



DEPARTMENT OF THE NAVY
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IN REPLY REFER TO

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PSL (CORR)
14 May 14

Prison Rape Elimination Act Policy Letter 1-14

From: Head, PSL Corrections
To: Distribution List

Subj: PRISON RAPE ELIMINATION ACT (PREA); POLICY LETTER

Ref: (a) 28 C.F.R., Part 115 (Prison Rape Elimination Act National Standards)
(b) OUSD (P&R) DTM 13-002 of 10 Feb 13 (Ch 1 of 19 Sep 13) (NOTAL) (Department of Defense Implementation of the Prison Rape Elimination Act)
(c) DoDI 6495.02 (Sexual Assault Prevention and Response Program Procedures)
(d) MCO 1752.5B (Sexual Assault Prevention and Response) Program
(e) BUPERSINST 1640.22 (Naval Corrections Manual)
(f) SECNAVINST 1640.9C (Department of The Navy Corrections Manual)
(g) MCO P14.32C Volume 1 Officer Promotions
(h) MCO P14.32D w/Change 1, Volume 2 Enlisted Promotions
(i) Manual for Courts-Martial 2012

Encl: (1) Memorandum of Agreement(MOA)in regards to investigative and medical support of the PREA national standards for Department of the Navy Corrections System
(2) Prison Rape Elimination Act Intake Information Sheet
(3) Screening for Risk of Victimization and Abusiveness Form
(4) Facility Organizational Chart
(5) PREA Pamphlet

1. Purpose. To publish policy in accordance with reference (b), directing the implementation of PREA within the Marine Corps Corrections system. Additionally, to interpret and clarify, within a governing "agency" context, the Department of Justice (DoJ) national PREA standards contained within reference (a).

2. Applicability. Guidance contained within this policy is applicable to all Marine Corps confinement facilities.

3. Background.

a. Reference (b) depicts the Commander in Chief's direction as set forth in his Presidential Memorandum to the heads of executive offices and agencies on 17 May 2012 by directing the Military Departments to implement the provisions of PREA. Each military service is responsible for the rapid development and implementation of PREA.

b. Several PREA standards require interpretation and clarification within a military context in order to ensure standardized implementation within the Marine Corps corrections system. Furthermore, PSL Corrections recognizes there may be contrasting issues between DoJ and Department of

Defense (DoD) policies and will seek to resolve such issues with the DoD Corrections Council, PREA Working Group per reference (b).

4. Interpretation and Clarification

a. General

(1) Throughout reference (a), the term "inmate" is used in place of "prisoner." However, the Marine Corps corrections system refers to all persons confined, (pre-trial and post-trial), as prisoners.

(2) "Common space" refers to facility spaces external of housing units (e.g., work spaces, gyms, recreation areas, program areas, classrooms, etc.).

(3) "Housing unit" refers to internal facility dayrooms, showers, and sleeping quarters.

(4) "Isolation" as used within the PREA standards, refers to denial of access to any daily large-muscle exercise or any required core or applicable designated level programs. (e).

(5) The term "sexual assault," as referred to within is synonymous with the term "sexual abuse" as defined within reference (a). The terms "sexual abuse/sexual harassment," (PREA Definitions) "sexual misconduct," (Naval Definitions) and "sexual assault" (SAPR Definitions) have the meanings assigned by their respective sources of authority. In an effort to most effectively facilitate PREA's goal of preventing sexual abuse, allegations of a sexual nature meeting any or all of these definitions will be referred for investigation.

(6) The term "restrictive housing" is synonymous with "segregation" or "special quarters."

b. § 115.5 General Definitions

(1) "Allegation" means any assertion made by a staff member, volunteer, contractor, intern, prisoner, third party, or anonymous party that brings to light any possible act of sexual harassment, sexual abuse, or sexual misconduct, regardless of severity or merit and whether such acts are believed to be consensual or not.

(2) "Contractor means a person who provides services pursuant to a contractual agreement with the agency." In this context, the term "agency" shall be substituted with "facility."

(3) "Employee" and "staff" are interchangeable and include both military and civilian personnel assigned to the confinement facility. General Schedule (GS), Contractors, volunteers, and interns are considered staff for the purpose of this policy memorandum.

(4) "Facility head" refers to the Commanding Officer (CO), or designee, of the confinement facility. The term "warden" refers to the CO or designee.

(5) "Grievance procedure" refers to an administrative means of resolution for prisoner problems. In the Marine corrections environment, grievance procedures refer to prisoner use of DD Form 510 and/or the CO's Mailbox.

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(6) "Jail" is not a term used within the Marine Corps corrections system; however, "jail" means a Level I confinement facility.

(7) "Juvenile" includes any military service member under the age of 18 in confinement.

(8) "Medical practitioner" includes licensed and credentialed medical officers, physician assistants, corpsman, nurses, and nurse practitioners.

(9) "Mental health practitioner" includes licensed and credentialed psychiatrists, psychologists, social workers, and mental health technicians.

(10) "Pat-down search" refers to frisk search.

(11) "Prison" is not a term used within the Marine Corps corrections system however, the term "prison" as defined in PREA, means all military confinement facilities.

(12) "Security staff" includes all staff responsible for the supervision and control of prisoners in housing units, recreational areas, dining areas, and other program areas of the facility.

(13) "Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency." In this context, the term "agency" shall be substituted with "facility."

c. Definitions related to Sexual Abuse, Sexual Misconduct, Sexual Assault

(1) PREA General Definitions (Sexual Abuse, Voyeurism, Sexual Harassment). Per the guidance the term Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(b) Contact between the mouth and the penis, vulva, or anus;

(c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(d) 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.

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

(a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(b) Contact between the mouth and the penis, vulva, or anus;

(c) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(d) 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;

(e) 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;

(f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident; and

(h) Voyeurism by a staff member, contractor, or volunteer.

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

(4) Sexual Harassment Includes

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

(b) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

d. Naval Corrections General Definitions (Indecent Exposure, Sexual Misconduct)

(1) The term *Indecent Exposure* (Category III offense) means: Intentionally exhibiting one's sexual organs, bare buttocks, or in the case of a female, bare breast, to another or to public view.

(2) The term *Sexual Misconduct* (Category IV offense) means: Soliciting, threatening, or engaging in sexual or lewd conduct with another.

e. Uniform Code of Military Justice (UCMJ) and DoDI 6495.02 (SAPR) Defines Rape, Sexual Assault, Aggravated Sexual Contact, Abusive Sexual Contact, Sexual Act, Sexual Conduct, Bodily Harm, Grievous Bodily Harm, and Force as;

(1) Title 10, Chapter 47, United States Code, UCMJ, Articles 120-120c criminalize a number of sexual behaviors, all of which are included as a matter of policy within the term "sexual misconduct." This list is not exhaustive. Per Article 120 the term Rape means any person subject to this

chapter [10 USCS §§ 801 et seq.] who commits a sexual act upon another person by;

- (a) using unlawful force against that other person;
- (b) using force causing or likely to cause death or grievous bodily harm to any person;
- (c) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;
- (d) first rendering that other person unconscious; or
- (e) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; is guilty of rape and shall be punished as a court-martial may direct.

(2) Sexual assault means any person subject to this chapter [10 USCS §§ 801 et seq.] who commits a sexual act upon another person by;

- (a) threatening or placing that other person in fear;
- (b) causing bodily harm to that other person;
- (c) making a fraudulent representation that the sexual act serves a professional purpose; or
- (d) inducing a belief by any artifice, pretense, or concealment that the person is another person;

(3) Commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or

(4) Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to-

(a) impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or

(b) a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person; is guilty of sexual assault and shall be punished as a court-martial may direct.

(5) Aggravated sexual contact means: any person subject to this chapter [10 USCS §§ 801 et seq.] who commits or causes sexual contact upon or by another person if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

(6) Abusive sexual contact means: any person subject to this chapter [10 USCS §§ 801 et seq.] who commits or causes sexual contact upon or by another person, if to do so would violate subsection (b) (sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

(7) Sexual Act means:

(a) Contact between the penis and the vulva or anus or mouth, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

(b) The penetration, however slight, of the vulva or anus or mouth of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(8) Sexual Contact means:

(a) Touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or

(b) Any touching, or causing another person to touch, either directly; or through the clothing, any body part of any person if done with intent to arouse or gratify the sexual desire of any person.

(c) Touching may be accomplished by any part of the body.

(9) Bodily harm means any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact.

(10) Grievous bodily harm means: serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.

(11) Force means:

(a) The use of a weapon,

(b) The use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or

(c) Inflicting physical harm sufficient to coerce or compel submission by the victim.

(12) Per DoDI 6495.02 (CH-1), Sexual Assault Prevention and Response (SAPR) Program Procedures, of 12 Feb 14 the term Sexual assault means intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. As used in DoDI 6495.02, the term includes a broad category of sexual offenses consisting of the following specific UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses.

f. Standards

(1) § 115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator. Within § 115.11(a), the PREA Compliance Manager shall be provided sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. This may be a full-time, primary, or collateral assignment and shall be reflected in the facility organizational chart. At a minimum, the PREA Compliance Manager shall be in the grade of

E7/GS-09 or above. The PREA Compliance Manager shall have direct access to the facility CO or designee in the execution of their PREA-related duties.

(2) § 115.12. Contracting with Other Entities for The confinement of Inmates. Any new or revised agency agreement shall provide for the entity's obligation to adopt and comply with the PREA standards and to provide for monitoring to ensure the entity is complying with the PREA standards.

(3) § 115.13 Supervision and Monitoring. Ideally, sufficient resources (e.g., human capital, fiscal, physical plant, technology, etc.) would be available to meet all elements of the corrections mission simultaneously. However, in an era of limited resources, especially in regard to staffing, authorizing additional structure for supervision and monitoring is not always possible. Staffing deficiencies require facility COs to make decisions on how to best utilize available resources. To provide increased guidance on resource allocation, the following mission priorities are established for the operation of all Marine Corps confinement facilities:

(a) Staff and prisoner safety and security are top priorities therefore; all permanent security posts will be staffed at all times. In the event of manpower shortages, security considerations take precedence and the staffing plan shall provide adequate levels of staffing and video monitoring to protect prisoners against sexual harassment and sexual abuse to the best extent possible.

(b) For purposes of overall brig manpower planning, the facility, at a minimum, shall use the PREA Facility Staffing Plan Analysis (e.g., facility assessment) when determining minimum manning for security posts. Any requests for additional staff shall be forwarded with justification to PSL Corrections.

(c) Availability of required programs shall be maintained per the facility's designation level (e.g., I/II/III).

(4) § 115.13(a)(4). An internal oversight entity of a Marine Corps confinement facility is for example, an incident review board. An external oversight entity may include the Inspector General's Office, DoJ, American Correctional Association (ACA), or Service Headquarters.

(5) § 115.13(c). The facility staffing plan shall be completed annually and submitted to PSL Corrections no later than 31 May.

(6) § 115.13(c)(2). The facility's deployment of video monitoring systems and other monitoring technologies shall be consistent with available financial resources and reviewed by facility architectural review boards. The architectural review board shall be comprised of, at a minimum, the CO, Brig Officer/TD, PREA Compliance Manager, and the Operations Officer/Chief.

(7) § 115.13(d). Facilities shall implement a policy and practice of having intermediate/higher-level supervisors (e.g., department heads and Brig Officer) conduct and document regular and random unannounced, daily rounds to identify and deter staff and prisoner sexual harassment and sexual abuse. Unannounced rounds shall include all shifts and areas of the facility on a weekly basis. Additional policy shall prohibit announcing to other staff members that rounds are occurring, unless such announcement is related to operations of the facility.

(8) § 115.14. Youthful Inmate. In circumstances where a juvenile is confined, the spirit and intent of this standard shall apply. Commingling

between juvenile and adult prisoners is not authorized in housing units. In all common spaces, the facility shall provide direct staff supervision [escort] when juvenile prisoners and adult prisoners have sight, sound, or physical contact. Video monitoring is not a substitute for direct supervision.

(9) § 115.15. Limits to Cross-gender (Opposite Sex) Viewing and Searches

(a) § 115.15(a). All Marine Corps confinement facilities, regardless of rated capacity, 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.

(b) § 115.15(c). Documentation of cross-gender searches shall be documented in the Brig Log and identified as a significant event by highlighting the entry in yellow only.

(c) § 115.15(f). For sub-paragraph (f) of this standard, the term "agency" shall be substituted with "facility."

(d) § 115.15(e). Upon initial receipt and prior to search, the prisoner will be asked what gender he or she is or identifies with, pursuant to the provisions of the standard. As a part of the confinement physical, medical personnel will annotate the specific gender e.g., male, female, intersex, etc., of the prisoner within block 9b of DD Form 2707, Confinement Order.

(10) § 115.16. Inmates With Disabilities and Inmates Who are Limited English Proficient. The term "agency" shall be substituted with "facility" throughout this standard.

(a) § 115.16(a). Facilities shall ensure that guidance to access such services, support, and materials, as coordinated through the assigned facility Americans with Disabilities Act (ADA) Coordinator, are included in the Prisoner Rules and Regulations, in printed materials, or posted within the housing units.

(b) § 115.16(b). Linguistic services, as an example, may be accessed via "Military One Source" available via <http://www.militaryonesource.mil> or (800) 342-9647, if not available through existing staff. At the installation level, N2 (G2 for Marine Corps) may be a resource for interpreters. At State levels, community-based victim service agencies can often provide related support.

(11) § 115.17 Hiring and Promotion Decisions

(a) § 115.17. For this standard, the term "agency" shall be substituted with "facility" throughout.

(b) PSL Corrections shall develop and issue a standardized screening tool, consistent with the provisions of this standard. Facility COs, via the PREA Compliance Manager, will ensure all staff complete the screening instruments, which will be maintained in accordance with PREA standards. Furthermore, COs shall not recommend any staff members for promotion/advancement who meet the provisions of § 115.17(a)(1) through (3).

(c) § 115.17(a)(1), 115.17(a)(2), and 115.17(a)(3). For civilians, facility COs shall coordinate with the installation Human Resource Office (HRO) to facilitate the hiring process; particularly, with respect to interviewing prospective employees concerning the provisions of 115.17.

(d) § 115.17(e). A criminal background records check will be conducted at least annually for all current personnel who may have contact with inmates. (i.e., service members, GS employees, contractors, volunteers and corrections specialists assigned to Law Enforcement Battalions)

1. Service members will have a record check conducted upon check-in to new facilities.

2. Facilities will be required to submit requests for records checks to PSL Corrections. Each annual record check thereafter must be conducted no later than the date of the initial record check.

3. The only exemptions will be for those that are assigned to special duties solely outside of corrections (e.g., recruiting duty, drill instructor duty, embassy duty, and equal opportunity advisors, etc.).

(e) § 115.17(g). Appropriate administrative or disciplinary actions shall be referred to the applicable civilian or military activity for action.

(12) § 115.18. Upgrades to Facilities and Technologies. The term "agency" shall be substituted with "facility" throughout. Planning and designing for upgrades to the facility or technology shall be submitted to PSL Corrections for prior approval.

(13) § 115.21. Evidence Protocol and Forensic Medical Examinations

(a) § 115.21. The term "agency" shall be substituted with "facility" throughout.

(b) § 115.21(a)(b). Marine Corps confinement facilities shall follow Naval Criminal Investigative Services (NCIS) and Navy Bureau of Medicine and Surgery (BUMED) protocols for evidence collection and medical examinations.

(c) § 115.21(d). The DoD Safe Helpline, operated by the Rape Abuse and Incest National Network (RAINN), offers sexual assault support to the DoD community and is considered a rape crisis center ref (d). Contact information shall be made readily available to all staff and prisoners and posted within all housing areas. All communication to the DOD Safe Helpline and other crisis centers is considered privileged. Facilities are encouraged to pursue and document attempts to secure local agreements to exceed the provisions of this standard.

(d) § 115.21(h). For the purposes of this standard, a qualified facility staff member can be, but is not limited to, the duties of a Uniformed Victim Advocate (UVA) or Sexual Assault Prevention and Response (SAPR) representative.

(14) § 115.22 Policies to ensure referrals of allegations for investigations

(a) Throughout § 115.22, substitute "agency" with "facility," less 115.22(b).

(b) § 115.22(a). The standard includes prisoner-on-prisoner sexual abuse and staff sexual misconduct.

(c) § 115.22(b). Interpret as follows: The facility shall have in place a policy to ensure that allegations of sexual harassment or sexual abuse are referred for investigation to an appropriate Military Criminal Investigation Organization (MCIO) (e.g., NCIS). The facility shall document all such referrals. Should the MCIO relinquish investigative jurisdiction, the facility shall conduct an investigation by qualified investigators. Facility investigators must have received specialized training including techniques for interviewing sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The facility shall publish its investigative policy on its website or, if it does not have one, make the policy available through other means. The conduct of administrative investigations includes both internal (e.g., facility) and external (e.g., Battalion/Squadron, Installation Inspector General (IG)) entities.

(d) The process for internal administrative investigations shall be consistent with the disciplinary process found within ref (f).

(e) The process for external administrative investigations shall be consistent with the Marine Corps Inspector General Program Investigations Guide Parts 1 and 2. For additional investigations guidance, use ref (i).

(f) § 115.22(d) and 115.22(e). Non-applicable.

(15) § 115.31 Employee Training

(a) § 115.31. The term "agency" shall be substituted with "facility" throughout.

(b) The CO is responsible for designating qualified instructors and ensuring all employee training is conducted in accordance with the standard.

(c) § 115.31(a). Employee training shall include:

(1) Attendance of facility-specific PREA policy training by qualified instructors.

(2) Completion of the NIC e-course "Your Role: Responding to Sexual Abuse."

(d) Employees trained with National Curriculum and Training Institute (NCTI) certified instructors prior to signature of this policy are currently exempt and shall adhere to this policy during subsequent refresher training.

(e) Qualified Instructors (Train the trainer). At a minimum, basic qualification for "qualified instructors" includes completion of the following six National Institute of Corrections (NIC) PREA e-courses: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting; PREA Coordinators' Roles and Responsibilities; PREA Audit Process and Instrument Overview; Investigating Sexual Abuse in a Confinement Setting; Medical Health Care for Sexual Assault Victims in a Confinement Setting; and Your Role: Responding to Sexual Abuse. Continuing education is encouraged.

(16) § 115.32 Volunteer and Contractor Training

(a) § 115.32. Substitute "agency" with "facility" throughout. Interns, if/when applicable, shall be included in this standard.

(b) § 115.32(a). All Marine Corps confinement facilities shall develop a standardized volunteer, contractor, and intern training curriculum.

(c) § 115.32(c). The Facility Training section is responsible for maintaining volunteer, contractor, and intern training records. Facility staff shall ensure the training office is provided with an up-to-date list of contractors, volunteers, and interns on a monthly basis.

(17) § 115.33 Inmate Education

(a) § 115.33. Substitute "agency" with "facility" throughout.

(b) § 115.33(c). "upon transfer to different facility" is interpreted as "received from another facility."

(18) § 115.34 Specialized Training: Investigations

(a) § 115.34. Substitute "agency" with "facility" throughout.

(b) § 115.34(b). In addition to the training requirements contained within this standard, a "qualified investigator" (e.g., facility investigator, NCIS agent) refers to a professional who has also successfully completed specialized training that includes, at a minimum, the following course offered on-line by the NIC: Investigating Sexual Abuse in a Confinement Setting.

(c) § 115.34(c). The facility training section shall maintain documentation of training completion for NCIS and facility investigators.

(d) § 115.34(d). Non-applicable.

(19) § 115.35. Specialized Training: Medical and Mental Health Care

(a) § 115.35. Substitute "agency" with "facility" throughout.

(b) § 115.35(b) is not applicable. Facility staff shall not conduct forensic examinations.

(c) § 115.35(c). The facility training section shall maintain documentation of training completion for medical and mental health practitioners.

(d) § 115.35(d). Medical practitioners shall complete specialized training that includes, at a minimum, the following course offered on-line by the NIC: Medical Health Care for Sexual Assault Victims in a Confinement Setting.

(e) § 115.35(d). Mental health practitioners (e.g., licensed and credentialed psychiatrists, psychologists, social workers, and mental health technicians) shall complete specialized training that includes, at a minimum, the following course offered on-line by the NIC: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting.

(20) § 115.41. Screening for Risk of Victimization and Abusiveness

(a) § 115.41. Substitute "agency" with "facility" throughout.

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(b) § 115.41(c). All confinement facilities shall use the Screening for Risk of Victimization and Abusiveness document provided by PSL Corrections

(c) § 115.41(i). The screening document is to be maintained within the prisoner record.

(21) § 115.42. Use of Screening Information

(a) Throughout § 115.42, substitute "agency" with "facility," with the exception of § 115.42(c);

(b) PSL Corrections shall designate the place of confinement for transgender or intersex prisoners following an initial facility assessment and recommendation by the facility Commanding Officer.

(22) § 115.43. Protective Custody

(a) § 115.43(a). Assessment shall be made by the Classification and Assignment (C&A) Board.

(b) § 115.43(b). Any restrictions, not limited to 115.43(b)(1)-(3), shall be documented on the DD 509, Inspection Record of Prisoner in Segregation (Mar 13), any special handling letters, and weekly counselings.

(c) § 115.43(d). Such documentation, not limited to 115.43(d)(1)/(2), shall be recorded within the prisoner record, Corrections Management Information System (CORMIS), or applicable management information system (MIS).

(23) § 115.51. Reporting

(a) § 115.51. Substitute "agency" with "facility" throughout.

(b) § 115.51(a). Internal methods include, but are not limited to verbal reports, submission of DD Form 510 (Prisoner Request) to CO's mail box, written reports, anonymous reports, reports from third parties, telephonic reports, etc.

(c) § 115.51(b). For purposes of reporting, inmates in immigration status, while confined, shall be provided information on how to contact relevant consular officials and appropriate officials at the Department of Homeland Security.

(24) § 115.52. Exhaustion of Administrative Remedies. Substitute "agency" with "facility" throughout.

(a) § 115.52(a-b). Facilities will process allegations of sexual misconduct IAW procedures found in ref (d).

(b) § 115.52(d). For this standard, the following two courses of action will be administered as appropriate:

1. Allegations involving sexual misconduct. For allegations of sexual misconduct, facilities will process IAW procedures found in ref (d). Additionally, the final decision will be issued as per the timelines (90 days for final decision, plus an additional 70 days if needed) found within the standard.

2. Allegations not involving sexual misconduct. Any portion(s) of the grievance not involving sexual misconduct will be handled in accordance with appropriate procedures found in ref (e) and (f). Additionally, the following will be adhered to:

a. § 115.52(d)(1). The facility shall issue a final decision on the merits of any portion of a grievance not involving sexual misconduct within 30 days of the initial filing of the grievance.

b. § 115.52(d)(3). Non-applicable. The facility CO will provide inmates with a final decision as per paragraph 2a above.

c. § 115.52(d)(4). Non-applicable. The CO or designee will respond to all prisoner grievances.

(c) § 115.52(e)(1-3). Facility staff will process third party reports of allegations of sexual misconduct IAW with procedures found in ref (d).

(d) § 115.52(f)(1). Emergency Grievance Procedures

1. Any prisoner who feels at substantial risk of imminent sexual abuse may submit an emergency grievance to any staff member orally or in writing.

2. All emergency grievances shall be forwarded to the Duty Brig Supervisor (DBS) who shall take immediate action to protect the prisoner and notify the facility CO or designee.

3. If the facility CO or designee is the subject of the grievance, the grievance shall be forwarded to PSL Corrections for action.

4. The prisoner shall be given an initial response within 48 hours and a final decision within five calendar days).

5. The initial response and final decision shall document any determination as to whether the prisoner is at substantial risk of imminent sexual abuse, and shall document the action taken in response to the emergency grievance.

(e) § 115.52(a)-(g). Prisoner Appeal Process

1. After receipt of the final decision, prisoners have fifteen (15) days to submit an appeal to the CO.

2. Upon receipt of an appeal, the CO will have 15 days or additional time for any inquiries that require assistance from agencies outside of the facility, to render a decision to the appeal.

3. The CO will provide updated information to the prisoner concerning the status of the appeal.

(25) § 115.53. Inmate Access to Outside Confidential Support Services

(a) § 115.53(c). Substitute "agency" with "facility."

(b) § 115.53(c). The DoD Safe Helpline, operated by the Rape Abuse and Incest National Network (RAINN), offers sexual assault support to the DoD community and is considered a community service provider.

(26) § 115.54 Third-party Reporting

(a) § 115.54. Substitute "agency" with "facility" throughout.

(b) This information shall be made available to the public on the facility website, or by other means.

(27) § 115.61. Staff and Agency Reporting Duties. Substitute "agency" with "facility" throughout.

(28) § 115.62. Agency Protections Duties

(a) § 115.62. Substitute "agency" with "facility" throughout.

(b) § 115.62. Such actions shall be recorded within the Brig Log, prisoner record, or CORMIS/applicable MIS.

(29) § 115.63. Reporting to Other Confinement Facilities

(a) § 115.63(c). Substitute "agency" with "facility."

(b) § 115.63(c). Such actions shall be recorded within the prisoner record or CORMIS/applicable MIS.

(30) § 115.64. Staff First Responder Duties

(a) § 115.64. Facilities shall have a written first responder policy for allegations of sexual abuse that contain, but is not limited to, the provisions of this standard.

(b) § 115.64. Facilities shall ensure all security staff members are trained as first responders.

(31) § 115.66. Preservation of Ability to Protect Inmates from Contact with Abusers. Substitute "agency" with "facility" where applicable.

(32) § 115.67. Agency Protection against Retaliation

(a) § 115.67. Substitute "agency" with "facility" throughout.

(b) § 115.67(a). Retaliation monitoring is a responsibility of the PREA Compliance Manager, Technical Director, DBS, or Brig Officer. However, it is everyone's responsibility to prevent, detect, and to report all forms of retaliation.

(c) § 115.67(b). For prisoners, protective measures and monitoring actions shall be recorded within the prisoner record or CORMIS/applicable MIS. Additionally, measures to protect staff shall be documented within their staff records.

(33) § 115.68. Post-allegation Protective Custody. All post-allegation protective measures shall be recorded within the prisoner record or CORMIS/applicable MIS.

(34) § 115.71 Criminal and Administrative Agency Investigations. Substitute "agency" with "facility" throughout.

(a) § 115.71(d). Non-applicable. The MCIO indicated in Encl (1) will conduct the investigation in accordance with their organizational procedures.

(35) § 115.72. Evidentiary Standard for Administrative Investigations. The facility shall rely on the MCIO determined in Encl (1) in order to comply with the standard.

(36) § 115.73 Reporting to Inmates

(a) § 115.73(b)-(f). Substitute "agency" with "facility" throughout.

(b) § 115.73(c)(1). The term "unit" is defined to mean any area where the alleged staff member and prisoner could be co-located.

1. Subsequent staff posting or prisoner housing, work, and programmatic assignments shall not result in co-location within the facility.

2. The Commanding Officer may further determine to remove the accused staff member or prisoner from the facility pending the results of the investigation. For the transfer/transport of prisoners, the Commanding Officer shall contact HQMC PSL Corrections for coordination.

(c) § 115.73(e). All notifications or attempted notifications to the prisoner shall be recorded within the prisoner record or CORMIS/applicable MIS.

(37) § 115.76. Disciplinary Sanctions for Staff

(a) Substitute "agency" with "facility" throughout.

(b) The term "termination" for civilians means removal from the confinement facility, after due process. For Marines adjudicated for any form of sexual misconduct, at minimum, removal from the confinement facility and revocation of 5831/04 MOS, after due process. For contractors, volunteers, and interns, termination means dissolution of any further employment with the facility. In any case where an allegation of sexual harassment or sexual abuse is substantiated, but does not result in termination, discipline shall include removal of the staff member from working in any Marine Corps confinement facility.

(c) § 115.76(d). Notification to law enforcement agencies is a responsibility of the facility CO or designee. Reporting to any licensing body is a responsibility of the facility Commanding Officer.

(38) § 115.77. Corrective Action for Contractors and Volunteers

(a) § 115.77(a). Notification to law enforcement agencies and licensing body is a responsibility of the facility Commanding Officer.

(b) § 115.77(a). The portion of the standard "unless the activity was clearly not criminal, and to relevant licensing bodies." is not applicable to Marine Corps confinement facilities. All sexual activity between staff and prisoners and prisoner on prisoner is strictly prohibited.

(c) § 115.77(b). Substitute "agency" with "facility" throughout.

(39) § 115.78. Disciplinary Sanctions for Inmates

(a) § 115.78. Substitute "facility" for "agency" throughout.

(b) § 115.78(c). In addition to the standard, facilities shall consult with medical and mental health supporting activities, as necessary.

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(c) § 115.78(d). The facility shall make available, clinical treatment services, therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse.

(d) § 115.78(e). Non-applicable. All sexual activity is prohibited in Marine Corps confinement facilities.

(e) § 115.78(g). All Sexual Activity Between Prisoners is Prohibited.

(40) § 115.81. Medical and Mental Health Screenings History of Sexual Abuse. Facilities will utilize the screening tool provided Encl (6).

(41) § 115.82. Access to Emergency Medical and Mental Health Services. Required actions shall be documented within applicable facility records.

(42) § 115.83. On-going Medical and Mental Health Care for Sexual Abuse Victims and Abusers

(a) § 115.83. Offers or provision of any services (e.g., evaluations, treatment or tests and their results, and referrals) shall be documented within applicable facility records.

(b) § 115.83(h). This standard includes all Marine Corps confinement facilities, to the degree feasible and where resources allow. The 60 day timeline within the standard remains applicable.

(43) § 115.86. Sexual Abuse Incident Reviews

(a) § 115.86(d). The CO shall establish a review team to conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation. At minimum, the team will consist of the Brig Officer/Supervisor, MCIO representative, and medical or mental health practitioner.

(b) § 115.86(d)(6). At a minimum, the report shall include items contained within § 115.86(d)(1)-(5).

(44) § 115.87. Data Collection

(a) § 115.87(a). Facilities shall use the most current version of SSV-4 (Survey of Sexual Violence) and SSV-IA (Incident Form) for definitions, annual (calendar year) data collection, and reporting requirements.

(b) § 115.87(b). PSL Corrections shall aggregate data by 1 June annually.

(c) § 115.87(d). Substitute "agency" with "facility." Such data shall be reviewed during operational readiness inspections.

(d) § 115.87(f). Facilities shall submit data to PSL Corrections for the previous calendar year, no later than 31 May of each year.

(45) § 115.88. Data Review for Corrective Action. PSL Corrections shall collaborate with confinement facilities in the development of the annual report. The report shall consist of; data review for identifying problem areas and taking corrective action. Furthermore, prepare an annual

report of findings and corrective action for each facility and the agency as a whole.

(46) § 115.89. Data Storage, Publication, and Destruction

(a) PSL Corrections shall provide aggregated data reports to all confinement facilities.

(b) § 115.89(a). The term "agency" includes the confinement facilities.

(47) § 115.93. Audits of Standards. PSL Corrections shall coordinate with confinement facilities and PREA Auditors for the scheduling, contracting and payment of audits.

(48) § 115.401. Frequency and Scope of Audits. PSL Corrections will publish a 60 day naval message which will serve as notification of the forthcoming audit. An audit of a confinement facility shall take place at least once every three years.

(a) § 115.401(e). Substitute "agency" with "facility."

(b) § 115.401(f). The term "agency" includes the facility.

(c) § 115.401(k). Communication of staff or prisoner with a DoJ PREA auditor shall be considered privileged correspondence.

(d) § 115.401(m). Prisoner communication with a DoJ PREA auditor shall be considered privileged correspondence.

(e) § 115.401(n). Prisoner correspondence with a DoJ PREA auditor shall be considered privileged.

***Note, per the PREA Auditors' checklist, confinement facilities are required to post a notice of the audit in each housing unit of the facility to be audited. This notice should be in place six weeks prior to the audit, and must include an address at which the auditor can receive confidential correspondence prior to the onsite audit and through the issuance of the final report. This address can be a P.O. Box.

(f) § 115.401(o). Facilities will coordinate communication between DoJ PREA auditors and community-based or victim advocates who may have insight into relevant conditions of the facility (e.g., SARC, SAPR, DoD Safe Helpline, etc.).

(49) § 115.404. Audit Corrective Action Plan

(a) § 115.404(b)(e). Substitute "agency" with "confinement facility."

(b) If the PREA auditor determines that the facility "Does not meet standard" with respect to any standard provision, the auditor and the confinement facility will jointly develop a corrective action plan. Within 180 days, the auditor is required to verify implementation of the corrective action plan, issue a final determination, and complete a final PREA audit report. If no corrective action plan is required, the auditor will provide a final report at the end of the PREA audit. Agencies are required to post their PREA Audit Final Reports on their agency web site.

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(50) § 115.405. Audit Appeals. Substitute "agency" with "facility" throughout.

5. Action. Confinement Facility Commanding Officers (CO) shall designate in writing, a PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. Additionally, the CO will ensure all allegations of unrestricted sexual abuse, sexual harassment and sexual misconduct; regardless of severity or merit be immediately reported for investigation. PSL Corrections and COs shall develop policies and procedures endemic to the Marine Corps that satisfy the requirements of PREA with universally high standards and strict enforcement measures.

6. Point of Contact. The point of contact regarding this matter is Mr. Radomet R. Pagan available at Blackberry: (703) 350-5982 or Office: (703) 604-4125, DSN 664, email: radomet.r.pagan@usmc.mil.



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