THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION

DIRECTIVE

[X] NEW [ ] INTERIM [ ] REVISED			SUBJECT		
EFFECTIVE DATE 5/2/16	*TERMINATION DATE / /		ELIMINATION OF SEXUAL ABUSE AND SEXUAL HARASSMENT		
CLASSIFICATION # 5011	SUPERSEDES 5010R-A	DATED 12/31/08	APPROVED FOR WEB POSTING [X] YES [ ] NO	DISTRIBUTION A	PAGE 1 OF 43 PAGES
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER			AUTHORIZED BY THE COMMISSIONER		
MARTIN J. MURPHY, CHIEF OF DEPARTMENT		SIGNATURE	JOSEPH PONTE		SIGNATURE

I. PURPOSE

The purpose of this Directive is to establish New York City Department of Correction (Department) policies and procedures for preventing, detecting, reporting, and responding to incidents of sexual abuse and sexual harassment against inmates in Department custody pursuant to the Prison Rape Elimination Act (PREA) of 2003.

II. POLICY

A. The Department has a zero-tolerance policy toward all forms of sexual abuse and sexual harassment against any person who works, visits, or is confined in any of its facilities or contracted facilities. The Department shall respond to, investigate, and support the prosecution of all sexual misconduct within all facilities operated by the agency and its contractors.

B. Under both Department policy (Department Rules and Regulations 3.20.170 and this Directive) and Mayor's Executive Order No. 16 (MEO-16), all staff, regardless of title, have a duty to report any sexual abuse or sexual harassment or any information regarding inappropriate relationships between an employee and inmate. Such duty to report shall include any allegations, knowledge, or reasonable belief regarding such conduct.

C. Department Rule and Regulation 3.25.040 prohibits members of the Department from engaging in any undue familiarity with inmates or permitting undue familiarity on the part of the inmate toward themselves.

D. The Department strictly prohibits sexual abuse, sexual harassment, and sexual contact (including that of a consensual nature) between inmates. When appropriate, sexual abuse or harassment initiated by an inmate shall be referred for criminal

II. POLICY (Cont.)

prosecution. The Department shall impose disciplinary sanctions when an inmate engages in consensual or non-consensual sexual acts and/or sexual contact.

E. Any staff who fails to report such information is subject to disciplinary action.

F. Neither New York State Law nor The Department recognizes as a defense the act of consensual sexual contact between staff and inmates. The presumptive discipline for any consensual sexual contact between a staff and an inmate is termination of the staff and a referral for prosecution. Inmates may also be disciplined for such conduct.

G. Any contractor or volunteer who engages in sexual abuse with an inmate in Department custody shall be prohibited from any future contact with inmates and shall be reported to the law enforcement authority of jurisdiction, i.e., the New York City Police Department, unless the activity was clearly not criminal. The Department is also required to report such acts to any relevant licensing organizations the individual may be affiliated with.

H. The Department prohibits retaliation against any individual because of his/her involvement in the reporting or investigation of an allegation of sexual abuse or harassment. It is Department policy to treat retaliation as a separate actionable offense that is subject to separate administrative sanctions and possible referral for criminal prosecution.

I. It is Department policy to require that all activities encompassed in reporting and investigating allegations are held in confidence and on an official "need-to-know" basis. Likewise, any records of these allegations are confidential unless the information must be shared in order to make safe housing and care decisions. These may include, but are not limited to, verbal reports, written incident reports, investigations, dispositions, medical information, mental health evaluations and findings, recommendations for post-release treatment and/or counseling, and witness statements. It is Department policy to treat any breach of confidentiality as a separately actionable offense that is subject to administrative sanctions.

J. The Central Operations Desk (COD) shall ensure that all pertinent report information is obtained, noting who, what, where, when, how, name and shield number, and NYSID and book and case number. However, when transcribing the information on the 24-Hour Report and sending out information over the paging system, COD shall report only: facility, date and time, and the statement that a sexual allegation was

II. POLICY (Cont.)

reported. COD shall not include the name of the alleged victim or perpetrator or the sexual act allegedly committed. COD will document the sexual allegation in the Incident Reporting System (IRS) and designate the incident as either Sexual Abuse or Sexual Harassment.

K. The Department shall make all aggregated sexual abuse data from facilities under its direct control readily available to the public at least annually through the Department website.

III. INTRODUCTION

A. Applicability

This policy applies to all Department employees, contract employees, and volunteers who have contact with inmates, and any individuals who provide services at Department facilities who have contact with inmates committed to Department custody.

B. Objectives:

1. Within seventy-two (72) hours of arrival at each facility, inmates shall receive information about the zero tolerance policy against sexual abuse and sexual harassment and how to report it. More comprehensive education, such as information on prevention, intervention, self-protection, reporting and investigation procedures, adjudication procedures, and the accessibility of medical and mental health counseling for complainants shall be provided within thirty (30) days of arrival.

2. Staff will have a clear understanding that a sexual act or sexual contact between an inmate and an employee is sexual abuse, even if the inmate consents, and that sexual abuse is a felony offense under New York State Penal Law Article 130, and that the Department will pursue criminal prosecution in these cases.

3. The occurrence of sexual abuse and sexual harassment of an inmate by another inmate may be reduced by identifying predators and vulnerable inmates who may be potential complainants via proper PREA screening and classification.

III. INTRODUCTION (Cont.)

Prompt reporting of any alleged sexual abuse or sexual harassment is required to be made, a thorough investigation shall be completed, and appropriate discipline shall be taken against employees and inmates who sexually abuse and/or sexually harass other inmates or otherwise violate mandates set forth in this Directive.

C. Notice of Non-Discrimination

The Department's policy is in accordance with federal and state laws and regulations prohibiting discrimination and harassment. These laws include the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972, the New York State Human Rights Law, and the New York City Equal Employment Opportunity Policy. These laws prohibit discrimination and harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, military status, sexual orientation, gender identity or expression, familial status, creed, arrest record, genetic information, disability, status as a victim of domestic violence, stalking, or sexual harassment. Discrimination in violation of the laws and policy will not be tolerated. Violators will be subject to disciplinary action.

IV. DEFINITIONS & TERMS – For the purposes of this Directive, the following definitions shall apply:

A. Complainant: A person who is alleged to have been subject to any act of sexual abuse or sexual harassment.

B. Consent: Words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the complainant resulting from use of force, threats, or coercion by the respondent shall not constitute consent.

C. Contractor: Any person who provides services for the Department pursuant to a contractual agreement with the Department.

D. Department Staff Member/Employee: A person who works directly for the Department.

IV. DEFINITIONS & TERMS (Cont.)

E. False Allegation: An allegation that is untrue in that the events that were alleged did not occur.

F. Force: The use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by the complainant.

G. Indecent Exposure: The display by an employee or inmate of his or her uncovered genitalia, buttocks, or breast(s) in the presence of another inmate.

H. Identifier Designation: A term ("vulnerable" or "predatory"), either confirmed or potential, given to an inmate after asking them questions designed to determine if they may be vulnerable to sexual abuse or be possible perpetrators of sexual abuse while incarcerated.

I. Intersex: A set of medical conditions that feature a congenital anomaly of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes, external genitalia, and/or an internal reproductive system that do not seem to fit typical definitions of either male or female.

J. Invasion of Privacy:

1. Observing, attempting to observe, or interfering in an inmate's activities of a personal nature without a sound penological reason.

2. Failure of an employee of the opposite sex to announce his/her presence, without a sound penological reason, when entering an inmate's housing unit.

K. Investigative Outcome: When an investigation concludes, the allegations will be labeled one of the following:

1. Substantiated: The allegation was investigated and determined to have occurred;

2. Unsubstantiated: The allegation was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred; or

IV. DEFINITIONS & TERMS (Cont.)

3. Unfounded: The allegation was investigated and determined not to have occurred.

L. Official Custody: Detention following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense or an allegation or finding of juvenile delinquency; following commitment as a material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion. Also, custody for purposes incident to any detention described in this paragraph, including during transport, medical diagnosis or treatment, court appearance, work and recreation, probation, or parole.

M. Investigation Division (ID): Office within the Department responsible for conducting all administrative investigations and responsible for calling local law enforcement for all allegations of sexual abuse made by inmates.

N. Department of Investigation (DOI): New York City agency responsible for investigating staff-on-inmate sexual abuse or sexual harassment.

O. PREA Coordinator: An upper level Department employee responsible for managing the development, implementation, and oversight of the Department's plan to comply with the PREA standards. This staff member ensures the proper implementation of the PREA standards at all Department facilities, monitors Department training programs to ensure they comply with PREA training standards, monitors inmate screening procedures, tracks and reviews sexual abuse and harassment investigations, works with medical and mental health professionals to ensure their compliance with the PREA standards, supervises the Department's PREA data collection, and provides appropriate access and materials to PREA auditors.

P. PREA Compliance Manager (PCM): A staff person responsible for coordinating the facility's efforts to comply with the PREA standards. Works very closely with the PREA Coordinator. The PCM shall have sufficient time and authority to coordinate the facility's efforts to comply with PREA standards.

Q. PREA Incident: Sexual abuse or sexual harassment by staff against an inmate or sexual abuse or sexual harassment by an inmate of another inmate.

R. Predatory Inmate: An inmate whose past behavior or charges indicates they are prone to victimize other inmates especially in regards to sexual behavior.

S. Respondent: The person accused of any act of sexual abuse or sexual harassment.

IV. DEFINITIONS & TERMS (Cont.)

T. Retaliation: Restraint, interference, coercion, acts of covert or overt vengeance, or threats of action to discourage, prevent, or punish an inmate for his/her involvement in the reporting or investigation of a sexual abuse or sexual harassment allegation

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

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

2. Contact between the mouth and the penis, vulva, or anus;

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

4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

V. Sexual abuse of an inmate by staff, contractor, or volunteer: includes any of the following acts, with or without consent of the inmate:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however, slight;

2. Contact between the mouth and the penis, vulva, or anus;

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

4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated

IV. DEFINITIONS & TERMS (Cont.)

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 an employee, contractor, or volunteer to engage in the activities described in IV.V.1-5 above;

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

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

W. Sexual Assault Nurse Examiner (SANE): A registered nurse (RN) who has advanced education and clinical preparation in forensic examination of sexual assault victims.

X. Sexual Assault Forensic Examiner (SAFE): A medical professional who is an expert at comprehensive assessment, identification, and documentation of injuries of sexual assault victims.

Y. Sexual Harassment:

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

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

Z. Transgender: A term used to describe someone whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth.

AA. Undue Familiarity: Conversation, contact, or a personal or business dealing between an employee and an individual under the care, custody, and control of the Department which is unnecessary, not a part of the employee's duties, and/or related to a personal relationship or purpose rather than a legitimate correctional purpose. (Also see Attachment O)

IV. DEFINITIONS & TERMS (Cont.)

BB. Volunteer: An individual who donates time and effort to enhance the activities and programs of the Department.

CC. Voyeurism (by a staff employee, contractor, or volunteer): An invasion of privacy of an inmate 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 breast(s); or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

DD. Vulnerable Inmate: An inmate who is at high risk to become a victim of sexual abuse by another inmate due to characteristics related to age; physical stature; criminal history; limited proficiency in English; physical, developmental, or mental disabilities; gender identity; or past history of being victimized.

EE. Youthful Inmate: Any inmate under the age of eighteen (18) who is under adult court supervision and incarcerated or detained in a Department facility. These inmates shall also be categorized as an adolescent within the Department. In addition to other Department reporting requirements, incidents involving youthful inmates must also be reported to the New York State Central Register of Child Abuse and Maltreatment, Mandated Reporter, child abuse reporting hotline (see Attachment A).

V. GUIDELINES

A. General Requirements

1. Staff Notification and Training

a. The Human Resources Division (HRD) shall issue a copy of this Directive to all new employees, volunteers, and contract employees when they receive their photo identification card. HRD shall require each individual to sign an acknowledgement of receipt of this Directive. HRD shall retain the signed receipt and place a copy in the individual's employment folder.

b. All volunteers that come through the Programs Department must follow the same guidelines as those coming through HRD. Volunteers must receive a copy of the Directive when they receive their photo identification card, and sign an acknowledgement receipt of this Directive. The

V. GUIDELINES (Cont.)

Programs Department shall retain the signed receipt and a copy of the receipt shall be placed in the individual's volunteer folder.

c. The Department Training Academy and volunteer trainers shall update trainer lesson plans and review requirements of this Directive with new employees, volunteers, and contract employees during orientation training.

d. Mandatory Pre-Service Training and biennial (once every two years) refresher training of this Directive shall be conducted for all Department employees, volunteers, interns, and contract employees who may have contact with inmates.

e. This Directive shall be made readily available to all Department employees, contract employees, and volunteers at all times.

f. Department training staff shall conduct the training for prevention, detection, and responding to sexual abuse and sexual harassment.

g. Contractors who have direct contact with inmates shall be trained in PREA requirements.

h. Department staff from the programs office shall train volunteers and other individuals such as occasional service providers who have direct contact with inmates or provide services to inmates, of the prohibitions and requirements of this Directive. Volunteers and service providers shall acknowledge that they received such training by signing an acknowledgement of training form.

2. All Department staff must understand their responsibility in the prevention, detection, response, and reporting of all incidents of sexual abuse and sexual harassment. Professional and trained staff will help prevent incidents of sexual abuse and sexual harassment by following the guidelines below during the performance of their duties:

a. Know and enforce rules regarding sexual abuse, sexual harassment, and sexualized behavior of inmates;

b. Use professional language at all times;

V. GUIDELINES (Cont.)

c. Treat all allegations seriously and follow appropriate reporting procedures;

d. Recognize that incidents can occur virtually anywhere, especially in areas that are not directly supervised at all times (sound correctional practice includes conducting frequent, random area and cell checks and providing direct staff supervision whenever possible);

e. Maintain an open line of communication with all inmates;

f. Recognize that first-time, youthful, elderly, mentally and physically disabled, non-English speakers, developmentally disabled, lesbian, gay, bi-sexual, intersex, and transgender inmates, as well as those who have sexual victimization history or have committed sexual offenses (or are accused of committing them) are at an increased risk of sexual abuse;

g. Be aware of possible warning signs that might indicate that an inmate has been sexually abused or in fear of being sexually abused (warning signs include, but are not limited to: isolation, depression, lashing out at others, refusing to shower, suicidal thoughts or actions, seeking protective custody, and refusing to leave segregation);

h. Be aware of potential sexually aggressive behavior. The sexual aggressor may be known by the general population. Characteristics or warning signs may include a prior history of committing rape, history of institutional violence, use of strong arm tactics (extortion), associating or pairing up with inmates who meet the profile of a potential victim, exhibiting voyeuristic/exhibitionist behavior, and demonstrated inability to control anger.

3. In addition to the general training provided to all employees, the Department shall ensure employees conducting sexual abuse and sexual harassment investigations receive specialized training in conducting sexual abuse and sexual harassment investigations in confinement settings.

4. In addition to the general training provided to all employees, the Department shall ensure that all full-time and part-time medical and mental health care practitioners who work regularly in its facilities be trained in:

V. GUIDELINES (Cont.)

a. How to detect and assess signs of sexual abuse, sexual assault, and sexual misconduct;

b. How to preserve physical evidence of sexual abuse;

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

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

5. Hiring and Promotion Decisions

a. The Department Office of Equal Employment Opportunity, the Legal Division, and the Trials and Litigation Division must be consulted prior to any staff member being promoted or transferred to determine if there are any pending or past charges of sexual allegations against the employee.

b. The Department shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with inmates, who:

i. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

ii. 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 complainant did not consent or was unable to consent or refuse; or

iii. Has been civilly or administratively adjudicated to have engaged in the activity described in V.A.5.b.i above.

c. The Department shall consider any incidents of sexual harassment in determining whether to hire or promote anyone or to enlist the services of any contractor who may have contact with inmates.

V. GUIDELINES (Cont.)

d. Before hiring new employees who may have contact with inmates, the agency shall:

i. Perform a criminal background records check; and

ii. Consistent with Federal, State, and local law, make its best efforts to contact any/all employers who have the responsibility for inmate custody for information on substantiated allegations of sexual abuse or any resignation during a pending investigation or an allegation of sexual abuse.

e. The Department shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates.

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

g. The Department shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in V.A.5.b above in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

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

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

B. Inmate Training and Notification

1. Facility Intake

V. GUIDELINES (Cont.)

a. The Commanding Officer of each facility shall ensure that each inmate receives a copy of the inmate handbook during the intake and inmate orientation process, and no later than seventy-two (72) hours upon admission to the facility. The Inmate Handbook shall contain written notice of the prohibition of sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. The Inmate Handbook shall also contain written notice of how to report any and all such allegations. The inmate shall also be verbally told of the Department's zero tolerance policy and ways to report sexual abuse and harassment.

b. Within five (5) days of arrival, the Warden of the intake facility shall ensure that each inmate receives facility orientation and training in accordance with Directive 3750, "Inmate Orientation."

c. Orientation and training shall include comprehensive education to address prevention, intervention, self-protection, reporting sexual abuse and sexual harassment, adjudication procedures, facility policies and procedures for responding to such incidents, accessibility of medical and mental health counseling, and further information on the sexual abuse hotline for inmates to report allegations and on the grievance system. The orientation shall also provide the inmates with comprehensive in person education (also through video and/or written material) of their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents.

d. Current inmates who have not received such education shall be educated within one (1) year of the effective date of the PREA Standards and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differs from those of the previous facility.

e. Each inmate shall, by signature, acknowledge this orientation in accordance with this Directive and Directive 3750, by signing Form PREA-8, "Inmate Awareness Acknowledgement Form" (Attachment I).

2. The "Hotline Number Poster" shall be posted in areas accessible to inmates and employees and shall be checked at least monthly by the PCM to ensure all are posted as required.

V. GUIDELINES (Cont.)

3. This Directive shall be maintained on every housing area "A" post for inmates to review upon request. This Directive shall also be made available to inmates in the Law Library and Clinic areas. Copies of this Directive shall be made available to all employees via the Facility Information Systems (FIS) office via the Department's internal website.

4. The Department shall take appropriate steps to ensure that inmates who are not proficient in English, are deaf or hard of hearing, visually impaired, who have limited reading skills, or who are otherwise disabled have equal opportunity to participate in or benefit from all aspects of the Department's efforts to prevent, detect, report, and respond to sexual abuse and sexual harassment.

5. The Department shall provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

6. The Department shall ensure that written materials are provided in formats or through methods that ensure effective communication with all inmates with disabilities.

7. The Department shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-responder's duties under this Directive, or the investigation of the inmate's allegations.

C. INTAKE SCREENING

1. Inmates will be screened for potential vulnerability to sexual abuse or harassment, or tendencies to act out through sexually aggressive behavior at Intake within seventy-two (72) hours, upon transfer, and as needed while incarcerated.

2. MEDICAL AND MENTAL HEALTH

   a. During the intake process, medical and mental health staff shall review the inmate's institutional file and all available records to identify past history and any currently observed behavior that may indicate potential

V. GUIDELINES (Cont.)

sexual vulnerability or aggression. Medical and mental health staff shall ask the inmate PREA related questions and document all responses using Form PREA-2, "PREA Intake Questionnaire" (Attachment C).

b. Upon admission to any Department Facility, medical and mental health staff shall, during the medical and mental health screening, ask the inmate questions that may determine whether the individual has been a victim of or has committed acts of sexual violence in the past.

c. Medical and mental health staff shall be observant for other possible indications or any other information that is contained in the medical records, other records, or that is obtained from the inmate that might identify potential sexual vulnerability or aggression.

d. Medical and mental health practitioners shall not reveal any information related to prior sexual victimization to anyone other than to the extent necessary to make treatment, housing, programming, and other security and management decisions.

e. Medical and mental health staff shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting unless the inmate is under the age of eighteen (18). If under eighteen (18), staff must notify the New York State Central Register of Child Abuse and Maltreatment, Mandated Reporter, child abuse reporting hotline (see Attachment A).

f. Medical and mental health staff shall document this information in the electronic medical chart and on the screening tool and promptly notify security and classification staff for appropriate inmate housing and other security safeguards.

g. Medical and mental health practitioners shall offer all inmates with a history of sexual victimization a follow-up appointment within fourteen (14) days with a medical or mental health professional.

3. CLASSIFICATION

a. Intake staff shall use the Form PREA-2 filled out by medical and mental health to make appropriate classification and housing recommendations.

V. GUIDELINES (Cont.)

b. Any inmate assessed as being at risk of victimization shall not be housed with an inmate assessed as being abusive. Appropriate alerts shall be placed in the Inmate Information System (IIS) to prevent these inmates from being housed in the same cell.

c. All information about an inmate's past history as a complainant or information that he or she might potentially be the complainant of a recent sexual aggression shall be reported confidentially to the Warden or designee, the PCM, and the PREA Coordinator.

d. The Department shall use information from the inmate's risk screening to make informed decisions regarding housing, work, education, and program assignments with the goal of keeping separate those at high risk of being victimized from those at high risk of being sexually abusive.

4. REASSESSMENT

a. Within a set time period, not to exceed thirty (30) days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness.

b. An inmate's risk level shall be reassessed when warranted and/or as needed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness using Form PREA-3, "PREA Safety Check" (Attachment D).

c. Inmates may not be disciplined for refusing to answer or for not disclosing complete information in response to screening questions.

d. The Department shall use information from the inmate's reassessment to reevaluate current housing, work, education, and programs assignments with the goal of keeping separate those at high risk of being sexually victimized from those at high risk of being sexually abusive.

5. HOUSING LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX INMATES

V. GUIDELINES (Cont.)

a. In deciding whether to assign a transgender or intersex inmate to a male or female facility and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the health and safety of the inmate and whether the placement would present management or security problems.

b. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

c. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

d. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

e. The Department shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings based solely on the basis of such identification or status.

6. YOUTHFUL INMATES

a. A youthful inmate shall not be placed in a housing unit in which the youth will have sight, sound, or physical contact with any adult inmate through the use of shared dayroom or other common space, shower area, or sleeping quarters.

b. In areas outside of housing units, the Department shall maintain sight and sound separation between youthful inmates and adult inmates or provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.

c. Exigent circumstances may require removal to a special housing unit to ensure youthful inmates are not in an environment where they will have sight, sound, or physical contact with an adult inmate. In these cases, the facility shall make its best efforts not to place youthful inmates in isolation cells. If required to be isolated due to exigent circumstances, these inmates will have access to large-muscle exercise and all legally required

V. GUIDELINES (Cont.)

special education services. They will also have access to programs and work opportunities to the extent possible. All decisions and reasons for those decisions shall be clearly documented.

7. SEARCHES AND OBSERVATION

a. Cross-gender inmate strip searches or visual body cavity searches shall not be conducted except in exigent circumstances (that is, temporary unforeseen circumstances that require immediate action in order to combat a threat to security or institutional order, or when performed by medical practitioners).

b. Cross-gender inmate pat/frisk searches of female inmates by male employees are prohibited except in exigent circumstances (that is, temporary unforeseen circumstances that require immediate action in order to combat a threat to security or institutional order).

c. If exigent circumstances exist and a cross-gender pat/frisk search of a female inmate or cross-gender strip search or body cavity search of any inmate does occur, the search must be documented using Form HQ/SM 14, "Random Search Report" (Attachment L), in accordance with Directive 4508R-E, "Control of and Search for Contraband." A copy of the completed form must go to all individuals in accordance with Directive 4508R-E, the PCM, and the PREA Coordinator.

d. Searches or physical examinations of a transgender or intersex inmate for the sole purpose of determining the inmate's gender are prohibited.

e. Inmates may 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 (that is, temporary unforeseen circumstances that require immediate action in order to combat a threat to security or institutional order) or when such viewing is incidental to routine cell/living quarter checks.

f. Employees of the opposite gender must announce their presence when entering an inmate housing unit.

V. GUIDELINES (Cont.)

8. HOUSING INMATES IDENTIFIED AS VULNERABLE OR PREDATOR (PROTECTIVE CUSTODY)

a. An inmate identified as vulnerable to sexual abuse shall not be housed with an inmate identified as predatory. For the purposes of this Directive, predatory inmates are defined as inmates who have a history of sexually assaultive behavior or who are assessed as presenting a risk to vulnerable inmates.

b. Inmates at high risk for sexual victimization or inmates who report sexual victimization shall be assessed by the Operations Security Intelligence Unit (OSIU) for placement purposes. OSIU may not place inmates in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely predators. If OSIU cannot conduct such an assessment immediately, OSIU may hold the inmate in involuntary segregated housing for less than twenty-four (24) hours while completing the assessment.

c. Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible.

d. The facility shall document the opportunities that have been limited, the duration of the limitation, and the reasons for the limitation. Such inmates may only be assigned to Protective Custody until another option can be arranged and not ordinarily for more than thirty (30) days.

e. If the inmate is placed in involuntary segregated housing, OSIU's documentation must include: the basis for the concern for the inmate's safety, the reason why no alternatives are available, and the contents of a review, offered every thirty (30) days, to determine if there is a continuing need for separation.

VI. PROCEDURES

A. REPORTING PROCEDURES FOR INMATES

VI. PROCEDURES (Cont.)

Reporting to Staff

1. Staff shall accept reports made verbally, in writing, anonymously, and/or from third parties and shall promptly document any verbal reports.

2. Inmates shall have the opportunity to report sexual abuse, sexual harassment, and retaliation by other inmates or staff as well as staff neglect or violation of responsibilities that may have contributed to such incidents. They can report to any employee privately and are encouraged to report all allegations of sexual abuse and sexual harassment. Any verbal inmate report is a formal notification and the employee shall proceed and report the allegation as directed in this Directive. Staff shall not require the inmate to submit a written report.

3. An inmate may report such incidents to anyone, including chaplains, medical and/or mental health staff, volunteers, counseling staff, security staff, or administrators, and may do so by informing the person in any manner available. All such reports will be reported and investigated.

4. Other Reporting Options (see Attachment A)

   a. Any inmate, or third party on behalf of an inmate, may make a confidential report of sexual abuse or sexual harassment through the DOI twenty-four (24) hour hotline;

   b. Inmates may call the Department Internal Hotline;

   c. Inmates may directly call 311 and ask for "Constituent Services."

5. Written Complaint

   a. An inmate may file a written complaint of sexual abuse or sexual harassment directly to the Warden of the facility, PCM, PREA Coordinator, or any staff.

   b. An inmate may file a written complaint through the inmate grievance system.

6. Grievance

VI. PROCEDURES (Cont.)

a. The inmate may file the complaint as a Grievance in accordance with the provisions outlined in Directive 3376, "Inmate Grievance and Request Program."

b. If an inmate makes a sexual allegation report through the grievance system, the report will be immediately forwarded to the on-duty Tour Commander, the facility PCM, and ID. The grievance coordinator is not authorized to speak to the inmate who is reporting the allegation. There are no administrative procedures to address or investigate inmate sexual abuse allegations through the grievance process. The established procedure for addressing inmate sexual abuse is via an immediate report to ID for investigation.

c. There is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse as stated in Directive 3376.

d. The Department may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.

e. The Department shall not require an inmate to use any informal grievance process or to otherwise attempt to resolve with staff an alleged incident of sexual abuse.

f. The Department shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse.

g. Nothing in this section shall restrict the Department's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.

7. An inmate who makes a report of sexual abuse that is determined to be a false report may be charged with a disciplinary offense if it is determined the report was made in bad faith following the investigation as stated in Inmate Rule Book, §112.50.

8. Inmates shall not be charged for reports of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred. Such reports shall not constitute falsely reporting an incident or lying even if an

VI. PROCEDURES (Cont.)

investigation does not establish evidence sufficient to substantiate the allegation.

9. Victim Advocacy Emotional Support

Inmates may call Safe Horizon, a rape crisis center, to report sexual abuse and sexual harassment and to request victim advocacy and/or emotional support services.

B. REPORTING PROCEDURES FOR STAFF

1. Any employee who receives any information, from any source, concerning sexual abuse or sexual harassment or who observes an incident of sexual abuse or sexual harassment is required to do the following:

   a. Verbal Notification: Staff shall immediately report the information or incident directly through their chain of command to include their immediate supervisor. The supervisor shall make sure that a crime scene has been established and that the victim was sent to medical. The Tour Commander shall notify COD, the Warden, the PCM, and the PREA Coordinator. Any allegation of sexual activity as defined in this Directive shall be reported as a possible sexual abuse or sexual harassment. The employee shall not conduct any inquiry or investigation into the circumstances related to the allegation.

   b. Written Notification: Staff shall submit a written report providing any information received or observed that concerns sexual abuse or sexual harassment to the Tour Commander. The Tour Commander shall submit the report to the Warden or the highest ranking official on duty, ID, the PCM, and the PREA Coordinator before the end of his/her workday.

   c. Confidential Hotline: Any staff may also make a private report of sexual abuse or sexual harassment of inmates through the DOI twenty-four (24) hour hotline, the PREA internal hotline, or via a call to 311 and asking for "Constituent Services" (see Attachment A).

2. Housing Assessment

VI. PROCEDURES (Cont.)

a. For inmate-on-inmate allegations, before an inmate is returned to the housing area, the Tour Commander shall ensure that the inmate's housing status is evaluated to determine the need for transfer within the facility or to another facility. The Tour Commander shall also ensure that the alleged victim is separated from the alleged perpetrator pending investigation. In all cases, Separation Orders shall be issued immediately until such time as an investigation determines that they are not necessary.

b. For staff-on-inmate allegations, before the inmate is returned to the housing area, ID shall communicate with the facility to ensure that the inmate's housing area is assessed to determine the need to transfer the inmate to another facility or transfer the staff member to another housing area and/or facility.

3. Confidentiality

Employees shall not discuss any aspect of the allegation with other employees or inmates except in accordance with this Directive.

C. THIRD PARTY REPORTING

1. Third Party reporting includes reporting by fellow inmates, employees, family members, attorneys, and outside advocates. Third parties shall be permitted to assist inmates in filing grievances relating to allegations of sexual abuse and sexual harassment and shall also be permitted to file third party reports by any method. All such reports shall be investigated.

2. The Department's public website shall also provide information on how to report sexual abuse and sexual harassment on behalf of an inmate.

D. FIRST RESPONDER RESPONSIBILITIES

1. Upon receipt of notification of a sexual abuse complaint or upon observing an incident of sexual abuse, Department staff shall take the following steps:

a. Ensure the victim's safety by separating the victim from the alleged abuser.

VI. PROCEDURES (Cont.)

b. Stay with the complainant and notify the area supervisor (if the complainant is under eighteen (18), a notification shall be made to the New York State Central Register of Child Abuse and Maltreatment, Mandated Reporter number [child abuse reporting hotline]) (see Attachment A).

c. Immediately secure the crime scene and ensure it is protected.

d. Request that the victim not shower, eat, brush teeth, drink, change clothes, use the restroom, or take any actions that could destroy physical evidence until after evidence has been collected by qualified medical personnel.

e. Ensure the alleged aggressor not shower, eat, brush teeth, drink, change clothes, use the restroom, or take any actions that could destroy physical evidence until after evidence has been collected by qualified medical personnel. Upon ensuring all these requirements have been met, the inmate aggressor shall be afforded medical attention as soon as it is feasible and in accordance with existing Department policy. Every effort shall be made to preserve any physical evidence while treatment is administered.

f. Ensure the victim is escorted to the facility medical unit as soon as possible for appropriate assessment and treatment.

g. If there are no qualified medical or mental health practitioners on duty at the time a report is made, security staff first responders shall take preliminary steps to protect the victim and secure the aggressor then shall immediately notify the facility's designated medical and mental health practitioner.

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

2. The responding staff member must submit Form 370, "Incident Report" (Attachment N), to the supervisor before the end of his/her tour of duty. The information in this report should indicate that a crime scene was established. If no crime scene was established, please indicate why. A copy of this Report

VI. PROCEDURES (Cont.)

shall be given to the investigative body conducting the investigation and the PCM.

3. The responding staff member shall notify the area supervisor immediately. The area supervisor must ensure that a crime scene has been established, the victim has been sent to medical, and he/she must contact the Tour Commander. The responding staff member must also fill out Form 167R-A, "Injury to Inmate Report" (Attachment M). A copy of this report shall be given to the investigative body conducting the investigation and the PCM.

4. Where the subject of the allegation is the Tour Commander, notification shall be made directly to a Deputy Warden. If the Deputy Warden is not on duty, the supervisor should call COD directly.

5. No statements shall be taken from the inmates or employees.

E. SUPERVISORY RESPONSIBILITIES

1. The on duty supervisor shall immediately initiate necessary action, or verify that action has been taken, to protect all physical evidence and ensure the safety and welfare of the inmate. The supervisor may make a temporary administrative reassignment of the victim and/or alleged perpetrator to protect the inmates involved in accordance with Department Crime Scene policy.

2. The supervisor or designee will immediately question the complainant only to determine the suspect or suspects and where and when the sexual incident occurred. While all available information must be gathered and confirmed, medical assessment and physical evidence collection must not be delayed pending any initial investigation of the incident.

3. The supervisor shall immediately notify ID and/or DOI, the PCM, and the PREA Coordinator of any allegation of sexual abuse or sexual harassment defined in this Directive. The supervisor shall not conduct any inquiry or investigation into the circumstances related to the allegation unless the supervisor is a member of ID staff. ID shall notify local law enforcement when there are allegations of sexual abuse that are potentially criminal in nature.

4. The supervisor shall ensure that the reporting uniform staff member makes a logbook entry in the area COD logbook and prepares Form 167R-A.

VI. PROCEDURES (Cont.)

5. The supervisor shall forward the original Form 370 and Form PREA-1, "PREA-Related Incident Report" (Attachment B), to ID, the PCM, and the PREA Coordinator by the end of his/her tour of duty.

6. The supervisor shall, in cooperation with Medical, also:

   a. Ensure the complainant receives timely, unimpeded access to emergency medical treatment and crisis intervention services;

   b. Ensure that photographs are taken to document any physical evidence such as torn clothing, bruises, abrasions, etc.;

   c. If there is indication of sexual abuse, ensure the victim is transported to the local hospital for further treatment, examination, documentation, collection of forensic evidence, and testing for sexually transmitted diseases;

   d. Ensure referral for counseling and mental health services. This service may include ministerial staff;

   e. Ensure referral to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and/or telephone numbers, including toll-free hotline numbers where available, and making contact with such organizations on the inmate's behalf when requested;

   f. Ensure the perpetrator is secured in a dry cell or holding cell restricting access to water or toilet facilities pending investigation of the incident;

   g. If the alleged perpetrator is an employee, ensure that the suspected employee is separated from the alleged victim pending completion of the investigation.

7. Prohibited Contact

   The supervisor must immediately take action that shall prohibit contact between the complainant and the respondent (if the respondent is an employee) while the matter is being investigated. If the respondent is not on duty at the time of the

VI. PROCEDURES (Cont.)

allegation, the Commanding Officer shall be required to ensure the above action is taken immediately upon the respondent's return to duty.

8. Separation Orders

The supervisor must immediately issue separation orders between the complainant and respondent if both are inmates in any case of sexual abuse or sexual harassment.

9. Housing

a. Efforts shall be made to minimize any disturbance to the alleged complainant's and respondent's housing location or program activities during the investigation of the allegation, however separation of the parties is a priority.

b. The alleged complainant shall only be placed in Protective Custody or Administrative Segregation in accordance with Directive 6007R-A, "Protective Custody."

c. The alleged complainant and respondent shall be immediately placed in separate housing areas. A housing interview shall be conducted in accordance with Directive 6007R-A.

F. TOUR COMMANDER RESPONSIBILITIES

1. The Tour Commander shall notify COD, the Warden, the PCM, and the PREA Coordinator.

2. The Tour Commander shall complete Form PREA-1 and make the required notifications in accordance with the form. The Tour Commander shall give a copy of Form PREA-1 to the PREA Coordinator and PCM by completion of his/her tour of duty.

3. The Tour Commander will make notifications to COD in accordance with Directive 5000R-A, "Reporting Unusual Incidents." COD shall then make notifications in accordance with Directive 5000R-A and await instructions from ID or DOI.

VI. PROCEDURES (Cont.)

4. ID or DOI will communicate with the Tour Commander to give instructions on how to proceed.

G. MEDICAL AND MENTAL HEALTH TREATMENT

1. If a complainant alleges sexual abuse, Department staff shall ensure the complainant is immediately given the necessary emergency medical treatment by medical staff without compromising the integrity of available physical evidence.

2. Medical Staff shall:

   a. Obtain and record a description of the sexual abuse or assault in the alleged complainant's own words. The complainant will not receive a complete physical examination at the facility;

   b. Request the complainant not bathe, shower, brush their teeth, remove any items of clothing, urinate, or have a bowel movement until seen at the referring hospital;

   c. If a Department staff member is not yet aware of the incident, notify the highest ranking Department staff employee immediately;

   d. Record the general appearance (presence or absence of cuts, scratches, bruises, etc.) and demeanor of the complainant, as well as the condition of clothes (e.g., torn, stained, etc.);

   e. Refer the complainant immediately to an outside emergency room (ER) certified to treat sexual abuse complainants and with SANEs or SAFEs on staff.

   f. Ensure prompt evaluation and treatment;

   g. Notify the ER that a sexual abuse complainant is on his/her way to the ER.

3. Evidence Protocol and Forensic Medical Examinations Procedures

VI. PROCEDURES (Cont.)

a. Department staff and contracted medical staff shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions;

b. The Department shall offer all victims of sexual abuse access to a forensic medical examination. Such examinations shall be performed by SAFEs or SANEs where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners.

4. Upon return from the ER or upon hospital discharge, the medical and/or mental health staff shall:

a. Thoroughly review the discharge instructions and carry out orders as appropriate;

b. Validate if measures have been taken to prevent sexually transmitted diseases, HIV, and Hepatitis. If preventive measures have not been taken, preventive measures shall be offered;

c. Refer the victim to the mental health staff;

d. Refer the complainant to Safe Horizon for rape crisis counseling;

e. If the inmate was returned from the hospital to a new Department placement, obtain records and prior information from the medical and mental health staff at that facility;

f. Offer timely information and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care where medically appropriate to inmates who are victims of sexual abuse while incarcerated;

g. Offer pregnancy tests to victims of sexually abusive vaginal penetration while incarcerated;

VI. PROCEDURES (Cont.)

h. Provide victims with timely and comprehensive information about all lawful pregnancy-related medical services should pregnancy occur from sexual abuse;

i. Provide treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident;

j. Submit reports of sexual allegations to the PCM, the PREA Coordinator, ID, the Warden, and the Health Services Administrator.

H. MEDICAL AND MENTAL HEALTH CARE: SPECIALIZED TRAINING

1. The Department shall ensure that all full-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

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.

I. INVESTIGATION

1. General Investigation Procedures

a. ID shall conduct investigations for sexual misconduct that involve inmate-on-inmate allegations.

b. DOI shall conduct investigations for sexual misconduct that involve staff-on-inmate allegations or allegations that involve alleged rape cases. After a preliminary review of the facts, DOI may elect to have the investigation conducted by ID.

VI. PROCEDURES (Cont.)

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

d. If ID receives an allegation of sexual abuse or sexual harassment, the allegation shall be reported immediately to the Warden. ID shall provide follow-up written notification to the Warden, PCM, and PREA Coordinator by the close of the business day.

e. ID shall notify local law enforcement of all cases of sexual abuse or sexual harassment to conduct a criminal investigation unless the allegation does not involve potentially criminal behavior. ID shall document all such referrals and publish its policy on the Department website.

f. ID shall communicate with the local law enforcement agency concerning the status of any open investigation by local law enforcement. ID must document the status of a police investigation every thirty (30) days.

g. The occurrence of a police investigation does not relieve the Department of the duty to investigate complaints of sexual abuse and harassment. ID will continue to work closely with the New York City Police Department in sexual abuse investigations.

h. ID shall review each report to determine whether the alleged conduct constitutes sexual abuse or sexual harassment as defined in this Directive. ID may interview the complainant and/or any third party informants or witnesses to clarify facts concerning the allegation.

i. If the complaint is referred for investigation, ID shall provide written notification to the complainant and the respondent advising of the complaint, investigation procedures, confidentiality requirements, and the prohibition of communication, intimidation, or retaliation against the complainant. If the complaint is a third party, the notice will be sent to the complainant.

j. The ID Supervisor shall also forward the complaint to an ID Investigator. In cases where an interview was conducted with the complainant and/or

VI. PROCEDURES (Cont.)

third party or witness to clarify facts, that information shall also be forwarded to the Investigator.

k. If ID determines that the complaint does not involve sexual abuse or sexual harassment, but involves a violation of another departmental policy, ID may conduct an investigation or refer the complaint to the appropriate department for disposition.

l. Where sexual abuse is alleged, the Department shall only use investigators who have received specialized investigation training.

m. DOI or ID Investigators conducting a criminal investigation shall:

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

   ii. Use recording devices to interview alleged victims, suspected perpetrators, and witnesses;

   iii. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.

n. When the quality of evidence appears to support criminal prosecution, ID or DOI shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

o. Investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse.

p. All investigations shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, investigative facts and findings, and copies of all evidence where feasible.

q. The investigator shall contact the facility Warden and/or Deputy Warden of Administration directly for interview scheduling and coordination. All

VI. PROCEDURES (Cont.)

respondents shall receive advance notice of scheduled interviews and be advised of the right to legal representation.

r. Employees have the right to legal or union representation at the time of an interview. Per MEO-16, Employee Standards of Conduct, and Directive 7001R, "Investigation Division," employees do not have the right to refuse to answer questions in an investigation once given Garrity warnings by the Investigator.

s. If the respondent being interviewed has legal or union representation, the investigator shall explain that only the person being interviewed (the employee) shall answer the questions, but that the respondent has a right to speak to an attorney prior to being interviewed.

t. Refusal by any employee to answer questions during an official investigation and/or during an MEO-16 interview may be grounds to charge the employee for cause under MEO-16.

u. The Investigator shall advise each individual interviewed in the course of an investigation that any intimidation or retaliation towards the complainant, any witness, or the third party informant or disclosure of the incident that breaches confidentiality as defined in this Directive is a separate offense that is subject to disciplinary action.

v. The Investigator shall draft a statement detailing the testimony of the complainant, the alleged respondent, and any witnesses.

w. The Investigator shall permit anyone interviewed the opportunity to read and make necessary corrections/changes to their statement prior to signing it. The name or identifying characteristics of any confidential informant shall be deleted from the copies of the report.

x. The ID investigator shall submit the final written report to the ID Supervisor within sixty (60) business days (i.e. excluding Saturdays, Sundays, and legal holidays) of the incident being reported. The report shall include the Investigator's factual findings and whether the charges were substantiated, unsubstantiated, or unfounded.

VI. PROCEDURES (Cont.)

y. The Department shall obtain written reports from any local or State investigators or if DOI conducts an investigation and shall retain all written reports referenced above for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

z. The facility will cooperate with outside investigators and the PCM shall endeavor to remain informed about the progress of all investigations of sexual abuse and sexual harassment.

2. Interim Procedures during Investigation of Staff Accused of Sexual Abuse and Sexual Harassment

a. Under appropriate circumstances and with the Deputy Commissioner of ID or his/her designee's approval, the respondent may be placed on administrative leave pending the outcome of an investigation.

b. To the extent possible, the respondent shall not be assigned to work in any area where he/she is likely to come into contact with the complainant pending the outcome of the investigation.

c. During the investigation, the respondent shall be prohibited from making contact with the alleged complainant other than as allowable in the performance of official duties and assignment.

d. The facility Warden or ID Deputy Commissioner (or his/her designee) shall decide if it is appropriate to return an employee to his/her original workplace after the investigation is completed.

e. When appropriate and necessary, the Warden may transfer the complainant, any witnesses, or a third party informant to a comparable housing unit, to another facility, or make other appropriate housing accommodations in order to ensure their safety.

f. The Department shall not enter into any collective bargaining agreement or renew any collective bargaining agreement or other agreement that limits the Department's ability to remove staff accused of sexual abuse or sexual harassment from contact with any inmates pending the outcome of an investigation. The Department retains the right to determine whether and to what extent discipline is warranted on a case by case basis.

VI. PROCEDURES (Cont.)

3. Post-Investigation Procedures

a. Investigators shall notify the Warden, PCM, and PREA Coordinator of the findings of all sexual abuse and sexual harassment investigations and forward documentation for appropriate action. If the findings conclude that the allegation is substantiated, ID shall forward a copy of the report to the Deputy Commissioner of ID (DC) for action.

b. In cases involving an employee respondent, the Department shall ensure that appropriate disciplinary or criminal action consistent with the Rules and Regulations, are complied with.

c. In cases involving an inmate, the DC, in conjunction with the Warden as necessary, shall ensure that appropriate disciplinary and/or criminal action is initiated.

d. Following an investigation into an inmate's allegation that he or she suffered sexual abuse, the investigator or investigator's supervisor shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

e. Following an allegation made by an inmate that an employee has committed sexual abuse against the inmate, the Department will subsequently inform the inmate whenever:

i. The employee is no longer posted within the complainant's unit;

ii. The employee is no longer employed at the facility; or

iii. The Department learns the employee has been indicted or convicted on a charge related to sexual abuse within the facility;

f. Following an allegation by an inmate that he or she has been sexually abused by another inmate, the Department shall subsequently inform the alleged victim whenever:

i. The Department learns that the respondent has been indicted for or convicted on a charge related to sexual abuse with the facility.

VI. PROCEDURES (Cont.)

g. All notifications or attempted notifications shall be documented.

h. The Department's obligation to report under this section shall terminate if the complainant is released from Department custody.

4. Sexual Abuse Incident Review Team (SAIRT)

a. The facility shall establish a SAIRT made up of upper level management officials, with input from line supervisors, investigators, the PREA Coordinator or PCM, and medical and mental health practitioners.

b. The SAIRT shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation that was determined to be substantiated or unsubstantiated and record the findings on Form PREA-5, "Sexual Abuse Incident Review Form."

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

d. The review team shall:

i. Consider whether changes in policy or practice are needed to improve the prevention, detection, or response to sexual abuse incidents similar to the alleged incident;

ii. Consider whether race, ethnicity, gender identity, sexual orientation, gang affiliation, perceived status, or other group dynamics in the facility played a role;

iii. Consider whether physical barriers in the facility contributed to the incident or could enable abuse;

iv. Evaluate what staffing levels were at the time of incident and whether staffing levels need to be changed in light of the alleged incident;

v. Consider whether more or different video monitoring is needed;

VI. PROCEDURES (Cont.)

vi. Prepare a report of its findings, including any recommendations for improvement and submit such report to the facility Warden, PREA Coordinator, and PCM;

vii. Implement the recommendations for improvement or document its reasons for not doing so.

J. REPORTING TO OTHER CONFINEMENT FACILITIES

1. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Commanding Officer of the facility that received the allegation shall notify the Commanding Officer of the facility where the alleged abuse occurred as well as the Department PREA Coordinator.

2. Notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.

3. The Department staff member that made the notification shall document that it has provided such notification to the head of the facility where the alleged abuse occurred on Form PREA-7, "Reporting to Other Confinement Facility" (Attachment H).

4. The Commanding Officer or agency office that receives such notification shall ensure that the allegation is investigated in accordance with the PREA Standards.

K. CONFIDENTIALITY

1. Sexual abuse and sexual harassment complaints, including the identity of any witnesses, the alleged respondent, the alleged complainant, and all information and documents pertinent to the complaint shall be handled in a confidential manner.

2. Any inmate who observes and reports an act of sexual abuse or sexual harassment may request and be treated as a confidential informant.

L. EMPLOYEE DISCIPLINE

VI. PROCEDURES (Cont.)

1. In cases where there is a substantiated finding of sexual abuse, sexual harassment, breach of confidentiality, or retaliation against staff and/or an inmate, the appropriate manager or supervisor shall ensure that disciplinary action is proposed in accordance with the regulations outlined in Department Rules, Regulations, Directives, Written Protocols, and Conflict of Interest Laws. The presumptive discipline for sexual abuse is termination. All substantiated cases of sexual abuse will also be referred to the District Attorney's office for criminal prosecution.

2. The manager or supervisor shall inform ID in writing of disciplinary action taken against the employee. He/she shall also advise ID in writing of actions taken as a result of other recommendations resulting from the ID investigation.

3. Managers or supervisors who fail to report or take appropriate action when sexual abuse or sexual harassment against inmates is alleged or has been brought to their attention or who fail to initiate disciplinary action shall also be subject to disciplinary action.

4. The Department shall impose discipline on an employee based on a substantiated finding that sexual abuse or sexual harassment has occurred. The Department may take separate and distinct disciplinary action against an employee who has been found to have acted in violation of the laws of the State of New York, MEO-16, the New York City Equal Employment Opportunity Commission, New York State Division of Human Rights, or any order by a New York State Court.

5. Staff prosecuted and found guilty of a sexual assault of an inmate under the New York State Penal Law will face registration as a sex offender, may be held financially liable, and is not indemnified by the City if sued as a result of their actions.

M. INMATE DISCIPLINE

1. Inmates shall be subject to disciplinary sanctions pursuant to the formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

VI. PROCEDURES (Cont.)

2. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

3. The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

4. The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

N. PROTECTION AGAINST RETALIATION

1. The PCM shall be the designated staff who monitors retaliation against inmates for reporting sexual abuse. Multiple protection measures, to include housing changes, staff removal, and emotional support services, will be employed to protect inmates. Form PREA-4, "Sexual Abuse Retaliation Monitoring Form" (Attachment E) shall be used for such purposes.

2. For at least ninety (90) days, the PCM or designee shall monitor the conduct and treatment of any staff or inmate who reported sexual abuse to see if there are any changes that may suggest possible retaliation by other staff or inmates and promptly remedy any such retaliation. Any and all monitoring shall include periodic in-person status checks.

3. The PCM or designee shall continue monitoring beyond ninety (90) days if the initial monitoring indicates a continuing need.

4. Items the PCM or designee shall monitor include:

   a. Disciplinary Reports;

   b. Grievances;

   c. Housing or program changes; and

   d. Negative performance reviews or reassignments of staff.

VI. PROCEDURES (Cont.)

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

6. The Department's obligation to monitor shall terminate if the Department determines that the allegation is unfounded.

O. INMATE FOIL REQUESTS

1. An inmate or his/her attorney may submit a Freedom of Information Law (FOIL) request to the Legal Division FOIL Officer to review the investigation report.

2. The Department FOIL Officer shall review and redact the report to remove confidential information, including, but not limited to, the identity of confidential informants, medical information, personnel record information, or information which will compromise security. A redacted and non-redacted version of the report shall be maintained by the FOIL Officer.

P. COORDINATED RESPONSE

1. Each facility shall follow their written coordinated response plan that outlines the steps to take in the event of a sexual abuse incident. In such cases, Form PREA-6, "Coordinated Response Plan Form" (Attachment G), shall be used.

Q. STAFFING PLAN

1. The Department shall ensure that each facility develops, documents, and makes its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse.

VII. REFERENCES

A. Directive 3376, "Inmate Grievance and Request Program," dated 9/10/12.

B. Directive 3750, "Inmate Orientation," dated 7/11/06.

C. Directive 4508R-E, "Control of and Search for Contraband," dated 5/15/09.

VII. REFERENCES (Cont.)

D. Directive 5000R-A, "Reporting Unusual Incidents," dated 11/19/04.

E. Directive 6007R-A, "Protective Custody," dated 8/27/10.

F. Directive 7001R, "Investigation Division," dated 9/28/92.

G. Operations Order 05/07, "Crime Scene Incident Management," dated 5/8/07.

H. Inmate Rule Book.

I. City of New York, Mayoral Executive Order No. 16.

J. New York City Equal Employment Opportunity Commission Laws and Regulations.

K. New York State Division of Human Rights Laws and Regulations.

VIII. ATTACHMENTS

A. PREA Important Telephone Numbers

B. Form PREA-1, "PREA Related Incident Report"

C. Form PREA-2, "PREA Intake Questionnaire."

D. Form PREA-3, "PREA Safety Check."

E. Form PREA-4, "Sexual Abuse Retaliation Monitoring"

F. Form PREA-5, "Sexual Abuse Incident Review (SAIR) Report"

G. Form PREA-6, "Coordinated Institutional Response Plan Form."

H. Form PREA-7, "Reporting to Other Confinement Facility Form."

I. Form PREA-8, "Inmate Awareness Acknowledgement Form."

J. Form PREA-9, "PREA Staff Training Handout."

VII. ATTACHMENTS (Cont.)

K. Form PREA-10, "PREA Memobook Insert."

L. Form HQ/SM 14, "Random Search Report."

M. Form 167R-A, "Injury to Inmate Report."

N. Form 370, "Incident Report"

O. Memorandum 01/08, "Undue Familiarity and Prevention of Sexual Abuse of Inmates by Staff and Other Inmates," dated 2/7/08.

IX. SUPERSEDES

A. The language in this policy supersedes any other Directive, Operations Order, Teletype, Memorandum, etc., that may be in conflict with the policies and procedures outlined herein.

B. Directive 5010R-A, "Preventing Inmate Sexual Abuse," dated 12/31/08.

ATTACHMENT - A

CORRECTION DEPARTMENT

CITY OF NEW YORK

IMPORTANT TELEPHONE NUMBERS

Rev. : 11/16/15
Ref. : Dir. #5011

The following telephone numbers are furnished for your use when processing a PREA Allegation or Incident.

1. Inspector General - 212-266-1900
2. PREA Internal Hotline - 718-205-3054
3. Safe Horizon - 212-227-3000
4. NYS Central Register of Child Abuse and Maltreatment, Mandated Reporter Number (Child Abuse Hotline) - (800)-635-1522

ATTACHMENT - B

CORRECTION DEPARTMENT
CITY OF NEW YORK

PREA - RELATED INCIDENT REPORT

Form: PREA-1
Rev. : 11/16/15
Ref. : Dir. #5011

ALLEGED VICTIM

Inmate's Last Name:	Inmate's First Name:	Book & Case Number:	NYSID Number:

ALLEGED PERPETRATOR(S)

Inmate's Last Name:	Inmate's First Name:	Book & Case Number:	NYSID Number:
Inmate's Last Name:	Inmate's First Name:	Book & Case Number:	NYSID Number:
Inmate's Last Name:	Inmate's First Name:	Book & Case Number:	NYSID Number:

Receipt of information regarding any sexual misconduct directed towards an inmate shall immediately be reported as follows. Please select the appropriate method of contact.

Department	Name of Contact	Method of Contact	Time of Contact
PREA Coordinator		Email ☐ |Phone ☐ |Direct ☐	
Department of Investigation		Email ☐ |Phone ☐ |Direct ☐	
Investigation Division		Email ☐ |Phone ☐ |Direct ☐	
Warden or Designee		Email ☐ |Phone ☐ |Direct ☐	
PREA Compliance Manager		Email ☐ |Phone ☐ |Direct ☐	
Shift Commander		Email ☐ |Phone ☐ |Direct ☐	
Medical Services		Email ☐ |Phone ☐ |Direct ☐	
Mental Health Services		Email ☐ |Phone ☐ |Direct ☐	

Comments:

UPON COMPLETION, YOU MUST SCAN AND EMAIL WITH OFFICIAL NOTIFICATION LETTER.

CONFIDENTIAL
Department of Correction - City of New York
Internal Distribution Only

ATTACHMENT - C

CORRECTION DEPARTMENT
CITY OF NEW YORK

PREA INTAKE QUESTIONNAIRE

Form: PREA-2
Rev. : 2/8/16
Ref. : Dir. #5011

Inmate's Last Name:	Inmate's First Name:	Book & Case Number:	NYSID Number:

BELOW IS TO BE COMPLETED BY INTAKE STAFF

Name of Health Care Staff Preparing:	Rank/Title:	Shield/ID::	Date:

AT RISK OF VICTIMIZATION	Inmate Response	Documentation Reflects
1. Is the inmate here only for civil immigration purposes?		
2. Do you have any prior sex offense convictions?		
3. Have you ever had consensual sex while incarcerated?		
4. Have you ever been placed in protective custody?		
5. How old are you? _____		
6. Do you have any concerns for your safety while you're here? (If yes, please add comments below.)		

AT RISK OF ABUSIVENESS	Inmate Response	Documentation Reflects
7. Have you been incarcerated before?		
8. Ever arrested or convicted for a violent offense?		
9. Have you ever sexually abused or assaulted anyone while incarcerated?		

BELOW IS TO BE COMPLETED BY MEDICAL STAFF

Name of Health Care Staff Preparing:	Rank/Title:	Shield/ID::	Date:

AT RISK OF VICTIMIZATION	Inmate Response	Documentation Reflects
10. Do you identify as lesbian, gay, bi-sexual, transgender or intersex?		
11. Have you ever been sexually assaulted, abused or molested?		
12. Do you have any disabilities? (Mental, physical, intellectual or developmental) or does the interviewer perceive the inmate to be disabled?		

AT RISK OF ABUSIVENESS	Inmate Response	Documentation Reflects
13. Have you ever sexually abused or assaulted anyone while incarcerated?		
14. Do you have any concerns for your safety while you're here? (If yes, please add to comments below)		

Comments:

ATTACHMENT - D

CORRECTION DEPARTMENT
CITY OF NEW YORK

PREA SAFETY CHECK

Form: PREA-3
Rev. : 11/16/15
Ref. : Dir. #5011

Inmate's Last Name:	Inmate's First Name:	Book & Case Number:	NYSID Number:

Name of Preparer:	Rank/Title::	Shield/ID::	Date:

IMPORTANT: This safety check is a follow-up to the PREA Intake Questionnaire and shall be completed within 30 days of commitment.

Staff should read the following notice to the inmate:

The DOC is committed to providing a safe and humane environment for persons confined, staff and the community-at-large.

We ask everyone this series of questions and it is also important to know that this discussion is confidential to the extent that it will only be shared with staff that has a need to know in order to provide you with a safe environment. Please be advised that you will not be disciplined for refusing to participate.

If inmate refuses to answer check here ☐

1. Do you know how to report an incident of sexual abuse or sexual harassment? ☐ Yes ☐ NO (If no, educate)

2. Has anything happened since the intake process that makes you feel sexually unsafe? ☐ Yes ☐ No
(If yes, what happened?)

_____
_____
_____
_____
_____

3. Have you received a disciplinary report for sexual misconduct or sexual activity? ☐ Yes ☐ No

4. Do you have any immediate concerns or needs? ☐ Yes ☐ No (If yes, document)

_____
_____
_____
_____
_____
_____

Inmate's Signature:	Book & Case Number:	Date:

ATTACHMENT - E

PRISON RAPE ELIMINATION ACT (PREA)

SEXUAL ABUSE RETALIATION MONITORING

INSTRUCTIONS: To be completed upon receipt of a sexual abuse allegation for monitoring of staff and prisoners who report sexual abuse of for monitoring of prisoners who are an alleged victim of sexual abuse. Retaliation monitoring can cease if an investigation determines NO Evidence/Unfounded. Transfer of staff or a prisoner does not discontinue retaliation monitoring.

BASIC INFORMATION

Date Allegation Received	Facility	
Type of Monitoring New 90-day Monitoring 30 day Continuation	Monitoring Expiration Date	
Assigned Monitor	Title	Date Assigned
Staff/Inmate Being Monitored AIS No.		
Monitoring Reason Reported Sexual Abuse/Harassment Victim/Alleged Victim Fear of Retaliation is Expressed for Cooperating with Sexual Abuse/Harassment Investigation		

MONITORING – WEEK 1

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING-WEEK 2

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING-WEEK 3

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 4

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 5

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 6

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 7

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 8

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 9

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 10

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 11

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 12

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

MONITORING – WEEK 13

Date
Actions(s) Taken Reviewed disciplinary reports Reviewed housing changes Face-to-face contact Reviewed program changes Reviewed performance evaluations Reviewed staff reassignments
Comments

CONCLUSION

Finding Monitoring Complete – No Retaliation Found Monitoring Complete-Retaliation Addressed and Resolved Continue Monitoring for 30 Days	
Assigned Monitor Signature	Date

NYCDOC FORM - PREA - 4

ATTACHMENT - F

Sexual Abuse Incident Review Procedure and Report

The facility shall conduct a Sexual Abuse Incident Review (SAIR) at the conclusion of every sexual abuse investigation that is substantiated or unsubstantiated. To that end, the facility shall:

1) Endeavor to remain informed about the progress of every sexual abuse investigation by twice monthly contacting the investigative body that is handling the investigation (ID, DOI, NYPD, etc.) and asking about progress and completion.
2) Once the investigation is complete, the facility shall set up a "Sexual Abuse Incident Review" (SAIR) Meeting (described below) within 30 days of the close date of the investigation.
3) A SAIR meeting is a meeting to determine, based on the investigation and all other facts known about the incident: a) the root cause as to why the incident occurred; b) the dynamics between the parties in the incident; c) what could have prevented that incident; d) what steps need to be taken to prevent a future similar incident; e) document the meeting and findings; f) report out and act on the meeting's findings; and g) track the results of the SAIR meetings and if they effect positive change and a resulting decrease in incidents.
4) The SAIR team shall include upper level-management officials such as the Warden or Deputy Warden, with input from relevant Captains, at least one investigator, and at least one medical or mental health practitioner, including any other helpful or relevant staff. There should be an assigned SAIR Chair from this group that ensures the meetings happen on time and as scheduled.
5) At the meeting, the investigation should be provided for review by the SAIR participants. Ideally, it should be provided in time for everyone to review it within enough time prior to the meeting to discuss it. The ID and DOI must cooperate by providing either the investigation or a very complete summary of it that allows the SAIR participants to meet their responsibilities.
6) The facility shall designate a person to take detailed meeting minutes to include the agenda, participants, date, name and number of the investigation, type of investigation and finding and all meeting content. These meetings minutes must be filed and kept in an organized format.
7) The SAIR participants shall, at a minimum: 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.
8) The staff assigned to take the SAIR meeting minutes shall prepare a report of the findings using the template form attached here (see Attachment A) and include any recommendations for improvement, to include the deadlines for such improvements to be made, and submit such report to the Warden, the PREA Compliance Manager and the PREA Coordinator. Any deadlines set must be reviewed by the PREA Compliance Manager and a meeting called if deadlines are not adhered to in order to ensure fidelity and integrity of the SAIR system.
9) The facility shall implement the recommendations for improvement, and shall record what changes were made and when they were made on the form attached here (also Attachment A) or shall clearly document its reasons for not doing so.

SAIR MEETING REPORT

Incident # (or other identifier for the facility): _____

Name of victim: _____

Location of incident in facility: _____

Investigations #: _____

Substantiated or Unsubstantiated? _____

Date of Incident: _____

Date of Investigation closure: _____

Date of SAIR Meeting: _____

Names and Rank and/or Title of SAIR Participants:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Meeting minutes taken by: _____

Print name & Title

After a review of the investigation and any other relevant information about this incident, the SAIR team considered and answered the following:

a) Does the allegation or investigation indicate a need to change policy or practice to better prevent, detect, or respond to sexual abuse? (If yes or no, why? Be specific.)

_____
_____
_____
_____
_____

b) Was the incident or allegation 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? (Explain why or why not and what information was relied upon to make this determination.)

c) Upon examining the area in the facility where the incident allegedly occurred, were there physical barriers in the area may have enabled abuse? (Include details like shower curtain placement, walls, dorm bed placement, etc.)

d) Were there adequate staffing levels in that area during the time of the incident? (Look not just at ratios in the building but staff in the immediate area and where they were posted at the time, to include whether they were performing duties as assigned)

e) Should monitoring technology, such as cameras, mirrors or guard tour systems, be added or changed to supplement supervision by staff? (Why or why not? Where specifically?)

f) Are the notes and recommendations for improvement above all being acted upon? (If No, why not and list each. If yes, what are the deadlines and who are the persons assigned for each?)

NOTE: Form must be completed and copies provided within 5 working days to the Warden, the PREA Compliance Manager and the DOC PREA Coordinator. Any deadlines or persons assigned to follow through with the recommendations for improvement are required to inform the PREA Compliance Manager of their progress every two weeks until complete. The PREA Compliance Manager is responsible for ensuring deadlines are met and all recommended improvements occur on schedule. This form must also be filed and saved in an organized fashion for review at any time by DOC leadership.

ATTACHMENT - G

PREA Coordinated Response to a Sexual Assault Incident

1st Responder

- Separate the alleged victim and abuser.
- Stay with the victim and notify area supervisor (if victim is under 18, notify the NYS Central Register of Child Abuse and Maltreatment, Mandated Reporter number (child abuse reporting hotline): 1-800-635-1522.
- Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.

1st Responder

- Request the alleged victim does not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, unrinating, defecating, drinking or eating.
- Document actions and observations.

1st Responder

- Ensure the alleged abuser does not take any actions that could destroy physical evidnece, including washing, bruishing teeth, changing clothes, urinating, defecating, drinking or eating.
- Docment actions and observations.

Captain

- Ensure that the first responder accomplished his/her duties.
- Notify the Tour Commander.

Tour Commander

- If Staff-on-Inmate allegation, notify Department of Investigation (DOI). During off hours, call the Central Operations Desk (COD), and ask to have the DOI person on-call paged. DO NOT provide any additional information to COD regarding the incident.
- Ensure that the victim is separated from the alleged perpetrator.
- Refer the victim to medical and mental health services.
- Contact DOI within 24 hours of the initial call to obtain a DOI Intake number

Tour Commander

- If inmate-on-inmate allegation, notify COD, in accordance with Directive 5000R-A, Reporting Unusual Incident, and notify Investigation Division.
- Ensure that the victim is separated from the alleged perpetrator.
- Refer the victim to medical and mental health services.

Central Operations Desk

- Ensure all pertinent information is obtained (who, what, where, when, how, shield #'s, NYSID and Book & Case number.
- For notification purposes, provide only the facility name, date and time of alleged incident, and statement that a sexual allegation was reported.
- The Report disseminated shall NOT include the name of the victim or perpetrator, nor any details of the alleged incident.

Medical Staff

- Assess the victim's acute medical needs.
- Offer victims services and to call for a victim advocate for emotional support.
- Explain the need for a forensic examintion and encourage the victim to have one performed.

Mental Health

- Provide crisis intervention counseling and/or information for an outside victim crisis counselor.

Investigator

- Interview the victim and any witnesses.
- Collect evidence and control the custody of the evidence.

PREA Compliance Manager

- Ensure all proper referrals to medical and mental health were made.
- Ensure Warden's office is aware the incident.
- Monitor PREA policy compliance in all areas connected to the incident.
- Analyze and assess situation in conjunction with the PREA Coordinator.

Warden

- coordinate with the PREA Compliance Manager to stay abreast of the incident details.

CORRECTION DEPARTMENT
CITY OF NEW YORK

ATTACHMENT H

REPORTING TO OTHER CONFINEMENT FACILITIES (115.63)

Form:PREA-7
Rev. : 3/7/16
Ref. : Dir. 5011

Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden of the facility where the inmate is currently located shall notify the Warden where the alleged abuse occurred and shall also notify the Investigations Division or DOI. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

Inmate Alleging Sexual Abuse	Inmate Name _____ Book & Case / NYSID Number _____
Did the inmate report the incident to the facility where the alleged abuse occurred?	☐ Yes ☐ No
The name of the facility where the inmate is currently located	
The name of the facility where the Inmate states the alleged sexual abuse occurred	
Date and time the Inmate reported the allegation at current facility	Date _____ Time _____
Date and time notification was provided to the facility where the alleged sexual abuse occurred.	Date _____ Time _____

Warden who notified the facility where the allegation occurred:

Name _____ Title _____

Signature _____ Date _____

Warden/Facility head who received the notification of allegation:

Name _____ Title _____

Date _____

Was ID/DOI notified? ☐ Yes ☐ No

Name of Investigator Notified _____ Date and Time _____

CORRECTION DEPARTMENT
CITY OF NEW YORK

ATTACHMENT I

INMATE AWARENESS ACKNOWLEDGEMENT

Form:PREA-8
Rev. : 3/8/16
Ref. : Dir. 5011

Name _____ Book & Case Number _____ NYSID Number _____

I, _____, acknowledge that I have received an orientation on the zero tolerance policy against sexual abuse, sexual harassment and retaliation for reporting it. I have also received information on prevention, detection, self-protection, and the ways to report sexual abuse and harassment, as well as available treatment and counseling relating to sexual abuse and harassment on _____ (Date) at _____ (Institution Name).

Inmate's Signature _____ Book and Case Number _____ Date _____

Witness Print Name _____ Witness Signature _____ Shield / ID Number _____ Date _____

Distribution: Original - PCM
Copy - Inmate's folder

ATTACHMENT - J

CORRECTION DEPARTMENT
CITY OF NEW YORK

PRISON RAPE ELIMINATION ACT (PREA) INSERT

Form: PREA-9
Rev. : 03/23/16
Ref. : Dir. 5011

IF THERE IS A SEXUAL ABUSE ALLEGATION OR INCIDENT, these are your **Staff First Responder Duties**:

1) Notify the area supervisor immediately;
2) Separate the alleged victim and abuser;
3) Preserve and protect crime scene until appropriate steps can be taken to collect any evidence;
4) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
5) Fill out an Incident Report (form 370) & Injury to Inmate Report (form 167R-A).
6) Victim goes to medical.

If the victim is under 18, notify the NYS Central Register of Child Abuse and Maltreatment, and call the mandatory child abuse reporting hotline at 1-800-635-1522.

ATTACHMENT - K

CORRECTION DEPARTMENT
CITY OF NEW YORK

PRISON RAPE ELIMINATION ACT (PREA)
4X6 MEMOBOOK INSERT

Form: PREA-10
Rev.: 04/08/10
Ref.: Dir. 6011

IF THERE IS A SEXUAL ABUSE ALLEGATION OR INCIDENT, these are your **Staff First Responder Duties**:

1) Notify the area supervisor immediately;
2) Separate the alleged victim and abuser;
3) Preserve and protect crime scene until appropriate steps can be taken to collect any evidence;
4) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
5) Fill out an Incident Report (form 370) & Injury to Inmate Report (form 167R-A).
6) Victim goes to medical.

If the victim is under 18, notify the NYS Central Register of Child Abuse and Maltreatment by calling the mandatory child abuse reporting hotline at 1-800-635-1522.

ATTACHMENT - L

	CORRECTION DEPARTMENT CITY OF NEW YORK	**OFFICE OF THE CHIEF OF SECURITY**	
	RANDOM SEARCH REPORT	FORM HQ/SM 14 REV. 11/16/15	

FACILITY	DATE:	TOUR:

STAFF INVOLVEMNET

CAPTAIN(S)

NAME	SHIELD	NAME	SHIELD
1.		2.	

CORRECTION OFFICER(S)

NAME	SHIELD	NAME	SHIELD
1.		6	
2.		7	
3.		8	
4.		9	
5.		10	

SEARCH LOCATION

SEARCH LOCATION(Be specific, housing area name, commissary, hallway designation, etc.)

INMATE (S) INVOLVED (IF ANY)

NAME	NUMBER	NAME	NUMBER
1		6	
2		7	
3		8	
4		9	
5		10	

RESULTS

INDICATE TYPE OF SEARCH (e.g., area search, cell search, pat frisk, strip search, etc.)

INDICATE RESULTS (contraband Found, Infraction Served, Re-Arrested, etc)

IF RANDOM SEARCH RESULTS IN AN UNUSUAL INCIDENT OR USE OF FORCE INDICATE CCC OR UOF NUMBER	C.O.D NUMBER	U.O.F NUMBER

RANDOM SEARCH CAPTAIN (Print name, signature, shield number)	Date
TOUR COMMANDER(Print name, signature, shield number)	Date
FACILITY MANAGER(Print name, signature, shield number)	Date

REFERENCE: DIRECTIVE 4508R-E OPERATIONS ORDER #XX/15	DISTRIBUTION	COPY TO FACILITY COMMANDING OFFICER ORIGINAL TO FACILITY SECURITY OFFICE

ATTACHMENT - M

CORRECTION DEPARTMENT
CITY OF NEW YORK

INJURY TO INMATE REPORT

Form: #167R-A
Rev.: 01/31/08
Ref.: Dir. #4516R-A

INSTRUCTIONS: Original Report to Security, One copy to Clinic Lock Box, One Copy to Inmate Medical File.

Command:	Date:	COD/UOF #:	Injury #:

TO BE COMPLETED BY EMPLOYEE (PLEASE PRINT CLEARLY).

Inmate Name (Last Name, First Name):

Location:	Work:	NYSID #:	Book & Case/Sent #:

Details:

Supervisor Notified (Print Last Name, First Name, Rank, Shield #):	Date:	Time: Hrs.

Employee: I ☐ (Did) ☐ (Did Not) Witness This Injury.	Employee Signature:	Rank/Title:	Shield/ID#:

TO BE COMPLETED BY MEDICAL STAFF ONLY - (PLEASE PRINT CLEARLY)

Date of Injury:	Reported for Medical Attention: Date Hrs.	Inmate Refused Medical Attention: ☐ Yes ☐ No	Visible Injuries: ☐ Yes ☐ No

Nature of Injury and Cause:

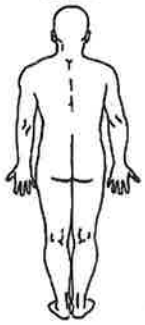
Treatment:

Treated By/Examined By (Print and Sign Full Name): Title:

Referrals to Other Medical Services (If Yes, Document Medical Findings): ☐ Yes ☐ No

Treated By/Examined By (Print and Sign Full Name): Title:

Medical Staff Must Note Location of Injury:



Please Check Disposition: ☐ Return to Housing Area ☐ Work Release ____ Days ☐ Light Duty ____ Days ☐ Return to Work Assignment ☐ Re-Exam ____ Days ☐ Refer to Clinic ☐ Return to School

☐ Transfer to Hospital (indicate Name of Hospital): _____ ☐ Life Threatening Emergency ☐ Routine

☐ Other (Please Specify): _____

Treated By (Print Full Name and Title, Sign Name):	Date:	Time: Hrs

I certify that the cause of injury as stated herein is to my knowledge true and medical attention was provided:

Inmate Signature:	B&C / Sentence #:		Date:
Witnessed By (Signature):	Rank/Title:	Shield /I.D. #:	Date:

CORRECTION DEPARTMENT
CITY OF NEW YORK

INJURY TO INMATE REPORT

Form: #167R-A
Rev.: 01/31/08
Ref.: Dir. #4516R-A

INSTRUCTIONS: Original Report to Security, One copy to Clinic Lock box, One copy to Inmate Medical File.

Inmate Name (Last Name, First Name):

Injury #:	NYSID #:	Book & Case/Sent #:

TO BE COMPLETED BY THE INVESTIGATING OFFICER. PLEASE PRINT CLEARLY.

Investigator's Report:

Injuries Resulted From: ☐ Use of Force ☐ Allegation of a Use of Force ☐ Inmate on Inmate Altercation ☐ Self Inflicted ☐ Accident ☐ Other (Explain):

Investigating Officer (Signature):	Rank/Title:	Shield/ID#:	Date:

Tour Commander's Review:

Tour Commander's (Signature):	Rank/Title:	Shield/ID#:	Date:

Deputy Warden's Review:

Signature:	Rank/Title:	Date:

Commanding Officer's Remarks:

Signature:	Rank/Title:	Date:

ATTACHMENT - N

370

PRINT OR TYPE ALL INFORMATION

INCIDENT REPORT FORM

FACILITY:	**DATE OF REPORT:**
DATE OF INCIDENT:	**TIME OF INCIDENT:**
LOCATION:	**TYPE OF INCIDENT:**

SUBMITTED BY: _____

(LAST NAME) (FIRST NAME) (RANK) (SHIELD #)

POST ASSIGNED AT TIME OF INCIDENT	**TOUR WORKING AT TIME OF INCIDENT** ( ) 11X7 ( ) 7X3 ( ) 3X11 ( ) other

IF FORCE WAS USED: Include in the section below the specific events and actions by the inmate(s) which led to or caused the incident, the actions which made the use of force necessary in the circumstances, and the type and extent of force used. Provide as much detail as possible.

DESCRIBE INCIDENT IN DETAIL ("WHO", "WHAT", "WHEN", "WHY")

(FOR ADDITIONAL SPACE – USE FORM 600AR

ADDITIONAL INFORMATION ➔ OTHER SIDE

SUPERVISOR NOTIFIED

DATE	TIME	(Last Name)	(First Name)	(Rank)	(Shield #)

WAS CONTRABAND RECOVERED? ( ) YES (x) NO IF YES, DESCRIBE CONTRABAND (INCLUDE HOW CONTRABAND IS MARKED FOR FUTURE IDENTIFICATION PURPOSES:

CONTRABAND SURRENDERED TO:

(Last Name)	(First Name)	(Rank)	(Shield #)

INMATE INVOLVEMENT

LAST NAME	FIRST NAME	BOOK & CASE #	LOCATION	INFRACTION	INJURY REPORT
				( ) YES ( ) NO	( ) YES ( ) NO
				( ) YES ( ) NO	( ) YES ( ) NO
				( ) YES ( ) NO	( ) YES ( ) NO
				( ) YES ( ) NO	( ) YES ( ) NO
				( ) YES ( ) NO	( ) YES ( ) NO
				( ) YES ( ) NO	( ) YES ( ) NO

EMPLOYEE INVOLVEMENT

LAST NAME	FIRST NAME	RANK/TITLE	SHIELD/I.D. #	WITNESS TO INCIDENT
				( ) YES ( ) NO
				(x) YES ( ) NO
				( ) YES ( ) NO
				( ) YES (x) NO

DO YOU CLAIM ANY INJURIES REGARDING THIS INCIDENT? ( ) YES ( ) NO

DESCRIBE CLAIMED INJURIES:

COMPENSATION PAPERS SUBMITTED: ( ) YES ( ) NO

SIGNATURE OF PERSON PREPARING REPORT: _____

ATTACHMENT - O

420D

THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION

MEMORANDUM

[ ] NEW		[X] REVISED	SUBJECT
EFFECTIVE DATE **02/07/08**	NUMBER **01/08**	PAGE **1** OF **3** PAGES	**UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES**

TO : ALL STAFF

FROM : MARTIN F. HORN, COMMISSIONER

This message is addressed to all of you who work in our jails, whether you are an employee of the Department of Correction, an employee of another agency, a volunteer, contractor or vendor. Our collective mission is to keep our jails, the inmates, and staff, safe.

We take pride in providing a safe environment for all individuals who are committed to our custody. It is the professionalism of all of us that has established the Department as a leader in the field of corrections. We maintain high standards of behavior and demand the highest level of integrity.

- The way we behave around inmates is key to our success. We must perform our job with integrity. When boundaries are crossed, we become ineffective and the safety of each of us is threatened.

- Once you accept a gift or favor, introduce a single piece of contraband or single an inmate out for special treatment----with the first letter you carry in or out, the first cigarette you provide, the infraction you quash----the door is opened for the inmate to control you and influence your further actions.

And that becomes a serious threat to the safety of fellow staff and other inmates.

- 'Undue familiarity' is a direct violation of our Rules and Regulations. It is the Department's policy to seek termination of those who violate this rule. This behavior includes any social activity with an inmate that is not directly related to one's duties. Such behavior may involve, for example, the granting of a special favor or privilege, a phone call, accepting of a gift, bringing in contraband, a romantic relationship or at its worst, sexual conduct. Undue familiarity is not only a violation of our rules and regulations, <u>but may also be a criminal offense</u>.

- One of the worst offenses staff can commit is to engage in any sexual conduct with an inmate, or make sexual threats.

EFFECTIVE DATE 02/07/08	SUBJECT UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES
MEMORANDUM	
NUMBER 01/08	PAGE 2 OF 3 PAGES

- The Department of Correction has zero tolerance for sexual abuse of inmates. **No one** is allowed to have sexual contact with any person who is incarcerated. Other inmates and employees are prohibited from asking, demanding, forcing, or participating in a sexual act with an inmate. This applies to EVERYONE including uniformed and civilian employees of the Department, as well as contractors, vendors, volunteers, and employees of other agencies who work in the jails.

- In addition to the Department policy, New York State Law clearly states that inmates are not able to give consent to sexual conduct with an employee. (Penal Law §130.05, subdivision 3). Individuals considered employees under this law include not only uniformed and civilian employees of the Department, but contractors, vendors, volunteers, employees of other agencies and all other persons who provide a direct service to inmates. In the same way that an underage minor can not consent to sex with an adult, so too an inmate can not consent to sex with employees. **There is no such thing as consensual sex between employees and inmates.** Any such sexual misconduct is a sex crime---whether it occurs inside a correctional facility, during transportation, or at any other time during an inmate's custody.

- The personal consequences for an employee who has any sexual contact with an inmate or sexually threatens an inmate are severe. Not only will that individual be terminated but they will also be arrested and criminally prosecuted. **If convicted they face imprisonment and registration as a sex offender.** The employee may also be required to pay monetary damages to the inmate out of his or her own pocket.

- This illegal behavior also poses a grave risk to all staff. The offending employee has totally compromised himself or herself, no different than if he or she were to smuggle weapons to an inmate.

- All allegations of sexual abuse and sexual threats will be investigated promptly and thoroughly.

- You all play a critical role in identifying and preventing a potential incident of sexual abuse, and responding if such an incident occurs.

- Equally important to us is the protection of inmates from sexual assaults by other inmates. The Department prohibits sexual acts between inmates, whether voluntary or coerced. Inmates who are observed engaging in a sexual act or soliciting a sexual act with another inmate must be ordered to cease their actions. Where the sex is voluntary, infractions will be processed for all the involved parties. Inmates who commit sexual abuse or assaults will be re-arrested and prosecuted to the full extent of the law. **Employees who fail to stop such assaults as they are occurring and/or fail to report them are subject to disciplinary action, including termination.** Inmates who are victims or in danger must be protected.

	EFFECTIVE DATE 02/07/08	SUBJECT UNDUE FAMILIARITY AND PREVENTION OF SEXUAL ABUSE OF INMATES BY STAFF AND OTHER INMATES	
	MEMORANDUM		
	NUMBER 01/08	PAGE 3 OF 3 PAGES	

- Each of us is responsible for being alert to signs of potential situations in which sexual abuse might occur as well as signs of victimization. And all of us also have the duty to report any knowledge or information we may have about an employee who sexually abuses or engages in undue familiarity with an inmate. You may either contact the Department of Investigation confidentially (numbers are posted in the facilities) or, DOC employees may report to the Tour Commander. You must report, or you will face disciplinary action yourself. All allegations must be reported.

- Any employee who receives a report of inmate-on-inmate sexual abuse, must immediately notify their supervisor. An employee who intentionally fails to report such information will be subject to disciplinary charges.

- There is another role for staff to play in the prevention of sexual abuse of inmates, and that is to encourage inmates to report sexual abuse as well as any other concerns about their safety. If an inmate makes an allegation against staff or other inmates they will be offered immediate protection, medical examination and mental health services and counseling by our chaplains. And the complaint will be reported to the appropriate law enforcement officials and thoroughly investigated. We need your help in getting that message out to the inmates so that they will not be afraid to come forward if they are being victimized.

The Department is very proud of its work force and all of you who come to work day in and day out and perform your jobs professionally, with integrity. Our tradition of excellence requires that we all join together and do everything possible to make sure our zero tolerance policy is part of our culture and value system, because it is the right thing to do!

MARTIN F. HORN
COMMISSIONER