Mental Health Responsibilities

Offenders referred to mental health by medical services following an allegation of sexual abuse shall be seen by a mental health professional who shall complete further screenings or assessments consistent with DRC policy 67-MNH-02, Mental Health Screening and Mental Health Classification.

4. Victim Support Person Responsibilities

Upon notification of an allegation of abuse, the institution victim support person shall meet with the victim. At the request of the victim: 1) The victim support person shall sit in on administrative interviews of the inmate but may not obstruct or interfere in the course of the investigation; 2) The victim support person shall accompany the victim to the hospital, accompany and support the victim through the forensic medical examination process; 3) The victim support person shall provide emotional support, crisis intervention, information, and referrals. The Victim Support Person Activity Report (DRC1178) shall be used to document the activities of the victim support person. After the form has been completed by the victim support person, the original shall be forwarded to the institution investigator. A copy shall be forwarded to the institution OCM.

If the designated Local Rape Crisis Center was contacted, the next available institution victim support person shall contact the Local Rape Crisis Center to determine what services were provided to the victim. The institution victim support person shall follow-up with the victim to determine if any additional services are requested. The institution victim support person shall document the activities of the Local Rape Crisis Center and

the institution victim support person on the Victim Support Person Activity Report (DRC1178). After the form has been completed, the original shall be forwarded to the institution investigator. A copy shall be forwarded to the institution OCM.

5. The shift supervisor shall assure that the victim and aggressor are physically separated. The victim shall be housed in an environment that shall, to the extent possible, permit the victim the same level of privileges the victim was permitted immediately prior to the sexual abuse. Any involuntary use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the following requirements and documented on the PREA Involuntary Segregation (DRC1184):
 - a. Involuntary segregation shall not be utilized unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If an assessment cannot be made immediately, the inmate may be held in involuntary segregation for less than twenty-four (24) hours while completing the assessment.
 - b. If an involuntary segregation assignment is made pursuant to this section, staff shall clearly document the basis for the concern for the inmate's safety and the reason why no alternative means could be arranged.
 - c. Inmates placed in restricted housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted, staff shall document opportunities that have been limited and the duration and reason for such limitations.
 - d. Involuntary segregation assignments shall only be until alternative means of separation from likely abusers can be arranged and shall not ordinarily exceed 30 calendar days.
 - e. Every thirty (30) calendar days, staff shall afford each inmate a review to determine whether there is a continuing need for separation from general population.
6. If the alleged abuser is an employee, immediate efforts shall be made to eliminate contact between the inmate and the staff member. The managing officer shall determine if the employee should be placed on administrative leave consistent with ORC 124.388, Administrative Leave with Pay, during the course of the investigation.
7. Pursuant to DRC policy 79-ISA-04, PREA Risk Assessment and Accommodation Strategies, unit management shall complete a special assessment of both the alleged victim and abuser involved in a sexual abuse incident within seven (7) calendar days of the report to document any changes in an inmate's PREA classification. Unit management shall also complete a special assessment on the alleged victim and abuser within seventy-two (72) hours of the completion of the final investigation.
8. In accordance with Medical Protocol B-11, Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse, and DRC policy 67-MNH-02, Mental Health Screening and Mental Health Classification, all inmates who have been victimized by sexual abuse in

any prison, jail, lockup or juvenile facility shall be offered medical and mental health evaluations, and treatment as appropriate.

9. All victims of sexual abuse shall have access to forensic medical examinations at an outside facility without financial cost where evidentiary or medically appropriate. The services shall be provided to the alleged victim regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. 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 may be performed by other qualified medical practitioners. The institution shall document its efforts to provide SAFEs or SANEs. DRC is responsible for ensuring these services are provided to the inmate. This is not the responsibility of the Ohio State Highway Patrol (OSHP).
10. The institution OCM shall develop a written institutional plan in accordance with Appendix B utilizing the documents in Appendices C and D to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health staff, institutional investigators, and institutional leadership.

C. Investigations

1. All reports of sexual harassment shall be investigated by the institution OCM and the findings documented in writing. The institution OCM shall also conduct the monitoring of retaliation for these cases.

All reports of sexual abuse and retaliation shall be investigated by the institution investigator and the findings documented in writing. The institution investigator shall conduct the monitoring of retaliation for these cases.

All allegations of sexual abuse shall be administratively investigated by the institution investigator. Consensual sexual contact and imminent risk of sexual abuse (as referenced in section VI.F of this policy) shall be investigated by an employee assigned by the managing officer.

All allegations of sexual misconduct shall be referred for investigation to the Ohio State Highway Patrol (OSHP) unless the allegation does not involve potentially criminal behavior. The agency PREA coordinator/designee shall maintain a document that describes the responsibilities of the DRC and the OSHP for criminal investigations. If the OSHP is responsible for investigating allegations of sexual abuse, the DRC shall request that they follow the investigator protocols as listed in Appendix A and that any OSHP investigator conducting such investigations has received training in conducting investigations in confinement settings.

2. The designated victim support person shall consult with the institution investigator on abuse cases and offer assistance as is appropriate based on their training.
3. Procedures and Investigation of Recent Sexual Abuse

If the alleged sexual abuse is recent, as defined by this policy, the requirements of Appendix A, unless directed otherwise by the OSHP, shall be followed. In addition, the institution investigator, if present, or the shift commander if the institution investigator is not present, shall place the alleged inmate abuser in restrictive housing under investigation until the investigation is complete unless other circumstances require the transfer or other placement of the alleged abuser. If the alleged abuser is an employee, the managing officer shall determine whether the employee should be placed on administrative leave with pay. During the course of the investigation, the victim and the alleged aggressor shall remain separated.

4. Procedures and Investigation of Sexual Abuse that are Not Recent

- a. If the alleged sexual abuse is not reported or discovered within a time frame to consider it recent, as defined by this policy, the requirements of Appendix A shall be followed unless directed otherwise by the OSHP. The institution investigator, if present, or the shift supervisor if the institution investigator is not present, shall secure the alleged crime scene if feasible. The alleged aggressor, if known, shall be placed in restrictive housing under investigation. Consistent with Medical Protocol B-11, Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse, medical services shall conduct an examination for the presence or absence of physical trauma and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate. Medical services shall also refer the inmate to mental health services for evaluation and counseling and offer the inmate appropriate prophylactic treatment for sexually transmitted diseases.
- b. Priority medical/forensic treatment and provision of care to the adult sexual abuse patients should always be given regardless of when the sexual abuse occurred. If it is within ninety-six (96) hours (four full days) after an attack, evidence should always be collected. Research and evidence analysis indicates that some evidence may be available beyond ninety-six (96) hours after the assault. Decisions about whether to collect evidence should be made on a case-by-case basis, guided by the knowledge that outside time limits vary due to factors such as the location of the evidence and type of sample collected. Cases in which evidence should be collected beyond ninety-six (96) hours occur where an exam may corroborate chronic injury, excessive force or significant trauma.

5. Completion of an Investigation

- a. A final decision on all allegations of sexual abuse shall be issued by the institution investigator within ninety (90) calendar days of the initial filing.
- b. If ninety (90) calendar days is not sufficient to make an appropriate decision, the institution investigator may extend the decision up to seventy (70) calendar days. The inmate shall be notified in writing of such extension and be provided a date by which a decision will be made.
- c. Following an investigation into an inmate's allegation that he/she suffered sexual abuse in an institution, the institution investigator shall inform the inmate as to

whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

- d. If the DRC did not conduct the investigation, it shall request the relevant information from the OSHP in order to inform the inmate.
- e. Upon completion of an inmate sexual abuse allegation against a staff member (unless unfounded), the institution investigator shall inform the inmate of the following:
 - i. The staff member is no longer posted within the inmate's unit;
 - ii. The staff member is no longer employed at the facility;
 - iii. The institution learns that the staff member has been indicted on a charge related to sexual abuse within the institution;
 - iv. The institution learns that the staff member has been convicted on a charge related to sexual abuse within the institution.
- f. Upon completion of an inmate sexual abuse allegation against another inmate (unless unfounded) the institution investigator shall inform the inmate victim of the following:
 - i. The institution learns that the alleged abuser has been indicted on a charge related to the sexual abuse within the institution;
 - ii. The institution learns that the alleged abuser has been convicted on a charge related to sexual abuse within the institution.
- g. All such inmate notifications or attempted notifications shall be issued in writing and documented. The Lake Erie Correctional Institution shall use form 14-2E, Inmate Allegation Status Notification, to document the notifications. The inmate shall sign the form, verifying that such notification has been received. The signed form shall be filed in the inmate's institutional file.
- h. An institution's obligation to report shall terminate if the inmate is released from the DRC's custody.
- i. Mental health services shall attempt to conduct an evaluation on all known abusers within sixty (60) calendar days of learning of such history and offer treatment when deemed appropriate. Mental health services shall be notified whenever an inmate is designated as an abuser in the PREA risk assessment system. Within sixty (60) calendar days of that notification, mental health services shall consult with sex offender services to determine if placement in a sex offender specific program or other sex offender specific service is appropriate. This consultation shall be documented in the offender's mental health case file.

- j. A final decision on all allegations of sexual harassment and retaliation shall be issued by the institution OCM and institution investigator, respectively within ninety (90) calendar days of the initial filing.
- k. All substantiated cases of sexual abuse, sexual harassment or retaliation shall be reported to the agency PREA coordinator by the institution OCM via email within seventy-two (72) hours of the conclusion of the case.

6. Investigation General Provisions

- a. When the institution 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.
- b. Institution investigators and, where appropriate, institution OCMs 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 suspected perpetrator.
- c. When the quality of evidence appears to support criminal prosecution, the DRC shall conduct compelled interviews only after consulting with OSHP as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- d. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No institution shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- e. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse and shall be documented in written reports that include a description of the physical and testimonial evidence, the reason behind credibility assessments, and investigative facts and findings.
- f. All criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence. Copies of documentary evidence shall be attached when feasible.
- g. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
- h. The departure of the alleged abuser or victim from the employment or control of the institution or DRC shall not provide a basis for terminating an investigation.
- i. The DRC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual misconduct are substantiated.

- j. 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.

D. Retaliation

1. The institution shall protect all inmates and staff who report sexual misconduct or cooperate with sexual misconduct investigations from retaliation by other inmates or staff. The institution investigator shall monitor retaliation resulting from cases of sexual abuse. The institution OCM shall monitor retaliation resulting from cases of sexual harassment.
2. For at least ninety (90) calendar days following the report of sexual misconduct, there shall be monitoring of the conduct and treatment of inmates or staff who reported the sexual misconduct and of inmates who were reported to have suffered sexual misconduct to see if there are changes that may suggest possible retaliation by inmates or staff, and acts promptly to remedy any such retaliation.

Periodic Status checks shall occur at least every thirty (30) calendar days during the monitoring period and shall include:

- a. Reviewing inmate discipline (RIB1 in DOTS/Unit Staff);
- b. Housing changes (DOTS/Count Office);
- c. Program changes (DOTS/Unit Staff);
- d. Job changes (DOTS/Unit Staff);
- e. Negative performance reviews (DOTS/Unit Staff/Work Supervisor);
- f. Reassignment of staff (Supervisor/Shift Roster/Personnel Office).

Monitoring shall continue beyond ninety (90) calendar days if the initial monitoring indicates a continuing need. All monitoring shall be documented on the PREA Retaliation Monitoring (DRC1166). The inmate and/or employee being monitored shall be interviewed during the periodic status check. They shall also sign and date the completed PREA Retaliation Monitoring (DRC1166).

3. The institution shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual misconduct or for cooperating with investigations.
4. If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual against retaliation to include, but not limited to, the measures listed in section VI.D.3 above.
5. An institution's obligation to monitor retaliation shall terminate if the institution investigator or institution OCM determines one (1) of the following:
 - a. The allegation is unfounded;
 - b. The inmate victim or witness is transferred to another institution; or
 - c. The inmate victim or witness is released from custody.

E. Administrative and Criminal Sanctions

1. Any inmate found guilty by the Rules Infraction Board (RIB) of sexual abuse shall be considered for disciplinary control and any or all of the following administrative actions:
 - a. Recommendation to the local control committee;
 - b. Special security review which considers the sexual abuse behavior. At a minimum, the inmate should be considered for an increase of one (1) security level;
 - c. If serious injuries resulted from the abuse, the inmate should be considered for security level 4B or 5;
 - d. Institutional separations shall be placed on the aggressor and the victim consistent with DRC policy 53-CLS-05, Inmate Separations;
 - e. The RIB may order the aggressor to pay reasonable restitution to the DRC for the costs incurred by the DRC as a result of the sexual abuse.
2. All inmates found guilty by the RIB of sexual abuse shall be given appropriate programming and interventions if determined to be necessary by mental health services in consultation with sex offender services.
3. The DRC may discipline an inmate for sexual contact and/or sexual conduct with staff only upon a finding that the staff member did not consent to such contact or conduct. Inmate rules of conduct number 13 of Administrative Rule 5120-9-06 (Consensual physical contact for the purpose of sexually arousing or gratifying either person) is an inmate on inmate disciplinary violation and does not apply to this section.
4. Any employee determined to have engaged in sexual misconduct, retaliation, or conversations or correspondence which suggests a romantic or sexual relationship with an inmate shall be subject to discipline consistent with the employee standards of conduct, which may include termination of employment. The employee may also be subject to criminal prosecution.
5. The institution investigator, institution OCM and OSHP shall work together with the local county prosecutor's office to assure appropriate criminal prosecution of sexual misconduct cases.
6. Disciplinary action may be taken when it is determined that an inmate made a false report of sexual misconduct. If the RIB finds an inmate guilty of making a false report, restitution may be ordered for the costs incurred by the DRC in response to the false report. However, no inmate reporting sexual misconduct shall be issued a conduct report for lying based solely on the fact their allegations could not be substantiated or that the inmate later recanted his allegation. Each case shall be carefully evaluated on its merits, considering all evidence and circumstances and whether there is any possibility that the alleged incident could have occurred.

F. Reports of a Substantial Risk of Imminent Sexual Abuse

1. All reports of substantial risk of imminent sexual abuse shall immediately be forwarded to the institution investigator, unit management chief and shift supervisor. Upon receipt of a report, security staff shall take immediate action to employ protection measures to ensure the inmate's safety.
2. When considering the protection of staff or inmates, staff shall consider:
 - a. Housing changes;
 - b. Transfers of inmate victims or abusers;
 - c. Removal of alleged staff or inmate abusers from contact with victims.
3. Reports of substantial risk of imminent sexual abuse shall be investigated by a staff member assigned by the managing officer.
4. Inmates at high risk for victimization shall not be placed in involuntary segregation unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If an Imminent Risk of Sexual Abuse (DRC1187) assessment cannot be completed immediately, the inmate may be held in involuntary segregation for less than twenty-four (24) hours while completing the assessment.
5. The PREA Involuntary Segregation Form (DRC1184) shall be completed if an involuntary segregation assignment is made pursuant to this section. Staff shall clearly document the basis for the concern for the inmate's safety and the reason why no alternative means could be arranged.
 - a. Inmates placed in restrictive housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted, staff shall document:
 - i. Opportunities that have been limited;
 - ii. Duration of limitations;
 - iii. Reasons for such limitations.
 - b. Involuntary segregation assignments shall only be until alternative means of separation from likely abusers can be arranged and shall not ordinarily exceed thirty (30) calendar days.
 - c. Every thirty (30) calendar days, unit management shall afford each inmate a review to determine whether there is a continuing need for separation from general population.
6. The managing officer's designee shall provide a documented initial response on the Imminent Risk of Sexual Abuse (DRC1187) assessment within forty-eight (48) hours of the receipt of the report. The report shall document the institution's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken.

The inmate shall also be notified of the initial response within forty-eight (48) hours of the receipt of the report.

7. A documented final decision shall be made within five (5) calendar days of the initial report and shall be documented by the managing officer’s designee on the Imminent Risk of Sexual Abuse (DRC1187) and a copy sent to the institution investigator. The report shall document the institution’s determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken. The inmate shall also be notified of the final decision within five calendar days of the initial report.
8. If it is determined the inmate is in substantial risk of imminent of abuse, the managing officer’s designee shall provide a copy of the Imminent Risk of Sexual Abuse (DRC1187) form to unit management for the purpose of completing a special screening in the PREA risk assessment system.

Attachments

Investigator Protocol	Appendix A
Institution Sexual Abuse Coordinated Response Plan	Appendix B
Allegation of Sexual Abuse - First Responder Flow Chart	Appendix C
Sexual Abuse - First Responder Checklist	Appendix D

Related Department Forms:

Incident Report	DRC1000
PREA Retaliation Monitoring	DRC1166
Victim Support Person Activity Report	DRC1178
PREA Involuntary Segregation	DRC1184
Imminent Risk of Sexual Abuse	DRC1187

Related Lake Erie Correctional Institution Forms:

Inmate Allegation Status Notification	14-2E
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Appendix A

Investigator Protocol

The evidence is collected in accordance with the Ohio State Highway Patrol Sexual Evidence and Collection and Analysis Protocol and the Ohio Department of Health Sexual Assault Evidence Collection kit Protocol (revised, February 2011) and a National Protocol for Sexual Assault Medical Forensic Examinations Adult/Adolescents (Second Addition – April 2013).

Evidence integrity starts with properly collecting, preserving, and maintaining the chain of custody of evidence and is critical to its subsequent use in administrative/criminal proceedings.

1. In cases where completed sexual abuse has allegedly occurred anally or vaginally within the previous ninety-six (96) hours, the victim shall be advised by the employee receiving the report or the shift supervisor to not shower or otherwise clean themselves, change clothes, urinate or defecate. If the assault was oral within the previous twenty-four (24) hours, the victim shall be advised to not smoke, eat, drink or brush their teeth, or otherwise take any action that could damage or destroy evidence. Arrangements shall be promptly made to have the victim examined by medical services.
2. Before transporting the inmate to the hospital's emergency room the inmate shall be instructed to remove one (1) item of clothing at a time, over two (2) paper sheets designated for this purpose, in order to collect any potential forensic evidence that may be on their clothes or that falls from their person. Each individual item of clothing and the paper sheet shall be placed in a separate paper bag. Any additional clothing worn during or immediately following the sexual conduct shall also be collected and an appropriate chain of evidence form attached.
3. The alleged abuser's clothing shall be removed and preserved as described above. A determination shall be made, based upon the amount of time that has passed since the alleged incident and the possibility of evidence still existing, as to whether the alleged abuser should be placed in a dry cell as defined by DRC policy 310-SEC-06, Dry Cell Separation, to preserve forensic evidence. If an inmate is placed in a dry cell for purposes of preserving forensic evidence, the inmate shall be strip searched and all possessions taken from him or her and a paper gown issued. No inmate placed in a dry cell per this policy shall remain in such status longer than sixteen hours. Additional evidence collection may occur consistent with the circumstances and the direction of OSHP.
4. The crime scene shall be secured. Access to the crime scene shall be limited to the OSHP investigator, the institutional investigator, and or medical staff, as needed. A log shall be maintained of anyone entering the crime scene and at what time they entered. The area shall remain secured as a crime scene until OSHP releases it.
5. The checklist on the following page shall be completed for all allegations of attempted or completed sexual conduct.

Checklist for Attempted or Completed Recent (less than 96 hours) Sexual Abuse:

- _____ Notified appropriate supervisor and OSHP.
- _____ Victim evidence collected and placed in paper bags with appropriate chain of evidence form.
- _____ Victim medically examined at the hospital's emergency room.
- _____ Abuser's evidence collected and preserved in a dry cell and placed in paper bags with appropriate chain of evidence form.
- _____ Crime scene secured and log maintained until released by OSHP.
- _____ Abuser placed in segregation unless the behavior requires a transfer.
- _____ Victim and alleged abuser separated.

Checklist for Attempted or Completed Not Recent (greater than 96 hours) Sexual Abuse:

- _____ Notified appropriate supervisor and OSHP.
- _____ Secured crime scene, if feasible.
- _____ Alleged abuser, if known placed in segregation.
- _____ Victim taken to medical to conduct examination.

Signature

Date

APPENDIX B
Institution Sexual Abuse Coordinated Response Plan

INSERT LOCAL POLICY HEADER

I. Authority

This policy is issued in compliance with Ohio Revised Code 5120.38 which delegates to the Managing Officer the authority to manage all aspects of the institution.

II. Purpose

The purpose of this policy is to establish the facility's coordinated actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health staff, investigators, and institutional leadership. This plan shall be used as a supplement to DRC policy 79-ISA-02, Prison Sexual Misconduct Reporting, Response, Investigation, and Prevention of Retaliation.

III. Applicability

This policy applies to all inmates housed at this facility and to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction (DRC) located at or working in this facility.

IV. Definitions

(Insert any necessary definitions used within the local policy)

V. Policy

It is the policy of the *(Insert Facility Name)* to ensure coordinated actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health staff, investigators, and institutional leadership.

VI. Initial Response

A. First Responders

1. *This section should include language that identifies how inmates can report abuse to any employee in writing or verbally and how staff can also report incidents that may lead to the possibility of sexual abuse*
2. *This section should reiterate that any employee that receives a verbal or written report from an inmate, an anonymous source, or a third party of sexual misconduct or retaliation shall immediately notify the shift commander and*

complete an Incident Report (DRC1000) with a copy to PREA compliance manager and investigator.

3. *This section should reiterate that the first security staff member to respond to report shall separate the alleged victim and abuser, and that the crime scene must be preserved and protected until appropriate steps taken to collect any evidence.*
4. *Instruction should be provided for first responders to use the First Responder Checklist and the First Responder Flowchart as outlined in Appendix C and D.*

B. Medical Responsibilities

This section should detail the specific responsibilities of your medical staff to comply with the medical responsibility section of 79-ISA-02, Prison Misconduct Reporting, Response, Investigation and Prevention of Retaliation. Do not cut and paste the language from the Department Policy but be specific as to what steps your facility staff will take to comply. Be specific and detailed in your local policy and refer to 79-ISA-02.

C. Mental Health Responsibilities

This section should detail the specific responsibilities of how your staff will ensure a referral to mental health is completed and what screenings and/or assessments will be done by the mental health staff. Be specific and detailed in your local policy and refer to 79-ISA-02.

D. Investigators

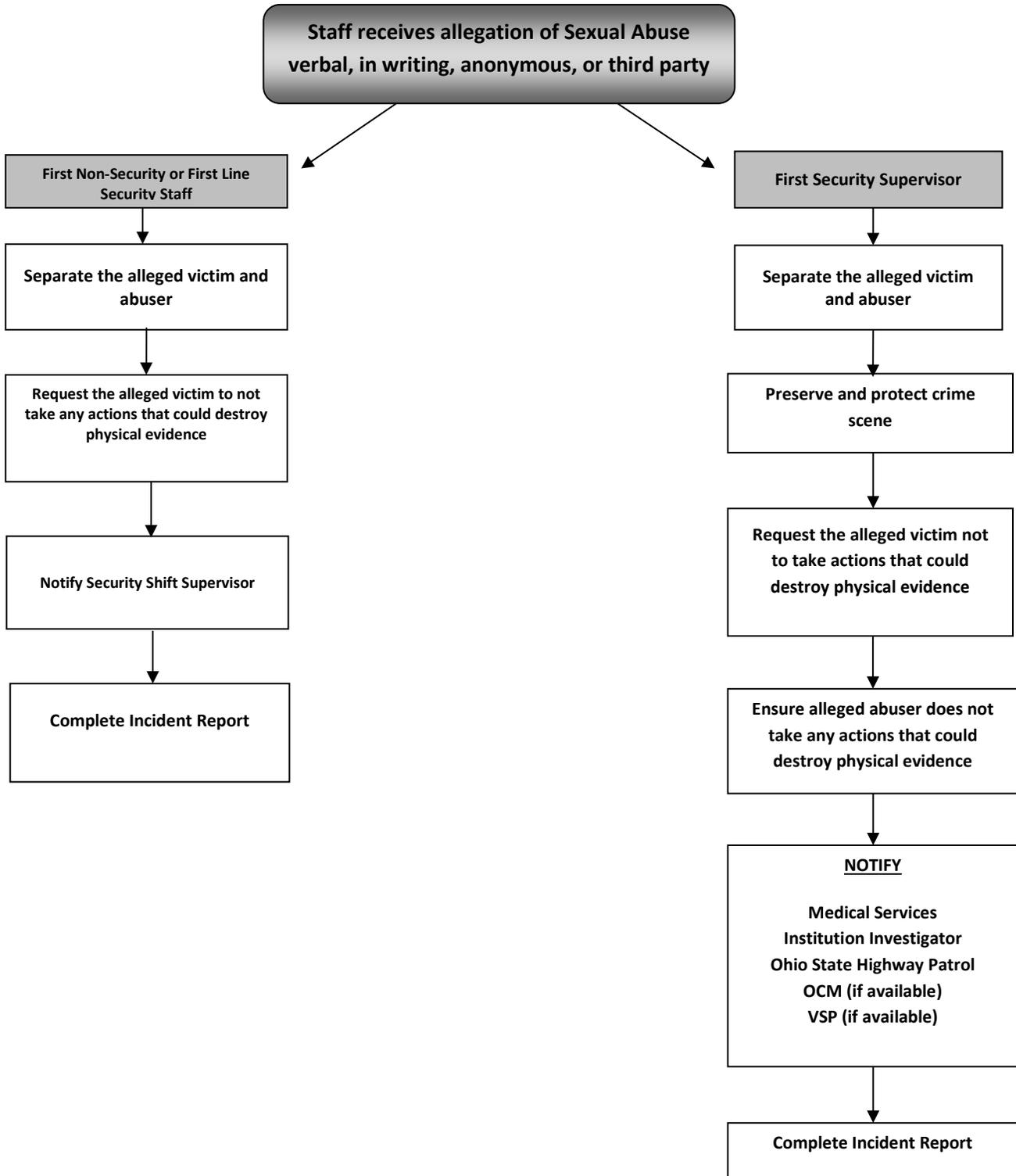
This section should detail the specific responsibilities of the how your investigators respond to reports of sexual abuse, sexual harassment and retaliation. It shall also specify which allegations of sexual abuse and/or sexual harassment are referred to the Ohio State Highway Patrol. Be specific and detailed in your local policy and refer to 79-ISA-02 in order to explain the steps required to comply.

E. Institutional Leadership

This section should detail the specific responsibilities of how the institutional leadership will ensure all employees, contractors and volunteers under their supervision comply with all PREA requirements. Be specific regarding the monitoring of all sexual abuse, sexual harassment and retaliation reports and incident, first responder actions, medical and mental health services provided to inmates, victim support actions, investigative actions, inmate discipline and administrative and criminal sanctions.

Appendix C

Allegation of Sexual Abuse - First Responders Flow Chart



Appendix D

SEXUAL ABUSE - FIRST RESPONDER CHECKLIST

First Responder Name					Title	
Incident Date				Institution		
Inmate Number				Inmate Name		
Security Staff - check	YES	<input type="checkbox"/>	*NO	<input type="checkbox"/>	*First Security Staff	

If first responder is Non-Security or Line Security, they shall complete the top portion of this form – the first Security Supervisor will complete the bottom. If initial first responder is Security Staff, they shall complete the bottom portion only.

First Responder - Non Security or Line Security (initial box if complete)		
Separate Victim and Abuser		Comments
Request Victim not to take any actions that could destroy physical evidence - washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.		Comments
Notify Shift Supervisor		Comments
Complete Incident Report		Comments
First Security Supervisor Responder (initial box if complete)		
Separate Victim and Abuser		Comments
Preserve and Protect the crime scene until evidence can be collected		Comments
If Abuse occurred within the a time period that still allows for the collection of physical evidence (oral sex within 24 hours; vaginal or anal abuse within 96 hours), request that victim not to take any actions that could destroy physical evidence – <i>washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.</i>		Comments
If abuse occurred within the a time period that still allows for the collection of physical evidence (oral sex within 24 hours; vaginal or anal abuse within 96 hours), ensure alleged abuser does not take any actions that could destroy physical evidence - <i>washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.</i>		Comments
Contact Medical Services		Comments
Notify – Ohio State Highway Patrol		Comments
Notify – Institution Investigator		Comments
Notify – Operational Compliance Manager (if available)		Comments
Notify – Institution Victim Support Person (if available) if not available contact designated Local Rape Crisis Center		Comments
Complete Incident Report		Comments

Non-Security Staff Signature: _____ Date: _____

First Security Responder Signature: _____ Date: _____