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1.0 PURPOSE

The purpose of this policy is to outline the Department of Public Safety's ("PSD") approach to ensure compliance with the Prison Rape Elimination Act ("PREA") of 2003, through the application of a zero-tolerance policy toward all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents in prisons, jails, lockups, and community correctional centers.

2.0 RATIONALE

The policy's rationale is PSD has a proactive approach to preventing, detecting, and responding to sexual abuse and sexual harassment, while an offender is under the legal and physical custody of PSD, inclusive of requiring compliance with PREA at privately contracted facilities or community correctional centers. The PREA Standards do not create a legal cause of action. The PREA Standards are guidelines or practices developed to prevent, reduce, eliminate, and investigate sexual abuse and/or sexual harassment; and to provide treatment to victims and prosecute violators, who commit sexual abuse and/or sexual harassment against an offender.

3.0 SCOPE

This policy is applicable to all PSD staff, contractors, and volunteers, who have contact with offenders, detainees, or residents. This policy applies to all prisons, jails, lockups, private contracted facilities, and community correctional centers under the direct custody and control of PSD.

4.0 REFERENCES

Blessing v. Freestone, 520 U.S. 329, 340-341 (1997). Holding that PREA did not create a federal right and for a particular statutory provision to give rise to a federal right, Congress must have intended that provision to benefit plaintiff, the right that is claimed to be protected by statute must not be so vague that its enforcement would strain judicial competence, and the statute must unambiguously impose a binding obligation on states.

Department of Public Safety Policy and Procedures, COR.08.13: Duty Assignment for Corrections Officers.

Department of Public Safety Policy and Procedures, COR.10.1B.05: Procedure in the Event of Physical or Sexual Assault.

Department of Public Safety Policy and Procedures, COR.10.1E.16: Medical Treatment for Transsexual Inmates.

Department of Public Safety Policy and Procedures, COR.13.03: Serious Misconduct Violations and Minor Misconduct Violations.

Department of Public Safety, Standards of Conduct for Corrections (March 1988) and Law Enforcement (December 1993).

Departmental Directive from the Director, Fraternization between Staff and Inmates (June 2003).

Departmental Directive from the Director 2013-002, PREA Zero-Tolerance Policy Statement (December 2013).

Hawaii Revised Statutes, §338-17.7 Establishment of new certificates of birth, when.

Hawaii Revised Statutes, §346, Part X, Adult Protective Services.

Hawaii Revised Statutes, §353C-8, Sexual Assaults in Prisons.

Hawaii Revised Statutes, §571-2, Definition of Adult.

Hawaii Revised Statutes, §571-22, Waiver of Jurisdiction; transfer to other courts.

Hawaii Revised Statues, §626-1, Rule 505.5, Victim-Counselor Privilege.

Hawaii Revised Statutes, §706-667, Young Adult Defendants.

Hawaii Revised Statutes, §707-730 to 707-733, Sexual Assault in the First Degree through Sexual Assault in the Fourth Degree.

Prison Rape Elimination Act of 2003, Title 28 Code of Federal Regulation Part 115.

PREA Resource Center website at www.prearesourcecenter.org and review the "frequently asked questions (FAQs)."

State of Hawaii, Department of Human Resources Policies and Procedures 702.003: Separation from Service, Effective Date October 27, 2003.

PREA FORMS (ALL COMPLETED FORMS ARE CONFIDENTIAL, BLANK FORM is NON-CONFIDENTIAL):

PREA Checklist and Addendum Form (PSD 8313)

PREA Mandated Reporting and Addendum Form (PSD 8317)

PREA Personnel Application Screening Form (PSD 8318)

PREA Screening Tool Form and Instructions (PSD 8314)

PREA Sexual Abuse Incident Review Report (PSD 8319)

IOM, PREA Final Disposition Form (PSD 1005)

5.0 DEFINITIONS

.1 Sexual Abuse or Assault

a. Sexual abuse of an offender, detainee, or resident by another offender, detainee or resident 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, includes any of the following acts:

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.

b. Sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer, regardless of consent by the offender, detainee, or resident, includes any of the following acts:

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 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 (1) through (5) above;
7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident; and

8) Voyeurism by a staff member, contractor, or volunteer.

.2 Sexual Harassment

a. Sexually offensive comments, gestures, or any physical conduct, which is of a sexual nature or sexually suggestive.

b. Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender, detainee, or resident toward another.

c. Repeated verbal comments or gestures of a sexual nature to an offender, 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.

d. Influencing, promising, or threatening an offender's safety, custody or security level, privacy, housing, privileges, work detail, or program status in exchange for sexual favors.

e. Creating an intimidating, hostile, or offensive environment for an offender or others by engaging in or permitting sexually offensive behavior or language that is directed at or observable by offenders or others.

.3 Related Definitions

a. Consent
Words or overt actions by an offender, who is functionally competent to give informed approval, indicating a freely given agreement to have sexual intercourse or sexual contact.

b. Community Confinement Facility
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.

c. Detainee or Offender
Detainee is a person detained in a lockup regardless of adjudication status.

Offender is a person incarcerated or detained in a prison or jail, community correctional center.

d. Direct Staff Supervision
Security staff in the same room with and within reasonable "sight and sound" distance of an offender.

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

f. Employee
A person who works directly for the agency or facility.

g. False Allegations
Any false report or falsification during an investigation of sexual abuse/sexual assault or sexual harassment. No person shall knowingly make a false statement or knowingly swear or affirm the truth of a false statement previously made.

h. Gender Nonconforming
A person whose appearance or manner does not conform to traditional societal gender expectations.

i. Inability to Consent and Inability to Refuse
Inability to Consent - A freely given agreement to have sexual intercourse or sexual contact could not occur because of age, illness, disability, being asleep, or under the influence of alcohol or drugs.

Inability to Refuse - Disagreement to have sexual intercourse or sexual contact was precluded because of the use of non-bodily weapons or due to physical violence, threats of physical violence, real or perceived coercion, intimidation, or pressure or misuse of authority.

j. Interference with Reporting and Investigations. Any failure to report or actions intended to cover up an incident of sexual abuse or sexual harassment, making an

allegation or statement that the party or witness knew is not true, or any failure to cooperate with an investigation. Proven interference will result in disciplinary action against an employee up to and including termination.

k. Intersex and Transgender
Intersex - A person who's sexual, reproductive anatomy, or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical condition is sometimes referred to as disorders of sex development.

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

l. Jail
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.

m. Law Enforcement ("LE") Staff
Employees responsible for the supervision and control of detainees in lockups.

n. Lockup
A facility that contains holding cells, cell blocks, or other secure enclosures that are: (1) Under the control of LE or the court; and (2) Primarily used for the temporary confinement of individuals, who have recently been arrested, detained, or are being transferred to or from court, jail, prison, or other agency.

The term "overnight" lockup is construed as a period of seven or more continuous hours between 2000 hours to 0800 hours. In situations, where the facility has only a remote chance of meeting the above time period threshold, or does so only in rare circumstances (less than one time per month on average), the lockup will not be considered an "overnight facility."

o. Medical Practitioner
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" is a professional who has also successfully completed specialized training for treating sexual abuse victims.

p. Mental Health Practitioner
A mental health professional that, 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" is a professional who has also successfully completed specialized training for treating sexual abuse victims.

q. Pat Down Search
A running of the hands over the clothed body of an offender, detainee, or resident by an employee to determine whether the individual possesses contraband.

r. Perpetrator
An offender or staff member, who based on an investigation, has been determined to have committed an act of sexual abuse or sexual harassment towards an offender in a PSD prison, jail, lockup, community correctional center, or private contracted prison.

s. Prison
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.

t. Retaliation
An act of vengeance, covert or overt action, or threat of action taken against an offender in response to the offender's complaint of sexual misconduct or cooperation in the reporting or investigation of sexual misconduct, regardless of the merits or the disposition of the complaint. Examples of acts of retaliation are unnecessary discipline, intimidation, unnecessary changes in work or program assignments, unjustified transfers or placements and unjustified denials of privileges or services.

u. Staff Member, Volunteer, and Contractor
Staff Member - Any person who is employed by PSD. All references to "staff member" will include the definitions for volunteers and contractors.

Volunteer - An individual who donates time and effort on a recurring basis to enhance the activities and programs of the department.

Contractor - A person who provides services on a recurring basis pursuant to a contractual agreement with the department.

v. Security Staff
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.

w. Strip Search
A search that requires a person to remove or arrange some or all clothing to permit a visual inspection of the person's breast, buttocks, or genitalia.

x. Suspected Perpetrator

An offender or staff member who is accused of committing an act of sexual abuse or sexual harassment towards an offender in a PSD prison, jail, lockup, community correctional center, or private contracted prison.

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

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

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

bb. Victim
Any offender who reports having been subjected to sexual abuse/sexual assault or sexual harassment while being incarcerated in a PSD prison, jail, lockup, community correctional center, or private contracted prison.

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

dd. Youthful Detainee and Youthful Offender
Youthful Detainee - Any person under the age of eighteen (18) who is under adult court supervision and detained in a lockup.

Youthful Offender - Any person under the age of eighteen (18), who is under adult court supervision and incarcerated or detained in a prison or jail.

6.0 ZERO-TOLERANCE

PSD has a zero-tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents: (1) an offender by another offender, or (2) a staff member on an offender, in a PSD prison, jail, lockup, community correctional center, and privately contracted prison operating under the direct control of PSD or under contract with PSD. All references to "staff members" in this policy, by default will include contractors and volunteers. (115.11 a) A "zero-tolerance" policy means that sexual abuse and sexual harassment in any form is strictly prohibited and all allegations of such conduct will be

investigated. Any retaliation against individuals for reporting an incident is also prohibited and will be investigated. This policy is intended to set forth the procedures to implementing and managing a "zero tolerance" policy.

PREA incidents based on sexual abuse or sexual harassment, including retaliation against individuals for reporting, if substantiated, shall be subject to the administrative disciplinary process. The PREA incident shall be referred for criminal investigation to the county Law Enforcement (LE), unless the allegation does not involve potentially criminal behavior.

7.0 DEPARTMENT PREA COORDINATOR AND FACILITY PREA COMPLIANCE MANAGER

PSD has designated the Litigation Coordination Office, a branch of the Director's Office, to manage PREA. One of the Litigation Coordination Officer's functions is to fulfill the role of the upper-level staff member designated to serve as the Department PREA Coordinator. The Department PREA Coordinator shall have sufficient time and authority to develop, implement, and oversee PSD's efforts to comply with the PREA standards in all PSD facilities, lockups, inclusive of monitoring at privately contracted facilities and community correctional centers. The Department PREA Coordinator reports directly to the Director of the Department of Public Safety. (115.11 b/c)

Each facility shall have a designated Facility PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards, which may be part of their other related duties. The Department PREA Coordinator will monitor the relevant PREA duties of the Facility PREA Compliance Managers in conjunction with the Warden or Sheriff.

8.0 CONTRACTING WITH OTHER ENTITIES FOR THE CONFINEMENT OF OFFENDERS

.1 PSD mandates that any new contracts or contract renewals with private agencies or other entities for the confinement of PSD's offenders shall include language that the private entity is required to adopt and comply with PREA, specifically the finalized PREA Standards.

.2 The private entity shall be subject to PSD monitoring/audits as part of its contract with PSD to ensure compliance with the PREA Standards. (115.12 a/b)

.3 The private entity is responsible with complying with the audit requirements of the PREA Standards and any cost associated with audits as required by 115.401 to 115.404.

9.0 SUPERVISION AND MONITORING

.1 The Department PREA Coordinator in conjunction with the Institutions Division Administrator (IDA) shall ensure that each facility develops, documents, and makes its best efforts to comply on a regular basis with a written staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring, to protect inmates

against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, each facility shall take into consideration (115.13 a):

a. Generally accepted detention and correctional practices;

b. Any judicial findings of inadequacy;

c. Any findings of inadequacy from federal investigative agencies;

d. Any findings of inadequacy from internal or external oversight bodies;

e. All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);

f. The composition of the inmate population;

g. The number and placement of supervisory staff;

h. Institution programs occurring on a particular shift;

i. Any applicable State or local laws, regulations, or standards;

j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

k. Any other relevant factors.

.2 In circumstances where the facility's written staffing plan is not complied with, the facility shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) and justify all deviations from the plan. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.13 b)

.3 The Warden shall review the facility's written staffing plan annually in the month of July, at the start of the fiscal year, and submit his/her assessment to the Department PREA Coordinator via email, fax, or mail by the end of the month. The Department PREA Coordinator will schedule a formal meeting to review the written staffing plan which shall consist of assessing, determining, and documenting whether adjustments are needed to (115.13 c):

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

b. The facility's deployment of video monitoring systems and other monitoring technologies; and

c. The resources the facility has available to ensure adherence to the staffing plan.

.4 The Warden shall ensure that lieutenants, captains, and correctional supervisors conduct and document unannounced walk-throughs on all watches to aid in identifying and deterring staff sexual abuse and sexual harassment. This shall be documented in the housing unit Informer/Log Book and/or in the Supervisor's watch summary.

.5 PSD staff is prohibited from alerting other staff members of the above-unannounced walk-throughs by superiors, unless such an announcement is related to the legitimate operational functions of the facility. (115.13 d)

10.0 YOUTHFUL OFFENDERS

.1 According to HRS §706-667, the Court has the authority to commit a young adult defendant, who is sentenced to a term of imprisonment exceeding a period of thirty (30) days to PSD. The statute defines a young adult defendant as a person convicted of a crime, who at the time of the offense is eighteen (18) and less than twenty-two (22) years of age and who has not been previously convicted of a felony as an adult or adjudicated as a juvenile for an offense that would have constituted a felony had the young adult defendant been an adult. The definition of an adult is a person eighteen (18) years or older (HRS §571-23).

.2 PREA's definition of a youthful offender differs from the HRS §706-667 definition. PREA defines a *youthful offender* as any person under the age of eighteen (18), who is under adult court supervision, incarcerated, or detained in a prison or jail. A *youthful detainee* is any person under the age of eighteen (18), who is under adult court supervision and detained in a lockup.

.3 PSD does not normally manage youthful offenders/detainees as defined by PREA; however it is important to note that specialized requirements would apply to the housing of a youthful offender/detainee in a PSD facility.

.4 According to HRS §571-22, the Family Court may relinquish its jurisdiction over a youthful offender and transfer the case to a Court of criminal jurisdiction for prosecution of the juvenile offender as an adult.

.5 If PSD does receive a youthful offender as defined by PREA, described in paragraph (2) of this section, then the youthful offender shall not be housed in a housing unit in which the youthful offender shall have sight, sound, and physical contact with any adult offender through the use of a shared dayroom or other common space, shower area, or sleeping quarters. The facility staff shall document by utilizing the PREA Mandated

Reporting Form (PSD 8317) any non-compliance with the above requirement. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.6 PSD staff shall maintain sight, sound, and physical separation between the youthful offenders and adult offenders in areas outside of the housing units, or shall provide direct staff supervision, when youthful offenders and adult offenders have sight, sound, and physical contact. (115.14 b) The facility staff shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) any non-compliance with the above requirement. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.7 PSD shall document the exigent circumstances for each instance in which a youthful offender's access to large-muscle exercise, legally required educational services, other programs, and work opportunities are denied in order to separate them from adult offenders by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.14 c)

.8 PSD shall make its best efforts to avoid placing youthful offenders in isolation to comply with this provision.

11.0 LIMITS TO CROSS-GENDER VIEWING AND SEARCHES

.1 PSD staff 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. (115.15 a) (COR.08.13).

a. An incident of cross-gender strip searches and cross-gender visual body cavity searches shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.2 PSD staff shall not conduct cross-gender pat-down searches of female offenders, absent exigent circumstances. (115.15 b)

a. All cross-gender pat-down searches of female offenders shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.15 c)

.3 Facilities shall not restrict female offenders' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. (115.15 b)

.4 An offender shall be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances, or when such viewing is incidental to routine cell checks. (115.15 d) The facility staff shall document any exigent circumstances by utilizing the PREA Mandated Reporting Form (PSD 8317) any exigent incident. This

form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.5 Staff of the opposite gender are required to "knock and announce" their presence when entering an offender housing unit and ensure that this notice is logged in the Informer or Log Book. For example, a male staff member entering a female housing unit must "knock and announce" his presence via an intercom or a verbal broadcast by stating "male in the housing unit, ensure that you are properly dressed." (115.15 d)

12.0 LESBIAN, GAY, BISEXUAL, TRANSGENDER, and INTERSEX OFFENDERS

.1 PSD Non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. (115.15 e)

.2 If the offender's genital status is unknown, it may be determined from conversations with the offender, by reviewing medical records, or, if necessary, by learning this information as part of a medical examination conducted by a medical practitioner. (115.15 e)

.3 PSD staff are to ensure that cross-gender pat-down searches and searches of transgender and intersex offenders are conducted in a professional, respectful, and in the least intrusive manner, while ensuring security operational needs for the good government and orderly running of the facility. (115.15 f)

.4 The professional and respectful pat-down search of a transgender and intersex offender may be achieved by utilizing the back of your hand instead of the front of your hand.

13.0 OFFENDERS WITH DISABILITIES AND OFFENDERS WHO HAVE LIMITED ENGLISH PROFICIENCY

.1 Disabled offenders and offenders with limited English proficiency shall be provided with equal opportunity to participate in or benefit from all aspects of PSD's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. (115.16 a-c)

.2 The use of offender interpreters, or other types of offender assistance is prohibited, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an offenders' safety.

.3 In the limited circumstances where offender interpreters, or other types of offender assistance are utilized, it shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.4 The Civil Rights Compliance Office (CRCO) has designated procedures for the use of authorized interpreters. Effective August 20, 2013, Pacific Interpreters at 1-866-421-3463 shall be contacted for interpreters. If further assistance is required on this matter, contact the Department PREA Coordinator or the Facility PREA Compliance Manager.

14.0 HIRING AND PROMOTION DECISIONS

.1 PSD prohibits the hiring or promoting of anyone, who may have contact with offenders, and shall not utilize the services of any contractor or volunteer, who may have contact with offenders, if that person:

a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution owned, operated, or managed by the state as defined by 42 U.S.C. 1997, for example the Hawaii State Hospital or other state skilled nursing, intermediate, long-term care, custodial, or residential care institution;

b. 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;

c. Has been civilly or administratively adjudicated to have engaged in the activity described in the paragraphs above. (115.17 a)

d. There are less stringent requirements for volunteers, who are utilized as peer mentors, but this requires a case-by-case assessment and review with the Department PREA Coordinator.

.2 PSD shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to utilize the services of any contractor or volunteer, who may have contact with offenders. (115.17 b)

.3 Before new employees, contractors, or volunteers, who may have contact with offenders, are hired, PSD shall:

a. Perform a criminal background record checks, consistent with federal, state, and local law; and

b. Utilize a "best effort" to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation, due to a pending investigation of an allegation of sexual abuse. (115.17 c/d)

.4 PSD shall conduct criminal background record checks at least every five years for current employees, contractors, and volunteers, who may have contact with offenders.

a. PSD's Personnel's Office is responsible for ensuring compliance with the five year cycle of background checks for current employees.

b. It is noted that PSD does conduct annual Lautenberg type of background checks on those employment positions that are required to carry a firearm. (115.17 e)

.5 PSD shall ask all applicants and employees, who may have direct contact with offenders, about previous misconduct(s) described in paragraph (1) of this section either on (a) a written application, (b) during an interview for hire, (c) a promotional interview, or (d) if applicable, during any interview or written self-evaluation conducted as part of reviews of current employees. This requirement is documented by utilizing the PREA Applicant Questionnaire (PSD 8318), during the application process for prospective employees, employee promotions, or employee transfers.

.6 All PSD staff has an affirmative duty to immediately disclose any such misconduct covered by sections .1 and .2 by immediately reporting the incident through their chain of command. (115.17 f)

.7 Any PSD staff, who materially omits reporting such misconduct or provides materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge. See Department of Human Resources Policy 702.003. (115.17 g)

.8 PSD shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a current or former employee, upon receiving a request from an institutional employer conducting a background check on the employee, preferably with a signed consent to release information form. (115.17 h)

.9 If the Department Personnel Officer receives such a request from an institutional employer, the request will be forwarded to the Department PREA Coordinator for review and drafting of a response.

15.0 UPGRADES TO FACILITIES AND TECHNOLOGY

.1 When designing or acquiring any new facility, and in planning any substantial expansion or modification of existing facilities, PSD shall consider the impact that the design, acquisition, expansion, or modification will have on PSD's ability to protect offenders from sexual abuse. (115.18 a)

.2 When installing or updating a video monitoring system, electronic surveillance system, close circuit television (CCTV), or other monitoring technology, PSD shall consider how such technology may enhance the agency's ability to protect offenders from sexual abuse. (115.18 b)

16.0 EVIDENCE PROTOCOL AND FORENSIC MEDICAL EXAMINATIONS

.1 PSD is responsible for conducting all administrative sexual abuse investigations. All criminal sexual abuse investigations shall be referred to the county LE agency (Honolulu Police Department, Hawaii Police Department, Maui Police Department, and Kauai Police Department).

.2 If county LE declines to investigate the initial report related to a criminal case, then a referral shall be made to the State of Hawaii, Department of the Attorney General (AG) to investigate the criminal case. PSD staff are required to cooperate with the county LE's or AG's criminal investigation. PSD staff shall be afforded protections based on Garrity Warnings in the administrative investigation, if the facts constitute a criminal offense or warrant a criminal investigation.

.3 PSD utilizes departmental evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and preserves the crime scene for criminal investigations and prosecution. (115.21 a)

.4 The Health Care Division staff shall determine, based on evidentiary or medical needs, whether a victim of sexual abuse will be transported for a forensic medical examination at the Sex Abuse Treatment Center ("SATC") or at a hospital emergency unit. This shall be at no financial cost to the victim. (115.21 c/d) In facilities without twenty-four (24) hour medical, then the on call physician shall be contacted.

.5 The use of Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) are utilized at the SATC. On the outer islands, a comparable program is utilized.

.6 If a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. The SATC and its contracted representative on the outer islands have indicated that victim advocates are available during an examination.

.7 PSD medical and mental health practitioners shall follow-up on the prescribed treatment plan or develop a treatment plan for the offender victim. If SATC recommends on site counseling services for offenders, then this shall be coordinated by PSD medical and mental health practitioners.

.8 At the request and approval of the victim, a victim advocate from the SATC, or SATC contracted provider on the outer islands shall be provided to support the victim through the forensic medical examination process and the investigatory interview. The purpose of a victim advocate is to provide emotional support, crisis intervention, information, and referrals. (115.21 e)

.9 PSD shall ensure that internal investigations comply with the above requirements and external investigative entities (County LE) have procedures in place to comply with the above requirement. (115.21 f)

17.0 <u>POLICIES TO ENSURE REFERRALS OF ALLEGATIONS FOR INVESTIGATIONS</u>

.1 PSD ensures that an internal administrative investigation and an external referral for criminal investigation are completed for all allegations of sexual abuse and sexual

harassment with the limitation that any criminal referral for sexual harassment must meet a criminal standard. (115.22 a)

.2 All external referrals for a criminal investigation shall be processed through a county LE agency, such as Honolulu Police Department, Maui Police Department, Kauai Police Department, and Hawaii Police Department.

.3 PSD staff are required to complete the Department of Public Safety PREA Response Incident Checklist form, PSD 8313, for all allegations of sexual abuse and sexual harassment. If a facility has developed a Facility PREA Coordinated Response Incident Checklist, then it must incorporate at a minimum all variables included on the Department's PREA Response Incident Checklist (PSD 8313). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.4 If an allegation of sexual abuse or sexual harassment involves potentially criminal behavior, then the allegation shall be immediately referred to a county LE agency. (115.22 b)

.5 PSD Internal Affairs Office ("IA") shall be immediately notified of any allegation of sexual abuse or potentially serious incident of sexual harassment. The administrative investigation may be completed by IA or at the facility level pursuant to an order of the Director or his/her designee.

.6 PSD publishes the Departmental policy, ADM.08.08, Prison Rape Elimination Act on the official department website at www.hawaii.gov/psd.

.7 County LE may have their own policy governing how criminal investigations of sexual abuse are conducted. PSD does not manage criminal investigations for sexual abuse or criminal sexual harassment. (115.22 d)

18.0 STAFF TRAINING

PSD provides a comprehensive training module for all staff emphasizing PSD's zero-tolerance policy and the importance of preventing sexual abuse/sexual assault and sexual

harassment toward offenders. PSD educates staff about the serious impact of offender sexual victimization within a correctional setting.

.1 All PSD staff who may have contact with offenders are trained on (115.31 a):

a. PSD's zero-tolerance policy for offender sexual abuse and sexual harassment;

b. How to fulfill their responsibility under PSD's sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;

c. Offenders' rights to be free from sexual abuse and sexual harassment;

d. The right of offenders and staff to be free from retaliation for reporting sexual abuse and sexual harassment;

e. The dynamics of sexual abuse and sexual harassment in confinement;

f. The common reactions of victims of sexual abuse and sexual harassment;

g. How to detect and respond to signs of threatened and actual sexual abuse;

h. How to avoid inappropriate relationships with offenders based on staff over familiarity and fraternization;

i. How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders; and

j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

.2 PSD's staff training is tailored to address all genders of offenders in a correctional facility; therefore, additional training is not required when a staff member transfers to a different gender facility. (115.31 b)

.3 The Warden, PSD Administrators, or Sheriff shall ensure that all current staff shall have received PREA training. The Warden or Sheriff shall notify the Department's Training and Staff Development Office (TSD) and the PREA Coordinator of any individual who requires training. (115.31 c)

.4 PSD training sign-in sheets are verification that the staff member received and understood the PREA training. The sign-in sheet shall include the following statement: "By signing this attendance sheet you acknowledge receipt of PREA Training and that you understood the PREA Training materials."

.5 The sign-in sheet documentation substantiates that the staff member has completed the required training and his/her completion shall be entered on the staff member's training record with TSD. A copy shall also be provided to the PSD PREA Coordinator via email, fax, or mail within three (3) days. (115.31 d)

.6 The Warden, Sheriff, or TSD staff shall provide each staff member with a refresher PREA training every two (2) years to ensure that the staff member is aware of PSD's PREA policy related to offender sexual abuse, offender sexual harassment, and any retaliation for reporting or assisting in an investigation. (115.31 c)

.7 In years when the staff member does not receive the refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies through the PSD website, handouts, posters, memorandums etc.

19.0 VOLUNTEER AND CONTRACTOR TRAINING

.1 All volunteers and contractors, who have contact with offenders shall be trained on PREA, PSD's policy, and their responsibilities regarding the prevention, detection, and how to respond to a report of offender sexual abuse and sexual harassment. (115.32 a)

.2 The level and type of training provided to volunteers and contractors shall be tailored to the level of contact and services provided to offenders.

a. All current volunteers and contractors have been notified of PSD's zero-tolerance policy regarding offender sexual abuse and sexual harassment, as well as how to report such incidents. (115.32 b)

b. PSD maintains documentation confirming that volunteers and contractors received an appropriate level of training and that they understood the information provided. A copy shall be maintained with the PSD Volunteer Coordinator and is available to the PSD PREA Coordinator upon request. (115.32 c)

.3 The staff member responsible for training volunteers, or the staff member who contracts on behalf of PSD or the facility, shall ensure that all volunteers and contractors are trained on their responsibilities regarding offender sexual abuse and sexual harassment.

20.0 OFFENDER EDUCATION

.1 Offenders shall receive verbal and written information at the time of intake by Intake Service Center (ISC) staff about PSD's zero-tolerance policy and how to report incidents or suspected incidents of sexual abuse or sexual harassment. (115.33 a).

.2 Within thirty (30) days of intake, PSD Facility shall provide comprehensive PREA education via video (PRC video) or classroom instruction to offenders that addresses (115.33 b):

a. Prevention and intervention;

b. Self-protection;

c. Reporting sexual abuse, sexual harassment, and protection from retaliation, including information on the options to report the incident to a designated staff member other than an immediate point-of-contact line officer;

d. Treatment and counseling;

e. PSD's zero-tolerance for sexual abuse/sexual assault, sexual harassment, and retaliation.

.3 Effective August 2013, all current offenders should have received information on PREA. PSD requires that offenders who are transferred from one facility to another be re-educated only to the extent that the policies and procedures of the new facility differ from those of the previous facility. (115.33 c)

.4 It is PSD's policy to make appropriate provisions, as necessary, for offenders with limited English proficiency through the CRCO's identification of authorized interpreters.

.5 Accommodations for offenders with disabilities (including offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) and offenders with low literacy levels shall be made at the facility level.

.6 ISC staff shall document by utilizing the PREA Mandated Reporting Form (PSD 8317), if an inmate requires accommodation and this form shall be forwarded to the Facility PREA Manager and Department PREA Coordinator via email, fax, or mail within three (3) days. (115.33 d)

.7 Each facility shall maintain electronic or written documentation of an offender's participation in the educational session (video or classroom). This documentation shall be forwarded to the Facility PREA Manager and the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.33 e)

.8 PSD shall ensure that key information on PSD's PREA policies are continuously and readily available or visible through posters, handouts, offender handbooks, and resources in the offender library. (115.33 f)

21.0 SPECIALIZED TRAINING FOR SEXUAL ABUSE INVESTIGATIONS

.1 IA, or facilities, if authorized by the Director, shall conduct the internal administrative investigation for any allegations of sexual abuse. In addition to the general training provided to all employees under §18.0 of this policy, PSD investigators shall receive training on conducting sexual abuse investigations in confinement settings. (115.34 a)

.2 PSD's specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda (not applicable) and Garrity warnings, preserving sexual abuse evidence for collection in confinement settings, and an understanding of the criteria and evidence required to substantiate a case in an administrative proceeding or for a referral by a county LE agency for criminal prosecution. (115.34 b)

.3 PSD shall maintain documentation substantiating that investigators have completed the required training and it shall be documented on the staff member's training record with

TSD. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.34 c)

.4 The Department PREA Coordinator will be responsible for the classroom requirement of sexual abuse investigations training. IA investigators or Facility Investigators may comply with this provision through the webinars for Specialized PREA Investigations Training offered at the PRC website and the National Institute of Corrections (NIC) website.

22.0 SPECIALIZED TRAINING: MEDICAL AND MENTAL HEALTH PRACTIONERS

.1 All full-time and part-time medical and mental health practitioners, who work regularly in PSD facilities should be trained in (115.35 a):

a. How to detect and assess signs of sexual abuse and sexual harassment;

b. How to preserve physical evidence of sexual abuse;

c. How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and

d. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

.2 PSD medical and mental health staff are not responsible for conducting forensic examinations.

.3 PSD shall maintain documentation substantiating that medical and mental health practitioners have completed the required training and it shall be documented on the

staff member's training record with TSD. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.35 c)

.4 Medical and mental health practitioners shall receive the training mandated for employees under §18.0 or §19.0 of this policy, based on the practitioner's status. Medical and mental health practitioners may comply with this provision through the webinars for Specialized PREA Training for Medical and Mental Health Practitioners offered at the PRC website and the National Institute of Corrections (NIC) website.

23.0 LAW ENFORCEMENT ("LE") REQUIREMENTS FOR LOCKUP FACILITIES: SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS

.1 PSD lockups managed by LE (Sheriffs, NED, and EP) are not primarily utilized to house detainees overnight. (115.141)

.2 Before placing any detainees together in a holding cell, LE staff shall consider whether, based on the information before them, a detainee may be at a high risk of being sexually abused. If warranted by the known facts, LE staff shall take necessary steps to mitigate any such danger to the detainee.

.3 PSD lockups shall not be utilized to house detainees overnight. If, based on exigent circumstances, an overnight housing situation does occur, all detainees shall be screened to assess their risk of being sexually abused by other detainees or sexually abusiveness toward other detainees. LE shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.

.4 The term "overnight" lockup is construed as a period of seven (7) or more continuous hours between 2000 hours to 0800 hours. In situations, where the facility has only a remote chance of meeting the above time period threshold, or does so only in rare circumstances (defined as less than one time per month on average), the lockup will not be considered an "overnight facility."

.5 LE staff's inquiry for overnight detainees shall consist of:

a. Asking the detainee about his or her own perception of vulnerability; and

b. Considering, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization:

1) Whether the detainee has a mental, physical, or developmental disability;

2) The age of the detainee;

3) The physical build and appearance of the detainee;

4) Whether the detainee has previously been incarcerated; and

5) The nature of the detainee's alleged offense and criminal history.

24.0 PRISON AND JAIL REQUIREMENTS: SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS

.1 The ISC is required to screen offenders at the intake screening process, which occurs upon admission to a facility, by utilizing the PREA Screening Tool (PSD 8314) and the accompanying Instructions for the PREA Screening Tool.

.2 The intake screening by ISC shall occur within seventy-two (72) hours of intake/arrival. (115.41 b).

.3 The facility staff shall review the offender's risk of sexual abuse victimization (vulnerability factors) or sexual abusiveness (predatory factors) toward other offenders, by reviewing the "Intake" PREA Screening Tool. (115.41 a)

.4 The facility shall reassess an offender's risk of victimization or abusiveness within thirty (30) days of intake screening, if additional relevant information is received about the offender's victimization or abusiveness, subsequent to the intake screening, by utilizing the PREA Screening Tool (PSD 8314).

.5 If no additional relevant information is received by the facility when reassessing the intake screening, then check the appropriate box on the intake screening tool processed within seventy-two (72) hours of admission. (115.41 f)

.6 ISC and facility staff shall utilize the PREA Screening Tool (PSD 8314) to conduct PREA risk assessments. (115.41 c)

.7 The PREA Screening Tool (PSD 8314) evaluates an offender's vulnerability factors and predatory factors. The PREA Screening Tool considers the following criteria to assess offenders for risk of sexual victimization:

a. Whether the offender has a mental, physical, or developmental disability;

b. The age of the offender;

c. The physical build of the offender;

d. Whether the offender has previously been incarcerated;

e. Whether the offender's criminal history is exclusively nonviolent;

f. Whether the offender has prior convictions for sex offenses against an adult or child (see predatory factors);

g. Whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

h. Whether the offender has previously experienced sexual victimization, in a correctional and/or non-correctional setting, within the last ten (10) years;

i. The offender's own perception of vulnerability (oral feedback); and

j. Whether the offender is detained solely for civil immigration purposes, which normally does not occur at PSD facilities. (115.41 d)

.8 The PREA Screening Tool considers prior predatory acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, if known to the facility, in assessing offenders for risk of being sexually abusive. (115.41 e)

.9 The offender's risk of victimization or abusiveness shall be reassessed; when a referral, request, incident of sexual abuse, or receipt of additional information which may impact the offender's risk level by utilizing the PREA Screening Tool (PSD 8314). (115.41 g)

.10 An offender shall not be disciplined for refusing to answer, or for not disclosing complete information related to, the questions asked pursuant to §24 of this policy. (115.41 h)

.11 The information on the PREA Screening Tool (PSD 8314) is subject to confidentiality requirements; therefore, professional and ethical rules shall be enforced to avoid any negative impact to the offender. The information should not be exploited to the detriment of the offender. (115.41 i)

25.0 USE OF SCREENING INFORMATION

.1 PSD shall use the information from the risk assessment screening for housing designations, work line, program assignment, or scheduling to keep separated those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. (115.42 a)

.2 PSD shall use the risk screening tool information to make an individualized assessment about how to ensure the safety of each individual offender. (115.42 b)

26.0 LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX (LGBTI) USE OF SCREENING INFORMATION

.1 A transgender or intersex offender will be housed based on their legal status as a male or female. Any deviation in the housing assignment of a transgender or intersex offender to a facility for male or female offenders will be determined by medical and mental health practitioners with input from program and security staff initially at the intake process.

.2 In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, PSD shall consider on a case-by-case assessment of whether a placement would ensure the offender's health and safety, and whether the placement would present a management or security concern. (115.42 c)

.3 In the event that an offender's sex designation is changed as specified under Hawaii Revised Statutes §338-17.7, "Establishment of new certificates of birth" (effective July 1, 2015), then facility, housing, and programming assignments shall still be made as

indicated in .2, but the PREA Coordinator shall be included in the case-by-case assessment.

.3 Biannually designated facility staff identified by the Warden shall reassess the placement and programming assignment of each transgender or intersex offender for the purpose of assessing any threats to the safety of the offender.

.4 This biannual assessment shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317) and/or may be conducted as part of a classification review for the transgender or intersex offender. The completed PREA Mandated Reporting Form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.42 d)

.5 A transgender or intersex offender's own views with respect to his or her own safety shall be given serious consideration. (115.42 e)

.6 Transgender and intersex offenders shall be given the option to shower separately from other offenders in dorm shower situations, if so requested. This provision is applicable only when individual showers are not available at the offender's assigned housing unit. (115.42 f)

.7 PSD Facilities shall not place LGBTI offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders. (115.42 g)

27.0 PROTECTIVE CUSTODY

.1 PSD discourages the placement of offenders in involuntary administrative segregated housing solely because of their high risk of sexual victimization status, unless an assessment of all available alternatives has been made and it is concluded that there is no available alternative for separating the victim from a likely abuser. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.43 a)

.2 If the PSD facility is unable to conduct the above assessment immediately, the facility may hold the offender in involuntary administrative segregated housing for a period of less than twenty-four (24) hours pending the completion of the mandated assessment. (115.43 a)

.3 Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible, as dictated by the facility's schedule and operational needs.

.4 If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317). This shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. The documentation shall include (115.43 b):

a. The programs, privileges, education, or work opportunities that have been limited;

b. The duration of the limitation; and

c. The reasons for such limitations.

.5 If a PSD facility assigns an offender at risk of sexual victimization to involuntary administrative segregated housing as an alternative means of separation from the likely abuser, then such an assignment should not normally exceed a period of thirty (30) days. (115.43 c)

.6 If an involuntary administrative segregated housing assignment is made pursuant to paragraph (1) of this section, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.43 d):

a. The basis for the facility's concern for the offender's safety; and

b. The reason why no alternative means of separation can be arranged.

.7 If the placement in involuntary administrative segregated housing exceeds the initial thirty (30) days, the facility shall conduct follow-up reviews as dictated by COR.11.01: Administrative Segregation and Disciplinary Segregation, but no less than every thirty (30) days to assess the offender's continued separation from the general population.

.8 This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.43 e)

28.0 OFFENDER REPORTING

.1 PSD provides multiple internal and external ways for offenders to privately report sexual abuse and sexual harassment; retaliation by other offenders or staff for reporting sexual abuse and sexual harassment; and staff neglect or violation of responsibilities that may have contributed to such incidents. (115.51 a)

.2 Offenders may report non-consensual sexual acts, abusive sexual contacts, staff sexual misconduct, or staff sexual harassment to any PSD employee, contract employee or volunteer by using available methods of communication, including but not limited to verbal or written reports.

.3 PSD provides notification to offenders on how to report abuse or harassment to a public entity, private entity, or an external agency, who is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, such as the Department PREA Coordinator and may allow the offender to remain anonymous upon request. (115.51 b).

.4 Offenders, staff, and others may report incidents of sexual abuse, sexual harassment, and retaliation for reporting by:

a. Contacting the Ombudsman at 808-587-0770 or at 465 South King Street 4th Floor, Honolulu, HI 96813; a Legislative or Political Representative (at their office address), or the Department of the Attorney General at 808-586-1500 or at 425 Queen Street, Honolulu, HI 9613;

b. Contacting the Sex Abuse Treatment Center at 808-524-7273 or at 55 Merchant Street, 22nd Floor, Honolulu, HI 96813;

c. Contacting the Department PREA Coordinator at 808-587-1329 or at 919 Ala Moana Boulevard, Suite 400, Honolulu, HI 96814;

d. Contacting the Director or the relevant Deputy Director at 808-587-1288 or at 919 Ala Moana Boulevard, Suite 400, Honolulu, HI 96814; Internal Affairs at 919 Ala Moana Boulevard, Suite 400, Honolulu, HI 96814; or the Facility Warden or Investigator at the relevant facility;

e. Notifying a family member, who can initiate a telephone call or a letter to the Key Staff identified above; or

f. Filing an Emergency Offender Grievance Compliant.

g. Contacting the relevant County LE agency.

.5 If an offender is detained solely for civil immigration purposes, the offender shall be provided information on how to contact the relevant consular officials and relevant Department of Homeland Security officials. It should be noted that PSD does not normally house offenders solely for civil immigration purposes. (115.51 b)

.6 PSD mandates that staff accept reports of sexual abuse, sexual harassment, or retaliation made verbally, in writing, anonymously, and from third parties. Staff shall immediately document all verbal reports of sexual abuse, sexual harassment, or retaliation by immediately notifying superiors through the chain of command. (115.51 c)

.7 A staff member may privately report incidents of offender sexual abuse, offender sexual harassment, or retaliation as indicated in paragraph (4) of this section. (115.51 d)

29.0 EXHAUSTION OF ADMINISTRATIVE REMEDIES

.1 PSD's policy COR.12.03: Inmate Grievance Program outlines the administrative procedures available to offenders for reporting incidents of sexual abuse, sexual harassment, or retaliation. (115.52 a)

.2 This section is an addendum to COR.12.03: Inmate Grievance Program as it relates to PREA incidents. PREA mandates that there shall be "no time limits or deadlines" for filing a grievance that is reporting an alleged incident of sexual abuse.

a. PSD shall not restrict the processing of an offender grievance regarding an allegation of sexual abuse.

b. The filing period set forth in COR.12.03: Inmate Grievance Program is still applicable to any portion of the grievance that does not allege an incident of sexual abuse. The offender must still comply with appeal filing requirements as set forth in COR.12.03.

c. PSD shall not require an offender to utilize the informal grievance process for grievances alleging incidents of sexual abuse.

d. The statutory or legal provisions germane to the statute of limitations are applicable to any civil action in a court proceeding. (115.52 b)

.3 An offender may submit an offender grievance alleging sexual abuse without submitting it to the staff member, who is the subject of the complaint. This grievance shall not be referred to the staff member, who is the subject of the grievance complaint. (115.52 c)

.4 PSD's grievance policy and timelines may differ from the PREA requirement that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within ninety (90) days of the filing of the grievance.

a. Computation of the PREA 90-day time period does not include time consumed by offenders in preparing any administrative appeal.

b. PSD may claim an extension of time to respond, of up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision. PSD shall notify the offender in writing of any such extension and provide a date by which a decision will be made. (115.52 d)

c. At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level. (115.52 d)

.5 PSD permits third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse and they may file such requests on behalf of offenders.

a. If a third party files such a request on behalf of an offender, 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.

b. If the offender declines to have the request processed on his or her behalf, PSD shall document the offender's decision on the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.52 e)

.6 PSD's current Grievance policy establishes procedures for filing an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse. This section is intended to supplement the Grievance policy by requiring that:

a. An initial response is provided within forty-eight (48) hours.

b. After receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the PSD staff member shall immediately forward the grievance or any portion thereof that alleges the substantial risk of imminent sexual abuse to a level of review where immediate corrective action may be initiated.

c. PSD shall issue a final agency decision within five (5) calendar days. The decision shall include a determination as to whether the offender is at substantial risk of imminent sexual abuse and it shall describe the action taken in response to the emergency grievance. (115.52 f)

.7 PSD may initiate a misconduct violation against an offender for filing a grievance or reporting related to alleged sexual abuse or sexual harassment, when PSD demonstrates that the offender filed the grievance or report in bad faith. (115.52 g)

30.0 <u>OFFENDER ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES</u>

.1 PSD shall provide offenders with access to outside victim advocates for emotional support services related to sexual abuse by doing the following:

a. Providing offenders with the mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations. PSD's service provider is the SATC and its relevant outer island providers.

b. Providing offenders with mailing addresses and telephone numbers (including toll-free hotline numbers where available) for immigrant services agencies for persons detained solely for civil immigration purposes.

c. Enabling reasonable communication between offenders and these organizations in as confidential a manner as possible, while balancing the good government and orderly running of the facility. (115.53 a)

.2 PSD medical and mental health staff shall inform offenders, prior to giving them access to outside support services, of the extent to which such communications will be monitored.

a. PSD shall inform offenders of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law. (115.53 b)

.3 PSD maintains agreements with community service providers through SATC based on the awarded contract by the Executive Branch. The SATC provides offenders with emotional support services related to sexual abuse. PSD maintains a copy of the grant awarded to SATC to document the relationship and obligations for SATC and PSD. (115.53 c)

31.0 THIRD-PARTY REPORTING

.1 PSD provides the public notice via PSD's website of the methods for third-party reports of offender sexual abuse or sexual harassment.

.2 PSD publicly distributes information on how to report offender sexual abuse or sexual harassment on behalf of offenders by posting on PSD's website the Departmental PREA Policy, PREA Handout, PREA poster etc. (115.54 a)

32.0 STAFF AND PSD REPORTING DUTIES

.1 PSD requires that all staff immediately report any knowledge, suspicion, or information, they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, or a non PSD facility.

.2 PSD requires that all staff immediately report, any knowledge, suspicion, or information, they receive regarding retaliation against offenders or staff, who reported such an incident.

.3 PSD requires that all staff immediately report any knowledge, suspicion, or information, they receive regarding staff neglect or violation of responsibilities that may have contributed to a PREA incident or retaliation. (115.61 a)

.4 PSD prohibits staff from revealing any information related to a sexual abuse report to anyone other than and to the extent necessary to manage treatment, investigation, and other security decisions, inclusive of reporting to the designated supervisors or officials and designated State or local service agencies. (115.61 b)

.5 Unless otherwise precluded by federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraphs (1-3) of this section and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. (115.61 c)

.6 If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local "vulnerable person's statute," PSD shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. (115.61 d)

.7 HRS §346, Part X: Adult Protective Services, defines a "vulnerable adult" as a person eighteen (18) years of age or older who because of mental, developmental, or physical impairment, is unable to:

a. Communicate or make responsible decisions to manage his/her own resources;

b. Carry out or arrange for essential activities of daily living; or

c. Protect oneself from abuse, including physical abuse, psychological abuse, sexual abuse, financial exploitation, caregiver neglect, or self-neglect.

.8 HRS §346, Part X: Adult Protective Services, mandates that personnel employed in health care, social services, LE, and financial assistance are required to report suspected abuse or neglect of a vulnerable adult. The law mandates reporting when there is reason to believe abuse has occurred or the vulnerable adult is in danger of abuse, if immediate action is not taken.

.9 PSD shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, through the chain of command and a copy shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.61 e)

33.0 AGENCY PROTECTION DUTIES

.1 When a Facility or PSD staff learns that an offender is subject to a substantial risk of imminent sexual abuse, the party shall take immediate action to protect the offender.

.2 Immediate action means to assess appropriate protective measures without unreasonable delay. The procedures are dictated by this policy and other relevant departmental policies. (115.62 a)

34.0 REPORTING TO OTHER CONFINEMENT FACILITIES

.1 Upon receiving an allegation that an offender was sexually abused while confined at a non-PSD facility, the receiving Facility Head or Warden shall immediately notify the non-PSD facility Head or Warden of the PREA sexual abuse allegation. The Facility Head or Warden shall include the department PREA Coordinator in the formal notification to the non-PSD facility, via "Carbon Copy" for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications. (115.63 a)

.2 Upon receiving an allegation that an offender was sexually abused while confined at a PSD facility, the receiving Facility Head or Warden shall immediately notify the alleged PSD Facility Head or Warden of the PREA sexual abuse allegation. The Facility Head or Warden at the receiving facility shall include the department PREA Coordinator in the formal notification to the PSD facility, via "Carbon Copy" for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications.

.3 The Facility Head or Warden shall provide such notifications as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. (115.63 b)

.4 The Facility Head or Warden shall document that he/she has provided such notifications within seventy-two (72) hours of receiving the allegation. (115.63 c)

.5 The Facility Head or Warden shall require and advise the non-PSD or PSD facility that the allegation must be investigated as required by the PREA Standards. (115.63 d)

35.0 STAFF AND FIRST RESPONDER DUTIES

.1 PSD's first responder policy for allegations of sexual abuse dictates that, upon learning of an allegation that an offender was sexually abused, the first staff member, who ideally would be a security staff member, to respond to the reported incident is 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 by county LE and IA;

c. If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then 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

d. If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then staff shall 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. (115.64 a)

.2 PSD requires that if the first staff responder is not a security staff member, the staff responder will be required to separate the victim and abuser, if feasible, request that the alleged victim not take any actions that could destroy physical evidence, and then immediately notify security staff. (115.64 b)

36.0 COORDINATED RESPONSE

.1 Each PSD facility must develop a facility specific 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.

.2 Each facility's written institutional plan shall incorporate the PREA Incident Checklist (PSD 8313) and other PREA forms. If a facility has developed a Facility PREA Coordinated Response Incident Checklist, then it must incorporate at a minimum all variables included on the Department's PREA Response Incident Checklist (PSD 8313).

.3 Following a PREA incident, a copy of the PREA Incident Checklist (PSD 8313) shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.65 a)

37.0 COORDINATED RESPONSE IN LOCKUPS

.1 PSD LE shall have a written plan to coordinate actions taken in response to a lockup incident of sexual abuse. This coordinated action plan shall include:

a. The duties and responsibilities for staff first responders;

b. Mandate referrals to SATC or Hospital Emergency Centers for medical and mental health treatment;

c. Referral to IA for an administrative investigation and to county LE for a criminal investigation; and

d. Chain of Command notifications. (115.165)

.2 If a victim is transferred from the lockup to a jail, prison, or medical facility, the agency as permitted by law shall inform the receiving facility of the incident and the victim's potential need for medical, mental health or social services.

38.0 PRESERVATION OF ABILITY TO PROTECT OFFENDERS FROM CONTACT WITH ABUSERS

.1 PSD or any other governmental entity responsible for collective bargaining on PSD's behalf shall not enter into or renew any collective bargaining agreement (CBA) or other similar agreement that limits PSD's ability to:

a. Remove alleged staff sexual abusers from contact with any offender pending the outcome of an investigation; or

b. In a determination of whether and to what extent discipline is warranted. (115.66 a)

.2 Nothing in the PREA standards shall restrict the entering into or renewal of a CBA or similar agreement related to:

a. The conduct of the disciplinary process as long as said CBA or similar agreement is not inconsistent with PREA standard §115.72 (evidentiary standard) and §115.76 (disciplinary action); or

b. Whether a non-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. (115.66)

39.0 AGENCY PROTECTION AGAINST RETALIATION

.1 PSD's policy protects all offenders and staff who report sexual abuse or sexual harassment or cooperates with a sexual abuse or sexual harassment investigation, from retaliation by other offenders, staff, or others. The designated Facility PREA Compliance Manager in conjunction with the Warden or the Sheriff is charged with monitoring any issues related to retaliation. (115.67 a)

.2 PSD utilizes multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff; when the individual fears or experiences retaliation for reporting sexual abuse or sexual harassment or for cooperating with a PREA investigation. (115.67 b)

.3 For a period of not less than ninety (90) days following a report of sexual abuse, the Facility PREA Compliance Manager in conjunction with the Warden and other staff shall monitor the conduct and treatment of offenders or staff, who reported the sexual abuse.

.4 During this minimum ninety (90) day period following a report of sexual abuse, the Facility PREA Compliance Manager in conjunction with the Warden and other staff shall monitor offenders, who were reported to have suffered sexual abuse, to see if there are any changes that may suggest possible retaliation by other offenders or staff.

.5 If it has been determined that the offender has suffered retaliation, then staff shall initiate proactive measures to promptly remedy any retaliation.

.6 The Facility PREA Compliance Manager and the Warden shall:

a. Act promptly to remedy any such retaliation and report their actions through the chain of command.

b. Monitor any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff.

c. Continue such monitoring beyond ninety (90) days, if the initial monitoring indicates a continuing need. (115.67 c)

d. In the case of offenders, monitoring by the Facility PREA Compliance Manager shall also include periodic status checks, preferably conducted weekly, at a minimum. (115.67 d)

.7 If any other individual, who cooperates with an investigation expresses a fear of retaliation, then PSD shall take appropriate measures to protect that individual against retaliation. (115.67 e)

.8 The facility or PSD staff shall document all incidents of retaliation and the minimum ninety (90) day monitoring requirement described under this section on the PREA Mandated Reporting Form (PSD 8317). A copy of this form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days

.9 The obligation of the Facility PREA Compliance Manager, Warden, and/or Sheriff to monitor shall terminate, if the investigation concludes that the allegation is unfounded. (115.67 f)

40.0 POST-ALLEGATION PROTECTIVE CUSTODY

.1 Any use of involuntary segregated housing to protect an offender post allegation, who is alleged to have suffered sexual abuse, is subject to the requirements of §27.0 of this policy. (115.68 a)

41.0 CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS

.1 When PSD conducts an administrative investigation into an allegation of sexual abuse and/or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (115.71 a)

.2 The county LE agency for each island is delegated with conducting all criminal sex abuse and criminal sexual harassment investigations. The county LE agency is charged

with the responsibility to make the required referrals for criminal prosecution, if warranted. (115.71 g/h)

.3 If sexual abuse is alleged, a PSD IA investigator, who has received specialized training in sexual abuse investigations pursuant to §21.0 of this policy will conduct the administrative investigation, unless the Director has authorized the Facility to conduct the administrative investigation. The Facility Investigator must have received the specialized training in sexual abuse investigations pursuant to §21.0. (115.71 b)

.4 PSD IA Investigators shall:

a. Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data.

b. Interview alleged victims, suspected perpetrators, and witnesses, unless a delay of an interview of a victim is requested by county LE.

c. Review prior complaints and reports of sexual abuse involving the suspected perpetrator. (115.71 c)

.5 When the quality of evidence appears to support criminal prosecution, PSD shall conduct compelled interviews of staff by affording the staff member Garrity Warnings. PSD Investigators should consult with county LE or prosecutors as to whether a compelled interview may be an obstacle for subsequent criminal prosecution. (115.71 d)

.6 The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined merely by the person's status as an offender or staff member.

.7 PSD staff does not require an offender, who alleges sexual abuse, to submit to a polygraph examination, computer voice stress analysis (CVSA) or other truth-telling device as a condition for proceeding with the investigation. PSD staff may offer the victim or non-staff witnesses the option to participate in this type of technological process (polygraph, CVSA or other truth-telling device). (115.71 e)

.8 Administrative investigations shall include:

a. An effort to determine whether staff actions or failures to act contributed to the abuse; and

b. Written reports shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative findings of facts. (115.71 f)

.9 PSD shall retain all written reports referenced in paragraph (8b) of this section for as long as the alleged abuser is incarcerated or employed by PSD, plus an additional five (5) years. (115.71 i)

.10 The departure of the alleged abuser or victim from the employment or custody of the facility or PSD shall not provide a basis for terminating an investigation. The investigator shall complete the investigation by formulizing a conclusion that the allegation is substantiated, unsubstantiated, or unfounded. (115.71 j)

.11 The procedures for criminal investigations conducted by county LE shall be dictated by their policies. In practice, the county LE's procedures do require a written report that contains a thorough description of the physical, testimonial, and documentary evidence. The county LE shall refer substantiated allegations of conduct based on their investigative process that appears to be criminal for prosecution. (115.71 g/h)

.12 Any County, State, or Department of Justice agencies conducting such investigations shall do so pursuant to the above requirements. (115.71 k)

.13 When an external agency is charged with investigating an incident of sexual abuse, the facility staff shall cooperate with the outside investigators and shall endeavor to remain informed about the progress of the outside agency investigation. (115.71 l)

42.0 EVIDENTIARY STANDARDS FOR ADMINISTRATIVE INVESTIGATIONS

.1 PSD shall not impose an evidentiary standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. (115.72 a)

.2 This policy will be consulted with the relevant Labor Unions, such as the Hawaii Government Employees Association, United Public Workers, and an advisory should be provided to an excluded employee's organization.

43.0 REPORTING TO OFFENDERS

.1 Upon completion of an investigation (administrative or criminal) into an offender's allegation that he/she suffered sexual abuse in a PSD facility, facility staff shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (115.73 a)

.2 If the facility or PSD did not conduct the investigation, the facility, or PSD shall request the relevant information from the external investigative agency in order to inform the offender of the results. (115.73 b)

.3 Following an offender's allegation that a staff member has committed sexual abuse against the offender, the facility or PSD shall subsequently inform the offender (unless PSD has determined that the allegation is unfounded) whenever:

a. The staff member is no longer posted within the offender's unit;

b. The staff member is no longer employed at the facility;

c. The facility or PSD learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

d. The facility or PSD learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (115.73 c)

.4 Following an offender's allegation that he/she has been sexually abused by another offender in a PSD facility, the facility or PSD shall subsequently inform the alleged victim whenever:

a. The facility or PSD learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

b. The facility or PSD learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (115.73 d)

.5 The facility or PSD shall document all notifications to offenders described under this section on the PREA Mandated Reporting Form (PSD 8317). A copy of this form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (115.73 e)

.6 The facility's or PSD's obligation to report under this section shall terminate, if the offender victim is released from PSD's custody. (115.73 f)

44.0 DISCIPLINARY SANCTIONS FOR STAFF

.1 Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations. (115.76 a)

.2 Termination shall be the presumptive disciplinary sanction for all staff, who, after an investigation and a pre-disciplinary due process hearing, have been found to have engaged in sexual abuse. (115.76 b)

.3 Disciplinary sanctions for violations of PSD 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 personnel and disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar employment histories. (115.76 c)

.4 All terminations for violations of PREA sexual abuse or sexual harassment policies, or resignations by staff, who would have been terminated, if not for their resignation, shall be reported to LE agencies, unless the activity was clearly not criminal.

.5 PSD shall also report the incident to any relevant licensing body applicable to the staff member, such as but not limited to social work, educational, physician or nursing licensing bodies. (115.76 d)

45.0 CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS

.1 PSD requires that any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and shall be reported to county LE, unless the activity was clearly not criminal. (115.77 a)

.2 PSD shall also report the incident to any relevant licensing body applicable to the contractor or volunteer. (115.77 a)

.3 PSD shall take appropriate remedial measures and consider whether to prohibit further contact with offenders *in the case of any other violations* not covered by the paragraph (1) of this section, such as sexual harassment by a contractor or volunteer. (115.77 b)

46.0 DISCIPLINARY SANCTIONS FOR OFFENDERS

.1 Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or sexual harassment. (115.78 a)

.2 Sanctions shall commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders. (115.78 b)

.3 The disciplinary process shall consider whether an offender's mental disability or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed. (115.78 c)

.4 PSD medical and mental health staff shall provide therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse.

.5 The medical, mental health, and facility staff shall consider whether to require the offending offender to participate in such interventions as a condition of access to programming, privileges or other benefits. (115.78 d)

.6 PSD shall discipline offenders for sexual conduct with staff only upon finding that the staff member did not consent to such contact. This type of incident shall result in a

reassessment of the offender by utilizing the PREA Screening Tool (PSD 8314). (115.78e)

.7 PSD shall not discipline an offender for reporting sexual abuse made in good faith and based upon a reasonable belief that the alleged conduct occurred. This is applicable, if an investigation does not establish evidence sufficient to substantiate the allegation. (115.78 f)

.8 PSD prohibits all sexual activity or sexual contact between offenders and shall discipline offenders for such activity or contact. PSD shall not deem such activity to constitute sexual abuse, if it determines that the activity is consensual or not coerced. (115.78 g)

47.0 MEDICAL AND MENTAL HEALTH SCREENINGS; HISTORY OF SEXUAL ABUSE

.1 Any offender who has disclosed a prior sexual victimization during an intake screening pursuant to §24.0 of this policy, whether it occurred in an institutional setting or in the community, shall be offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening. (115.81 a)

.2 Any offender who has disclosed any previous perpetration of sexual abuse during an intake screening pursuant to §24.0 of this policy shall be offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening. (115.81 b)

.3 Any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to formulate treatment plans and/or security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, State, or local law. (115.81 d)

.4 Medical and mental health staff shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of eighteen (18). This provision is not applicable to non-medical or non-mental health staff. (115.81 e)

.5 Offender victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by medical and mental health staff according to their professional judgment. (115.82 a)

.6 If qualified medical or mental health staff are not on duty at the time of the report of a recent sexual abuse, the security staff or first responder shall take preliminary steps to protect the victim as dictated by §32.0 and §35.0. (115.82 b)

.7 If qualified medical and mental health staff are not on duty at the time of the report of a recent sexual abuse, they shall be immediately notified either by telephone contact to the on call physician or when reporting for duty. (115.82 b)

.8 Offender victims of sexual abuse, while incarcerated shall be offered timely information about and provided timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with the professionally accepted community standards of care, where medically appropriate.

.9 Treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. (115.82 d)

48.0 ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS

.1 PSD shall offer medical and mental health evaluations and, as appropriate, treatment to all offenders (including external referrals), who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. (115.83 a)

.2 The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. (115.83 b)

.3 PSD shall provide offender victims of sexual abuse with medical and mental health services consistent with the community standard level of care. (115.83 c)

.4 Offender victims of sexually abusive vaginal penetration, while incarcerated shall be offered pregnancy tests. (115.83 d)

.5 If pregnancy results from the sexual abuse while incarcerated, offender victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. (115.83 e)

.6 Offender victims of sexual abuse, while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. (115.83 f)

.7 Treatment services shall be provided to the offender victim without financial cost and regardless of whether the offender victim names the abuser or cooperates with any investigation arising out of the incident. (115.83 g)

.8 Mental health staff shall attempt to conduct a mental health evaluation of all known offender-on-offender abusers within sixty (60) days of learning of such abuse history and offer treatment, when deemed appropriate. (115.83 h)

49.0 SEXUAL ABUSE INCIDENT REVIEWS

.1 The Warden in conjunction with the Facility PREA Compliance Manager shall schedule a Sexual Abuse Incident Review (SAR) at the conclusion of every sexual abuse investigation that renders a finding that the allegation was substantiated or unsubstantiated, unless the allegation has been determined to be unfounded. (115.86 a)

.2 SAR shall ordinarily occur within thirty (30) days of the when the Warden has been informed of the conclusion of the investigation and its findings, excluding allegations determined to be unfounded. (115.86 b)

.3 SAR Team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health staff. One individual should be identified as the Recorder or Reporting Staff Member. (115.86 c)

.4 The SAR Team shall document the following information on the Sexual Abuse Incident Review Report form (PSD 8319):

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

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

c. Examine the area in the facility, where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

d. Assess the adequacy of staffing levels in that area during different shifts;

e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

.5 The Recorder or Reporting Team Member shall prepare a report by utilizing the Sexual Abuse Incident Review Report form (PSD 8319) to document the SAR Team's findings, including but not limited to a determination made pursuant to paragraphs (4a–4e) of this section, and any recommendations for improvement.

.6 The SAR Team's report shall be forwarded to the Warden to review and complete the Warden's Response Section. The Warden shall make a decision as to whether the recommendations of the SAR Team will be implemented or document the reasons for not implementing the recommendations of the SAR Team.

.7 The Warden shall then retain a copy and distribute the completed Sexual Abuse Incident Review Report to the Institutions Division Administrator (IDA), the Facility PREA Compliance Manager and the Department PREA Coordinator. (115.86 e)

.8 PREA incidents involving PSD Lockups, requires the PSD PREA Coordinator and the Sheriff shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has been substantiated or unsubstantiated, unless the allegation has been determined to be unfounded. (115.186)

50.0 DATA COLLECTION

.1 The Department PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control by utilizing a standardized format based on PREA definitions.

.2 The standardized format includes, 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. (115.87 a/c)

.3 The Department PREA Coordinator shall aggregate the incident based sexual abuse data at least annually. (115.87 b)

.4 The Department PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and SARs. (115.87 d)

.5 At least once a year, the Mainland Branch Unit shall report to the Department PREA Coordinator all incident-based and aggregated data from any private facility with whom it contracts for the confinement of PSD offenders. (115.87 e)

.6 PSD shall provide all such data from the previous calendar year to the Department of Justice's Survey of Sexual Violence, no later than June 30th of each year. (115.87 f)

51.0 DATA REVIEW FOR CORRECTIVE ACTION

.1 The Department PREA Coordinator shall review data collected and aggregated pursuant to §50.0 of this policy in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including:

a. Identifying problem areas; and

b. Taking corrective actions on an ongoing basis. (115.88 a)

.2 The Department PREA Coordinator shall prepare an annual report of PSD's findings and any corrective actions for each facility, as well as the agency as a whole and as dictated by HRS §353-C8. (115.88 a)

a. This report shall include a comparison of the current year's data and corrective actions with those from prior years. The annual report shall provide an assessment of PSD's progress in addressing sexual abuse. (115.88 b)

b. This report shall be approved by the Director and be made readily available to the public through PSD's departmental website. (115.88 c)

.3 PSD may redact specific material when publication would present a clear and specific threat to the safety and security of a facility. A notation should be made to indicate the nature of the material redacted. (115.88 d)

52.0 DATA STORAGE, PUBLICATION, AND DESTRUCTION

.1 The Department PREA Coordinator shall ensure that the incident-based and aggregated data are securely retained. (115.89 a)

.2 The Department PREA Coordinator 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 PSD's departmental website. (115.89 b)

.3 The Department PREA Coordinator shall remove all personal identifiers and comply with federal and state statutes, HRS §92(F), Uniform Information Practices Act, prior to publishing the data. (115.89 c)

.4 The Department PREA Coordinator shall maintain the sexual abuse data collected based on §50.0 for at least ten (10) years after the date of the initial collection, unless federal, state, or local law requires otherwise. (115.89 d)

53.0 AUDITS

.1 During the three-year cycle starting on August 20, 2013, and during each three-year period thereafter, PSD shall have a Certified DOJ PREA Auditor audit each facility operated by PSD at least once.

.2 In each year of the three-year cycle starting on August 20, 2013, PSD shall have a Certified DOJ PREA Auditor audit at least one-third of PSD operated facilities. The final uncontested Certified DOJ PREA Auditor's report shall be post on PSD's website.

.3 PSD bears the burden of demonstrating compliance with the PREA standards through the audit process. The Governor will utilize this information for the Governor's Certification of PREA Compliance.

.4 The formalized audit procedures are dictated by 28 C.F.R. 115.401 to 28 C.F.R. 115.404. The PREA audit tools are published on the PRC website at www.prearesourcecenter.org.

54.0 SCOPE

This policy shall apply to all staff, volunteers, and those who contract with the Department of Public Safety.

APPROVAL RECOMMENDED:

9-22-17

Deputy Director of Administration Date

APPROVAL RECOMMENDED:

9/22/17

Deputy Director of Corrections Date

APPROVAL RECOMMENDED:

9/22/17

Deputy Director of Law Enforcement Date

APPROVED:

9/22/17

DIRECTOR DATE

CONFIDENTIAL

DEPARTMENT OF PUBLIC SAFETY
PREA RESPONSE INCIDENT CHECKLIST

FACILITY/HOUSING:

ALLEGED:
INMATE VICTIM (NAME/SID):

ALLEGED PERPETRATOR (NAME/SID): CIRCLE ONE: INMATE OR STAFF

Date, Time, and Synopsis of alleged PREA Incident:

Location of alleged PREA Incident (specific area):

TYPE OF ALLEGED PREA INCIDENT	YES	NO
Inmate on Inmate Sexual Abuse?		
Inmate on Inmate Sexual Harassment/Misconduct?		
Inmate on Staff Sexual Abuse or Harassment/Misconduct? (NOT A PREA INCIDENT)		
Staff on Inmate Sexual Abuse?		
Staff on Inmate Sexual Harassment/Misconduct?		
Law Enforcement (County Police) notified? Report #_____		

COMPLETE FOR ALLEGATIONS OF INMATE ON INMATE SEXUAL ABUSE, INMATE ON INMATE SEXUAL HARASSMENT, STAFF ON INMATE SEXUAL ABUSE, AND STAFF ON INMATE SEXUAL HARASSMENT

NOTE: INMATE ON STAFF SEXUAL ABUSE PROCESS CRMINALLY THROUGH LAW ENFORCEMENT, NOT PREA

REQUIRED ACTIONS	DATE & TIME ACTION COMPLETED OR REFERRED	INITIAL	OTHER
1. First Responders are to separate the inmate from the alleged perpetrator. If perpetrator is a staff member, eliminate contact between the inmate and the staff member. Notify the chain of command of the incident.			
2. First Responders to provide initial medical assessment and treatment. Notify the Health Care Unit to provide the victim with treatment and support services from both the Medical and Mental Health Team.			
3. "Inmate Victim" and "Inmate Suspect" are not allowed to shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth, or consume any liquids in order to preserve the evidence.			
4. Isolate witnesses, secure the crime scene (do not contaminate the scene) and maintain the chain of custody for evidence, until the scene and evidence is released by Law Enforcement (County Police). Evidence may include, but is not limited to the Victim's and Suspect's toothbrush, undergarments, clothing, personal items etc.			
5. Notify the Chain of Command as dictated by Department Policy. Watch Commander or designee to obtain a brief statement from the alleged "Inmate Victim." Notify Internal Affairs (IA), if the incident occurred in a Prison, Jail, or Lock Up.			

PSD 8313 (12/2013)

REQUIRED ACTIONS	DATE & TIME ACTION COMPLETED OR REFERRED	INITIAL	OTHER
6. Notify Law Enforcement (County Police) for all allegations involving penetration and exchange of body fluids that occurred **within 72 hours** or if physical injuries are indicated or if it is clearly a criminal matter.			
7. Secure the location(s) where the sexual abuse is believed to have occurred. Staff should photograph the crime scene and any visible evidence. a. Prison (HCF, WCF) – Restrict access to the crime scene(s) to preserve evidence for Law Enforcement (County), Internal Affairs (IA) or until released by Watch Commander. b. Jails (HCCC, KCCC, MCCC, OCCC, WCCC) – Restrict access to the crime scene(s) to preserve evidence until the arrival of Law Enforcement (County), Internal Affairs (IA) or until released by Watch Commander. c. Lock Ups (Cell Block, Central Booking) – Restrict access to the crime scene(s) to preserve evidence for Law Enforcement (County), Internal Affairs (IA) or until released by the Sheriff or First Deputy. d. Other Location (Contracted Providers) – Restrict and secure the area, until the arrival of Law Enforcement (County) or Facility Supervisory Staff.			
8. Transport "Inmate Victim" and "Inmate Suspect" separately to the Medical Unit for a preliminary medical and/or mental health examination.			
9. Complete a detailed Incident Report prior to the end of the shift and ensure confidentiality of documents. Release only to those who have "a need to know" the information to perform their official duties.			
10. If report is **within 72 hours** of physical abuse or sexual abuse, the Health Care Unit or Law Enforcement (County Police) will order the transport of the "Inmate Victim" to the local Sex Abuse Treatment Center (SATC) or the Hospital Emergency Room (ER) for treatment, examination, documentation, collection of forensic evidence, testing for sexually transmitted diseases, and referral for counseling.			
11. If report is **outside of the 72 hour** timeframe and Law Enforcement (County Police) has determined that they will not collect forensic evidence, then work with the Health Care Unit to determine if the "Inmate Victim" will be transported to a SATC or ER for treatment, examination, and documentation. This will include testing for sexually transmitted diseases and a referral for counseling services (outpatient or inpatient). Make arrangements with Internal Affairs for evidence collection.			
12. Place "inmate suspect" in Administrative Segregation pending an investigation. If evidence collection is pending from the "inmate suspect," then preservation of evidence is important by placing in a "dry cell."			
13. Ensure the following are completed and/or the evidence secured in evidence lockers, as applicable: Administrative Segregation Form — Incident Report Form Inmate Misconduct Report Form — Separatee Notifications Videotapes of Crime Scene — Video Surveillance Footage Pictures of Crime Scene and Injuries Additional Evidence or Relevant Documents **REASSESS THE HOUSING ASSIGNMENT FOR THE ALLEGED INMATE VICTIM**			

THIS FORM SHALL BE INCLUDED WITH ALL PREA INCIDENT REPORTS SENT THROUGH THE CHAIN OF COMMAND.

Distribution: PSD PREA Coordinator, Facility PREA Manager, Warden/Administrator, Facility HCU: Medical & Mental Health

CONFIDENTIAL

DEPARTMENT OF PUBLIC SAFETY
PREA RESPONSE INCIDENT CHECKLIST

FACILITY/HOUSING:

ALLEGED:
INMATE VICTIM (NAME/SID):

ALLEGED PERPETRATOR (NAME/SID):

CIRCLE ONE:
INMATE OR STAFF

COMMENTS (OPTIONAL or ATTACH SEPARATE REPORT): PAGE _____ OF ____

Distribution: PSD PREA Coordinator, Facility PREA Manager, Warden/Administrator, Facility HCU: Medical & Mental Health

CONFIDENTIAL

DEPARTMENT OF PUBLIC SAFETY

PREA MANDATED REPORTING

INMATE (NAME/SID):

FACILITY/HOUSING:

ALLEGED (CIRCLE) VICTIM | PREDATOR | N/A

CASE #:

REASON FOR PREA MANDATED INCIDENT REPORTING, CHECK ALL THAT APPLY:

☐ 1) DEVIATION FROM THE FACILITY STAFFING PLAN.

☐ 2) INCIDENT OF CROSS-GENDER STRIP OR BODY CAVITY SEARCH BY NON-MEDICAL STAFF.

☐ 3) INCIDENT OF CROSS-GENDER PAT SEARCH OF A FEMALE OFFENDER.

☐ 4) NOTICE TO THE VICTIM OFFENDER OF THE RESULTS OF THE COMPLETED INVESTIGATION, THE STATUS OF THE CRIMINAL CASE, OR THE EMPLOYMENT STATUS/LOCATION OF THE ALLEGED STAFF ABUSER.

☐ 5) PREA ASSESSMENT OR INCIDENT WARRANTS PLACEMENT IN INVOLUNTARY ADMINISTRATIVE SEGREGATION (IAS).

ASSESSMENT COMPLETED? ☐ YES ☐ NO, EXPLAIN.
PROGRAMS RESTRICTED IN IAS? ☐ YES ☐ NO, EXPLAIN.
IAS PLACEMENT EXCEEDED 30 DAYS? ☐ YES ☐ NO, EXPLAIN.

☐ 6) THIRD PARTY REPORTED A PREA INCIDENT AND ALLEGED VICTIM OFFENDER DECLINES TO HAVE IT PROCESSED ON HIS/HER BEHALF.

☐ 7) USE OF INTERPRETER OR OTHER ACCOMODATION FOR OFFENDER WITH DISABILITY OR LIMITED ENGLISH PROFICIENCY FOR PREA INCIDENT OR EDUCATION.

☐ 8) OFFENDER OR DETAINEE HELD OVERNIGHT IN PSD LOCK UP.

☐ 9) 90 DAY (MIN) MONITORING OF VICTIM OR REPORTING INDIVIDUAL FOR ANY FORM OF RETALIATION.

☐ 10) OTHER (YOUTHFUL OFFENDER | TRANSGENDER/INTERSEX BI-ANNUAL HOUSING & PROGRAM REVIEW)

DESCRIPTION OR CIRCUMSTANCES FOR THE PREA MANDATED REPORTING:

☐ CONTINUED ON ATTACHED PAGE

PRINT NAME AND TITLE OF STAFF MEMBER COMPLETING FORM:	SIGNATURE OF FACILITY PREA MANAGER: DATE/TIME: /
SIGNATURE OF STAFF MEMBER COMPLETING FORM: DATE/TIME: /	SIGNATURE OF WARDEN OR DESIGNEE: DATE/TIME: /
IF APPLICABLE INMATE SIGNATURE AND DATE/TIME DATE/TIME: /	☐ INMATE REFUSED TO SIGN/STAFF MEMBER SERVING RESULTS IS THE WITNESS TO THE REFUSAL

DISTRIBUTION: PSD PREA Coordinator, Facility PREA Manager, Warden/Administrator, Facility HCU Clinical Section Administrator

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DEPARTMENT OF PUBLIC SAFETY

PREA MANDATED REPORTING

ALLEGED INMATE VICTIM (NAME/SID):

FACILITY/HOUSING:

ALLEGED PERPETRATOR (NAME/SID): CIRCLE ONE: INMATE OR STAFF

FACILITY/HOUSING/STAFF POSITION:

CONTINUATION FROM PAGE 1: PAGE ____ OF ____

Distribution: PSD PREA Coordinator, Facility PREA Manager, Warden/Administrator, Facility HCU: Medical & Mental Health

DEPARTMENT OF PUBLIC SAFETY
PERSONNEL MANAGEMENT OFFICE
919 Ala Moana Blvd, Rm 117 Honolulu, HI 96814

This position involves contact with inmates in a correctional facility (prison and jail) or lockup. As required by the Prison Rape Elimination Act of 2003 (PREA), all applicants and employees of the department, who may have contact with an inmate in a correctional facility (prison and jail) or lockup as described in the law must answer the four (4) questions below to determine their eligibility for this position.

In accordance with Federal law, the department shall conduct this survey every five (5) years, to include but not limited to promotions, transfers (including hardship transfers), demotions, reallocations and shall not hire or promote anyone who may have contact with inmates who:

(A) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution.

Have you engaged in sexual abuse as described in (A) above?

_____ Yes _____ No

(B) 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.

Have you been convicted of engaging or attempting to engage in sexual activity as described in (B) above?

_____ Yes _____ No

(C) Has been civilly or administratively adjudicated (there was a formal finding and a judgment or decision was rendered in a civil or administrative proceeding) to have engaged in the activity described in (B) above.

Have you been civilly or administratively adjudicated to have engaged in the activity described in (B) above?

_____ Yes _____ No

However, the department may consider any incidents of sexual abuse or sexual harassment in determining whether to hire or promote anyone, who:

(D) Has been the subject of substantiated allegations of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment.

Have you been the subject of a substantiated allegation of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment?

_____ Yes _____ No

I certify that my responses to the questions in this questionnaire are true and correct to the best of my knowledge, and I agree and understand that any misstatements of material facts herein may cause forfeiture of all rights to any employment in the service of the State of Hawaii.

_____ _____

Print Name Signature Date

CONFIDENTIAL

DEPARTMENT OF PUBLIC SAFETY
PREA SCREENING TOOL

☐ *NO ADDITIONAL RELEVANT INFORMATION RECEIVED IN 30 DAYS FOR A NEW INTAKE* _____
(PRINT NAME, INITIAL, DATE, & TIME

I. IDENTIFYING DATA

DATE: _____ SID #: _____ ☐ OFFENDER *RECEIVED PREA PAMPHLET ON* _____ (DATE)

NAME: _____ (LAST / FIRST / MI) SEX: _____ CLASSIFICATION: _____ CUSTODY STATUS: _____

SCREENING REASON: ☐ New Intake ☐ Transfer Review ☐ New Information Review

II.	VULNERABILITY FACTORS	Y/N	DOI	Comments/Source
1.	Victim of Prison Rape/Sexual Abuse within 10 years (Correctional)			
2.	Age Factors (Under 22 years old or over 65 years old)			
3.	**Male:** 5'2" or less or less than 120 lbs **Female:** 5' or less or less than 90 lbs			
4.	Physical or Developmental Disability/Mental Health Condition			
5.	First Period of Incarceration (Consider any Jurisdiction.)			
6.	Lesbian/Gay/Bisexual/Transgender/Intersex/Gender Non-Conform (Reported or Perceived)			
7.	Victim of Sexual Abuse in Non-Correctional Setting within 10 years			
8.	Criminal History is Limited to Non-Violent Offense(s)			
9.	Offender expresses concern about their Sexual Abuse Vulnerability			
10.	Prior Sex Offense Conviction Against a Person (See Section V, #2)			
11.	Detained in PSD Facility "solely" for Civil Immigration Reasons (Rare)			

III. VICTIM DESIGNATION:

☐ **Known Victim** If factor #1 in Section II is "Y": Designate as a "Known Victim."
☐ **Potential Victim** If seven or more of the factors in Section II, #2-9 are "Y": Designate as a "Potential Victim."
☐ **No Designation** If six or less of the factors in Section II, #2-9 are "Y": Designate as "No Designation."
ENTER AS AN ALERT IN OFFENDERTRAK AND IMMEDIATELY DEACTIVATE ANY NO DESIGNATION

IV. VICTIM OVERRIDE (Circle): NO YES, Need PSD PREA Coordinator Approval: _____ (NAME, DATE, TIME)

☐ "Potential Victim" ☐ "No Designation" ☐ Recommend Monitoring by: _____

Justification for Override/Monitoring: _____

_____

V.	PREDATORY FACTORS	Y/N	DOI	Comments/Source
1.	Predatory History of Prison Rape/Sex Abuse/Assault (Correctional Setting)			
2.	Prior Sex Offense Conviction (Sexual Abuse/Assault Non-Correctional)			
3.	Criminal History of Physical Abuse within 5 yrs (Non-Correctional Setting)			
4.	History of Correctional Violence within 5 years (Extortion, Assaults, Arming)			
5.	Current or Confirmed Gang Affiliation/Security Threat Group			

VI. PREDATOR DESIGNATION:

☐ **Sexual Predator** If factor #1 in Section V is "Y": Classified as a "Sexual Predator."
☐ **Potential Sexual Predator** If three or more of the factors in Section V, #2-5 are "Y": Classified as a "Potential Aggressor."
☐ **No Designation** If two or less of the factors in Section V, #2-5 are "Y" this Section is "Not Sexual Predator."
ENTER AS AN ALERT IN OFFENDERTRAK AND IMMEDIATELY DEACTIVATE ANY NO DESIGNATION

VII. PREDATOR OVERRIDE (Circle): NO YES, Need PSD PREA Coordinator Approval: _____ (NAME, DATE, & TIME)

☐ "Potential Predator" ☐ "No Designation" ☐ Recommend Monitoring by: _____

NOTE: A SECTION VI/VII DESIGNATION SUPERCEDES ANY DESIGNATION IN SECTION III/IV

Justification for Override/Monitoring: _____

_____

SECTION I-VII COMPLETED BY PRINT NAME/POSITION OF STAFF:	SIGNATURE, DATE, & TIME OF STAFF (SECTION I-VII): DATE/TIME: /

VIII. HOUSING STATUS: ☐ General Population ☐ Separatee ☐ Protective Custody Unit ☐ Administrative Segregation

COMMENTS: _____

Recommended Housing: _____ **Final Housing Designation:** _____

FORM PROVIDED BY ISC/PROGRAM STAFF TO:

SECTION VIII - PRINT NAME OF COS/WATCH COMMANDER:	SIGNATURE OF COS/WATCH COMMANDER: DATE/TIME: /

IX Distribution: PSD PREA Coordinator, Facility PREA Manager, Warden/Administrator, Facility HCU Clinical Section Administrator

DEPARTMENT OF PUBLIC SAFETY
PREA SCREENING TOOL INSTRUCTIONS
OFFENDERTRAK DATA INPUT

The process for entering the PREA Screening Tool on Offendertrak requires that you sign on and search for the relevant offender by name or alpha. The process is similar to inputting a jail or prison classification instrument by going to the booking tab, booking management, classification, PREA Documents, PREA Screening Tool and the "New" tab button. You can begin to enter the PREA Screening Tool by following the instructions below.

I. IDENTIFYING DATA

Check Box: If no additional relevant information received within thirty (30) days of "New Intake/Admission." Enter Name, Initial, Date (mm/dd/yy) & Military Time (0000 hours). On Offendertrak, you can edit a prior PREA Screening or utilize the Organization Document Screen in Report to "check" that there was no additional relevant information within thirty (30) days.

Date: Enter the month, day, and year (mm/dd/yy) that the PREA Screening Tool (PSD 8314) is being completed. On Offendertrak, it is *automatically populated.*

SID: Enter the offender's permanent SID number. A temporary SID, usually begins with an "X" or "T". On Offendertrak, it is *automatically populated.*

Check Box: If offender received the PREA Pamphlet, then enter the date received (mm/dd/yy).

Name: Enter the offender's full name by last name, first name and middle initial. This would be the name as entered into Offendertrak. On Offendertrak, it is *automatically populated.*

Sex: Enter the offender's sex by notating "M" for male or "F" for female. In addition, if the offender discloses the following information based on vulnerability question #6, then notate "T" for transgender or "I" for Intersex. On Offendertrak, use the drop down menu to select the appropriate information.

Classification: If known, enter the offender's current security/custody classification, such as COM for community, MIN for minimum, MED for medium, CLS for close, and MAX for maximum. If the initial classification or reclassification has not been completed, then enter "NA". On Offendertrak, it is *automatically populated.*

Custody Status: Enter the offender's status based on court documents or facility records, such as pre-trial felon (PTF), pre-trial misdemeanant (PTM), sentenced felon probationer (SFP), sentenced felon (SF), sentenced misdemeanant (SM), pending sentence felon (PSF), pending sentence misdemeanant (PSM), and parole violator (PV). On Offendertrak, it is *automatically populated.*

Reason for Screening, check the appropriate box and on OFFENDERTRAK use the drop down menu to select the appropriate information.

DEPARTMENT OF PUBLIC SAFETY
PREA SCREENING TOOL INSTRUCTIONS
OFFENDERTRAK DATA INPUT

New Intake Review: Check box, if an offender is being screened as a new intake/admission, meaning that the offender is not presently under the custody or jurisdiction of the Department of Public Safety (PSD). This screening must be conducted within **seventy-two (72) hours** (includes weekends and holidays) of arrival at the facility. *The BJA/PRC has clarified that intermittent sentences are considered one admission.* This means that the first intake/admission for the current charge/offense will require a review and subsequent intermittent sentences do not require an addition "new intake/admission" review.

If the **offender is released prior** to the seventy-two (72) hour requirement and has not been screened with the PREA Screening Tool, then you are not required to complete the Screening Tool for the released offender.

30 day Review for New Intake: The Receiving Facility staff or the Facility staff (preferably Case Management) housing the inmate in close proximity to the **thirty (30) days** of the offender's new intake/admission shall reassess the offender, if there is any additional relevant information that was not consider at the seventy-two (72) hour screening that could impact the offender's vulnerability factors or predatory factors.

This information could be any new documentation received or an incident that occurred that was not considered at the initial screening. If no additional relevant information has been received, then check the box on the top of Section I (highlighted) of the new intake/admission PREA Screening Tool (PSD 8314) that "no additional relevant information was received in thirty (30) days." The Reviewer will print their Name, Initial, Date (mm/dd/yy) and Military Time (0000 hours), then distribute the form with this change to the PSD PREA Coordinator (only) preferably via digital copy by email.

Option to use Offendertrak Reports: Organizational Docs, PREA Docs.

Transfer Review: Check box, if an offender is being reviewed based on a transferred from one facility to another facility. The receiving facility must conduct a screening or reassessment by utilizing the screening tool preferably during the facility orientation process. This screening must be conducted within seventy-two (72) hours of the offender's transfer to the receiving facility.

New Information Review: This is not the review conducted in thirty (30) days of a New Admission (see above). Check box, if the facility receives additional relevant information that would impact the offender's screening for vulnerability and predatory factors. If conducting the 30 day Review for New Intake/Admission and there is "additional relevant information" then the Reviewer would check this box. If checked, reassess the offender's risk of victimization or abusiveness by utilizing a new PREA Screening Tool, which is subject to all distributions. Do not modify the original intake/admission PREA Screening Tool. The additional relevant information may include reported incidents of sexual abuse as a victim or predator.

II. VULNERABILITY FACTORS

Document all sources of information or comments in the last column. If an offender refuses to participate by providing verbal responses to the PREA Screening Tool this shall be documented in the comments column.

On Offendertrak, if the information is available it will be auto filled, but you will need to verify that the information is correct and current. Also, use the drop down menu to select the appropriate information.

1. **Victim of Prison Rape or Prison Sexual Abuse/Assault within 10 years**: Enter "Y" for yes, if the Reviewer has documentation from court records, Offendertrak, the offender's institutional file, the offender's health care file, or the PREA Coordinator etc. that the offender has a substantiated (See PREA definitions) history of prison rape, prison sexual abuse or prison sexual assault, while incarcerated in a juvenile or adult correctional facility within ten (10) years from the completion date of the screening tool. Enter the date of incident referenced. Otherwise enter "N" for no.

   If an investigation concluded that an allegation of prison rape, prison sexual abuse or prison sexual assault was unfounded or unsubstantiated (See PREA definitions), then it shall not be scored as a "Y" or yes.

   If the offender self reports an allegation of prison rape or prison sexual assault within ten (10) years this **shall not** be used to justify a "Y" or yes scoring. The offender should be referred to Mental Health staff and the Reviewer may use this information for a possible override or monitoring factor in section IV.

2. **Age Factors:** Enter "Y" for yes, if on the date when the screening is conducted, the offender is under 22 years of age or over 65 years of age (65 years, 1 minute) based on the offender's official date of birth in Offendertrak or CJIS. Enter date of birth in comments. Otherwise enter "N" for no. On Offendertrak, it is *automatically populated.*

3. **Physical Stature:** Enter "Y" for yes, if the offender is a **male** of small physical stature, which means a male that is 5'2" or less in height and/or weighs less than 120 lbs. Enter "Y" for yes, if the offender is a **female** of small physical stature, which means a female that is 5' or less in height and/or weighs less than 90 lbs. The Reviewer should reconcile this with the offender's physical appearance and the information in Offendertrak or CJIS. Otherwise enter "N" for no. On Offendertrak, it is *automatically populated*, but need to verify that the information is consistent with the individual's current stature.

4. **Physical or Developmental Disability or a Documented Mental Health Condition:** Enter "Y" for yes, if the Reviewer has documentation or the offender self report that the offender has a disability or documented mental health condition, which could make the offender vulnerable in the general population setting of a correctional facility. Otherwise enter "N" for no.

5. **First Period of Incarceration:** Enter "Y" for yes, if this is the offender's first period of incarceration when considering all periods of incarceration including at a juvenile correctional facility in any state, federal, or foreign correctional facility. This information

should be obtained from Offendertrak, Pre-Sentence Report (PSI), CJIS or other reports. Otherwise enter "N" for no.

6. **Lesbian, Gay, Bi-sexual, Transgender, Intersex (LGBTI):** Enter "Y" for yes, if after asking the offender about whether they identify as LGBTI (mandatory), he/she indicates that he/she is lesbian, gay, bi-sexual, intersex, transgender, and/or undergoing a trans-gender process. If the offender denies, but is perceived by the Reviewer to be LGBTI, then the Reviewer should identify the offender as perceived. Enter the applicable LGBTI reference. Otherwise enter "N" for no.

7. **Victim of Sexual Abuse in Non-Correctional setting within 10 years:** Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, CJIS, or other reports that the offender has been sexual abused in a setting, **other than in a correctional institution**, or if the **offender self reports** as being sexually abused in a setting other than a correctional institution within ten (10) years from the completion date of the screening tool. Enter the date of incident referenced. Otherwise enter "N" for no.

   The disclosure of non-correctional sexual abuse or sexual assault is subject to confidentiality requirements for all staff, however there are special provisions for medical and mental health professionals only.

8. **Criminal History is Limited to Non-Violent Offenses:** Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, CJIS, or other reports that the offender does not have a criminal history of violent offenses. This is based on the final adjudicated criminal charge. Non-Violent Offenses are crimes that do not involve the use of any force or physical injury to another person. Otherwise enter "N" for no.

9. **Offender expresses a concern about their Sexual Abuse Vulnerability:** Enter "Y" for yes, if the offender responded to the question that they are concerned about their Sexual Abuse Vulnerability. Otherwise enter "N" for no.

10. **Prior Sexual Offense Conviction Against a Person:** Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, the offender's institutional or health care file, or other reports that the offender has an adjudicated criminal history as a predator or aggressor in a sexual abuse, sexual assault, or rape. Enter the date of the referenced incident. Otherwise enter "N" for no.

11. **Detained in a PSD Facility "solely" for Civil Immigration Reasons:** Enter "Y" for yes, if the Reviewer has documentation that the offender is being held in a PSD Facility **"solely"** for Civil Immigration reasons (rare occurrence), such as a federal hold or detainer. Otherwise enter "N" for no, this includes an offender who is being held on dual-jurisdiction status (State and Federal Immigration reasons).

III. VICTIM DESIGNATION

Based on the offender's vulnerability factors, Offendertrak will calculate the offender's vulnerability designation according to the following:

Known Victim: If Section II item #1 is "Y" for yes, then the offender shall be designated as a "Known Victim" of prison sexual abuse, sexual assault or rape.

Potential Victim: If seven or more vulnerability factors in 2 to 11 are "Y" for yes, then the offender shall be designated as a "Potential Victim" for prison sexual abuse, sexual assault or rape.

No Designation: If six or less vulnerability factors in 2 to 11 are "Y" for yes, then the offender scores a "no designation" related to the PREA Screening Tool.

On Offendertrak, the designation of "known victim" or "potential victim" will be *automatically populated* as an active alert. On Offendertrak, the alerts will be entered and designed as active or it will be deactivated.

If an offender has a prior Offendertrak screening designation, but based on new relevant information, a transfer review, or transgender/intersex status a new PREA screening tool is completed, then deactivate the prior scoring and process as a new PREA Screening Tool scoring as indicated in the preceding paragraph. On Offendertrak, prior alerts will be deactivated by new information.

IV. VICTIM OVERRIDE

Circle "no" or "yes" as to whether an override of the scoring designation in Section III is recommended: 1) A "potential victim" designation in Section III, can be overridden to a "no designation" or 2) A "no designation" in Section III, can be overridden to a "potential victim" designation.

Recommended Monitoring: If additional monitoring is warranted, then identify the relevant program, such as medical, mental health, security, or a referral to the Facility PREA Manager, and document a justification for the monitoring.

Justification for Override: When an override is recommended, document the justification citing facts in Section IV with a referral by email, fax, or telephone to the PSD PREA Coordinator. Upon receiving concurrence from the PSD PREA Coordinator document the person's Name, Date (mm/dd/yy) and Military time (0000 hours). An example of a reason for an override could be an incident that occurred outside the time requirement for a question.

An override is prohibited when attempting to designate an offender as a "known victim." In any conflict or potential dual designation between Section III and Section VI, then Section VI or VII shall take precedence.

V. PREDATORY FACTORS

Document all sources of information or comments in the last column. If an offender refuses to participate by providing verbal responses to the PREA Screening Tool this shall be documented in the comments column.

On Offendertrak, if the information is available it will be auto filled, but you will need to verify that the information is correct and current. Also, use the drop down menu to select the appropriate information.

1. **Predatory History of Prison Rape, Prison Sexual Abuse, or Prison Sexual Assault in a Correctional Setting**: Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, the offender's institutional or health care file, or from the PREA Coordinator that the offender has an adjudicated history as a predatory or aggressor in a prison rape, sexual abuse, or prison sexual assault based on PREA, while incarcerated in a correctional facility as a juvenile or adult. This scores only offender on offender incidents. Enter the date of the referenced incident. Otherwise enter "N" for no. On Offendertrak, if the 6(1) misconduct was entered in the incidents screen, then it will *automatically populate*.

   MISCONDUCT VIOLATIONS (COR.13.03 POLICY UPDATE PENDING)

   .2a.6(1) Sexual Assault or Sexual Abuse of another inmate/detainee, staff member, contractor, volunteer or visitor.

2. **Prior Sex Offense Conviction (Sexual Abuse or Sexual Assault) in a Non-Correctional Setting:** Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, the offender's institutional or health care file, or other reports that the offender has an adjudicated criminal history as a predator or aggressor in a sexual abuse, sexual assault, or rape, other than in a correctional institution, or if the offender **self reports** as being adjudicated as a sexual predator or aggressor in a setting other than a correctional institution. Enter the date of the referenced incident. Otherwise enter "N" for no.

   If the adjudicated charge for sexual abuse or sexual assault is scored in question #2, then do not overlap or double counted the adjudicated charge in question #3.

3. **Criminal History of Physical Abuse Towards Others within 5 years:** Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, CJIS, or other reports that the offender has an adjudicated criminal history of **physical abuse** towards others in a setting, other than a correctional institution, or if the offender **self reports** physical abuse towards others in a setting other than a correctional institution within five (5) years from the completion date of the screening tool. Enter the date of the referenced incident. Otherwise enter "N" for no. Review list of offenses considered as physically abusive offenses.

   If the adjudicated charge was already scored in question #2, then do not score it in question #3.

4. **History of Correctional Violence within 5 years:** Enter "Y" for yes, if the Reviewer has documentation from Offendertrak, a guilty finding by an adjustment committee, or other reports that the offender has been adjudicated as having been involved in correctional violence, including but not limited to, strong arming, extortion, or assaults, in any correctional setting (juvenile or adult), or if the offender **self-reports** involvement in correctional violence in any correctional setting (juvenile or adult) within five (5) years from the date of the completed screening tool. Enter the date of the referenced incident. Correctional Violence involves the use of force or injury to the body of another person, threats to staff, and the use of a weapon raises the seriousness of the incident. Otherwise enter "N" for no. On Offendertrak, if the misconduct was entered in the incidents screen, then it will *automatically populate.*

MISCONDUCT VIOLATIONS (COR.13.03 POLICY UPDATE PENDING)

.2a.6(1)	Sexual Assault or Sexual Abuse of another inmate/detainee, staff member, contractor, volunteer or visitor.
.2a.6(2)	Homicide.
.2a.6(3)	Assaulting any person ... bodily injury.
.2a.6(4)	Use of force or threats ... worker's family.
.2a.6(5)	Escape, if facts indicate threat of violence towards staff.
.2a.6(11)	Rioting.
.2a.6(13)	Use of force or violence ... a public servant.
.2a.6(15)	Throwing or attempting to throw feces ... at or on staff.
.2a.6 (22/23)	Any lesser ... listed above (here) or Any other violent criminal act ...a class A Felony
.2a.6(17)	Extortion, blackmail, ... or under threat of informing.
.3a.7(3)	Assaulting any person ... dangerous instrument.
.3a.7(7)	Adulteration of any food or drink ... result in bodily injury or sickness.
.3a.7(20/21)	Any lesser ... listed above (here) or Any other violent criminal act ... class B Felony.

5. **Current or Confirmed Gang Affiliation or Security Threat Group (STG):** Enter "Y" for yes, if the Reviewer has documentation that the offender is a current or confirmed gang member or belongs to a Security Threat Group (STG) based on Offendertrak, the Gang Intelligence Officer, or other reports. Otherwise enter "N" for no. On Offendertrak, if the information is in the STG report it is *automatically populated.*

VI. PREDATOR DESIGNATION

Based on the offender's predatory factors, Offendertrak will calculate the offender's sexual predator designation according to the following:

Sexual Predator: If Section V item #1 is "Y" for yes, then the offender shall be designated as a "Sexual Predator" of prison sexual abuse, sexual assault or rape.

Potential Sexual Predator: If three or more predatory factors in 2 to 5 are "Y" for yes, then the offender shall be designated as a "Potential Sexual Predator" of prison sexual abuse, sexual assault or rape.

No Designation: If two or less predatory factors in 2 to 5 are "Y" for yes, then the offender has "no designation" related to the PREA Screening Tool.

The designation of "sexual predator" or "potential sexual predator" shall be entered as an active alert on Offendertrak by utilizing the PREA coding menu. The designation of "no designation" shall be entered on Offendertrak as an alert, but the alert shall be immediately deactivated. On Offendertrak, the alerts will be entered and designated as active or it will be deactivate.

If an offender has a prior Offendertrak screening designation, but based on new relevant information, a transfer review, or transgender/intersex status a new PREA screening tool is completed, then deactivate the prior scoring and process as the new PREA Screening Tool scoring as indicated in the preceding paragraph. On Offendertrak, prior alerts will be deactivated by new information.

VII. PREDATOR OVERRIDE

Circle "no" or "yes" as to whether an override of the designation in Section VI is recommended: 1) A "potential sexual predator" designation in Section VI can be overridden to a "no designation" or 2) A "no designation" in Section VI, can be overridden to a "potential sexual predator" designation.

Recommended Monitoring: If additional monitoring is warranted, then identify the relevant program, such as medical, mental health, security, or a referral to the Facility PREA Manager, and document a justification for the monitoring.

Justification for Override: When an override is recommended, document the justification citing facts in Section VII with a referral by email, fax, or telephone to the PSD PREA Coordinator. Upon receiving concurrence from the PSD PREA Coordinator document the person's Name, Date (mm/dd/yy) and Military time (0000 hours). An example could be based on the facts available related to a pending charge or a reason for an override could be an incident that occurred outside the time requirement for a question.

An override is prohibited when attempting to designate an offender as a "sexual predator." In any conflict or potential dual designation between Section III and Section VI, then Section VI or VII shall take precedence.

VERIFICATION OF REVIEWER AND ACTION TAKEN IN SECTIONS: I TO VII

When an offender receives a **"no designation,"** the Reviewer information with Name, Position, Signature, Date (mm/dd/yy), and Military time (0000 hours) will *automatically population* with "sign on" name for the Staff Member who completed Sections I-VII. The Reviewer shall save as a final document. If printing the document the Reviewer shall maintain the confidentiality of this document and Offendertrak PREA screening distribution is not required.

When an offender receives a **"victim, potential victim, predator, or potential predator"** designation," the Reviewer information with Name, Position, Signature, Date (mm/dd/yy), and Military time (0000 hours) will *automatically population* with "sign on" name for the

Staff Member who completed Sections I-VII. The Reviewer shall save as a final document. If printing the document the Reviewer shall maintain the confidentiality of this document. After saving, the Reviewer should verify on the Positive Screening Report that the information has be captured and notify/print a copy for the Facility Chief of Security (COS) or the Watch Commander to enter Section VIII on Offendertrak. The Reviewer shall document who by listing the person's name (COS or WC) on the form in the line above signature required in Section VIII.

VIII. HOUSING STATUS

When an offender is designated as **a "victim, potential victim, sexual predator, or potential sexual predator,"** and the Reviewer of Sections I-VII has forward/notified the Facility COS or Watch Commander.

The Facility COS or Watch Commander shall sign on to Offendertrak to complete Section VIII: Housing Status to ensure that the offender is appropriately housed based on the PREA Screening Tool scoring designation by checking the relevant housing placement: general population, separatee status, protective custody unit, or administrative segregation.

The Facility COS or Watch Commander shall document their assessment citing key facts in the comments section. The Facility COS or WC shall identify the recommended housing and the final housing designation.

What is appropriate housing?

The housing assignment shall consider the offender's scoring, LGBTI status, and the designated housing assignment shall consider how the offender's placement may impact the offender or other offenders, while ensuring the requirements of the PREA Standards. It is important that the housing assessment also considers the programmatic access the offender will encounter based on the housing assignment. The PREA screening instrument scoring is to be utilized to formulate housing assignments, cell or bed assignments, work assignments, education, and other programmatic access for the offender.

The Facility COS or Watch Commander Name, Signature, Date (mm/dd/yy) and Military time (0000 hours) will *automatically populate*, based on Offendertrak sign on. This is documentation that the offender's designation of "victim, potential victim, sexual predator, or potential sexual predator" was evaluated by the Facility COS or Watch Commander, prior to assigning housing and other programmatic issues. If printing, the Facility COS or Watch Commander shall maintain the confidentiality of this document.

Transgender/Intersex Review: The PREA Standards requires that housing and programming assignment for each transgender or intersex offender shall be reassessed at least twice each year to review any threats to safety experienced by the offender. The two periodic reviews conducted annually should occur during initial classification and reclassifications. The Warden and/or the Facility PREA Manager shall ensure that the bi-annual reviews are documented on the PREA Mandated Reporting Form (PSD 8317) based on a list provided by the PSD PREA Coordinator.

IX. DISTRIBUTIONS

The PREA Screening Tool (PSD 8314) automated on Offendertrak will not require a distribution to the PSD PREA Coordinator (Main Office), the Facility PREA Manager, the Warden/Administrator, and the Facility Health Care Unit Clinical Section Administrator. However, these individuals are responsible for regularly checking the PREA Reports on Offendertrak for this information.

The Warden/Administrator is responsible for ensuring the confidentiality of the form, while balancing disclosure to key Facility staff to assist with determining appropriate housing, worklines, and other programmatic issues based on the offender's designation.

PREA REPORTS ON OFFENDERTRAK

The process for creating and viewing PREA Reports on Offendertrak requires that you sign on. You click on the Reports tab, reports, PREA reports, Facility Level (Enterprise is only for the PSD PREA Coordinator), enter the data parameters for the appropriate report that you need to review: Admission Log, Admission Log with Releases, Health Care Report, and Positive Screening Report. You can view a prior report or create a new report by clicking on "New". You select your location and report parameters, which is the date period for reviewing any enter PREA Screening Tools, then click "OK". Your report should appear and you can print it or use authorized software (PDF995) to save the document as a PDF.

The 30 day Reviews can be process by editing the prior PREA "new intake" or "transfer" screening and checking the box that there was no additional relevant information. It will populate with your name and date. The condensed method would be to click on the Reports tab, Organization Documents, Location Based Documents, Facility Based Documents, PREA Screening Reviews, and New. You can set the date parameters as "all" or indicate a date range. In the last column under "completed" check the box for the relevant offender and save your report as a final document. You should print the document to save a hard copy, however a digital copy will be saved if your finalized the report.

PSD PREA SCREENING TOOL
OFFENSES CATEGORIZED AS PHYSICAL ABUSE

HRS STATUTE#	HRS STATUTE TITLE/OFFENSE	STATUTE CLASS
709-0906	Abuse Of Family & Household Members	FC/MD
708-8251	Arson In The First Degree (If the facts indicate physical force or injury to a person)	FA
708-8252	Arson In The Second Degree (If the facts indicate physical force or injury to a person)	FB
708-8253	Arson In The Third Degree (If the facts indicate physical force or injury to a person)	FC
707-0712.5	Assault Against A Law Enforcement Officer In the First Degree	FA
707-0712.6	Assault Against A Law Enforcement Officer In the Second Degree	MD
707-0712.7	Assault Against An Emergency Worker	FB
707-0710	Assault In the First Degree	FB
707-0711	Assault In the Second Degree	FC
707-0712	Assault In the Third Degree	MD
707-0733.6	Continuous Sexual Assault Of A Minor Under The Age Of 14 Years	FA
711-1109.3	Cruelty to Animals by Fighting Dogs in the First Degree	FB
711-1109.35	Cruelty to Animals by Fighting Dogs in the Second Degree	FC
711-1108.5	Cruelty to Animals in the First Degree	FC
711-1109	Cruelty to Animals in the Second Degree	MD
707-0756	Electronic Enticement Of A Child In the First Degree	FB
710-1020	Escape In the First Degree	FB
710-1021	Escape in the Second Degree (If the facts indicate physical force or injury to a person)	FC
707-0765	Extortion In the First Degree	FB
707-0766	Extortion In the Second Degree	FC
707-0767	Extortion In the Third Degree	MD
707-0768	Extortion Involving Firearms, Explosives, and Dangerous Weapons	FA
707-0741	Incest	FC
710-1031	Intimidating A Correctional Worker (If the facts indicate physical force or injury to a person)	FB
710-1074	Intimidating A Juror (If the facts indicate physical force or injury to a person)	FB
710-1071	Intimidating A Witness (If the facts indicate physical force or injury to a person)	FC
707-0720	Kidnapping (FB is based on Defense Claims)	FA/FB
707-0781	Labor Trafficking in the First Degree	FA
707-0702	Manslaughter (Session Laws 1996 delete Class B)	FA/FB
707-0701	Murder In the First Degree	FA
707-0701.5	Murder In the Second Degree	FA
707-0750	Promoting Child Abuse In the First Degree	FA
707-0751	Promoting Child Abuse In the Second Degree	FB
707-0752	Promoting Child Abuse In the Third Degree	FC
712-1202	Promoting Prostitution in the First Degree	FA
707-0713	Reckless Endangering In the First Degree (If the facts indicate physical force or injury to a person)	FC
707-0714	Reckless Endangering In the Second Degree (If the facts indicate physical force or injury to a person)	MD
710-1026	Resisting Arrest (If the facts indicate physical force or injury to a person)	MD
710-1075.5	Retaliating Against A Juror (If the facts indicate physical force or injury to a person)	FC
710-1072.2	Retaliating Against A Witness (If the facts indicate physical force or injury to a person)	FC
711-1103	Riot	FC
708-0840	Robbery In the First Degree	FA
708-0841	Robbery In the Second Degree	FB
708-0842	Robbery; "In The Course Of Committing A Theft"	FA
707-0736	Sexual Abuse In the First Degree (Repealed)	FC
707-0730	Sexual Assault In the First Degree	FA
707-0733	Sexual Assault In the Fourth Degree	MD
707-0731	Sexual Assault In the Second Degree	FB
707-0732	Sexual Assault In the Third Degree	FC
707-0716	Terroristic Threatening In the First Degree (If the facts indicate physical force or injury to a person)	FC
707-0721	Unlawful Imprisonment In the First Degree	FC
707-0722	Unlawful Imprisonment In the Second Degree	MD

CONFIDENTIAL

DEPARTMENT OF PUBLIC SAFETY

PREA: SEXUAL ABUSE INCIDENT REVIEW (SAR) REPORT

ALLEGED INMATE VICTIM (FULL NAME/SID) AND FACILITY/HOUSING:

ALLEGED PERPETRATOR (FULL NAME/SID) AND FACILITY/HOUSING: ☐ INMATE OR ☐ STAFF

STATUS OF SEXUAL ABUSE INVESTIGATION:

☐ SUBSTANTIATED ☐ UNSUBSTANTIATED
☐ UNFOUNDED **SIR NOT REQUIRED FOR UNFOUNDED

IS THE INVESTIGATION PENDING ☐ YES ☐ NO

SEXUAL ABUSE INCIDENT REVIEW (SAR) TEAM (FACILITY MANAGEMENT, LINE SUPERVISORS, INVESTIGATORS, MEDICAL/MENTAL HEALTH PROFESSIONS, & FACILITY PREA COMPLIANCE MANGER/DEPARTMENT PREA COORDINATOR):

DATE OF SEXUAL ABUSE INCIDENT REVIEW: _____

SEXUAL ABUSE INVESTIGATION COMPLETED ON: _____

SAR HELD WITHIN 30 DAYS OF COMPLETED INVESTIGATION: ☐ YES ☐ NO, EXPLAIN.

LIST TEAM MEMBERS & IDENTIFY REPORTING MEMBER:

SUMMARY OF SEXUAL ABUSE INCIDENT (DATE, TIME, SPECIFIC LOCATION, & FACTS):

SEXUAL ABUSE INCIDENT REVIEW (SAR) TEAM REPORT:

1) ASSESS COMPLIANCE WITH PREA STANDARDS (LIST POSITIVES/NEGATIVES):

2) DOES POLICY OR PRACTICE NEED TO BE CHANGED? EXPLAIN.

PREA: SEXUAL ABUSE INCIDENT REVIEW REPORT (BACK)

SEXUAL ABUSE INCIDENT REVIEW (SAR) TEAM REPORT (CONTINUATION PAGE):	
3) INCIDENT MOTIVATED BY RACE, ETHNICITY, LGBTI STATUS (PERCEIVED), SECURITY THREAT GROUP AFFILIATION OR OTHER INMATE GROUP DYNAMICS? EXPLAIN.	
4) DID STAFFING LEVELS IMPACT PREA INCIDENT? EXPLAIN.	
5) ASSESS WHETHER VIDEO TECHNOLOGY IS NEEDED TO AUGMENT STAFFING. EXPLAIN.	
6) SUMMARY OF RECOMMENDATIONS, COMMENTS OR CONCERNS.	
PRINT NAME AND TITLE OF REPORTING STAFF MEMBER COMPLETING FORM:	SIGNATURE OF REPORTING STAFF MEMBER COMPLETING FORM: DATE/TIME: /
WARDEN'S RESPONSE TO SEXUAL ABUSE INCIDENT REVIEW TEAM'S RECOMMENDATIONS	
☐ IMPLEMENT FULL RECOMMENDATIONS AND PROVIDE DOCUMENTATION. ☐ IMPLEMENT RECOMMENDATION IN PART OR DISAGREE, EXPLAIN.	
	SIGNATURE OF WARDEN: DATE/TIME: /

DISTRIBUTION: Warden, IDA, PSD PREA Coordinator, Facility PREA Compliance Manager

Inter-Office
MEMORANDUM

DEPARTMENT OF PUBLIC SAFETY

No. _____

Suspense: _____

Today's Date

TO: _____, PREA Coordinator

THROUGH: _____, Warden

FROM: _____, Deputy Warden or Chief of Security

SUBJECT: **PREA FINAL DISPOSITION**

1) Name of alleged victim:

2) Date of alleged incident:

3) Location:

4) General Synopsis:

5) Law Enforcement notified (Report #):

6) Misconduct (Staff and/or inmate)/Investigation/Hearing:

7) Name of Facity Injury Report (HCU):

8) Hospital (Kapiolani) Injury Report:

9) Recommendation (Substantiated/Unsubstantiated/Unfounded):

10) Justification:

Approved/Disapproved:

_____

Name of Warden Date

Attachments (Reports/PREA Checklist, Supporting DOCS)

c: PREA file