	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.3</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 3</p>
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TITLE: Prison Rape Elimination Act Standards: General Definitions

Agency means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or clients, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency head means the EXECUTIVE DIRECTOR of the contractor.

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

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including cliental re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during noncliental hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the contractor.

Direct staff supervision means that monitor staff are in the same room with, and within reasonable hearing distance of, the client or inmate.

Employee means a person who works directly for the contractor or facility.

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

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

Facility head means the EXECUTIVE DIRECTOR of facility.

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

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

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

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

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

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

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

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

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

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

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

Monitor/Driver means employees primarily responsible for the supervision and control of clients in housing units, recreational areas, dining areas, and other program areas of the contractor.

Pat-down search means a running of the hands over the clothed body of a client by an employee to determine whether the individual possesses contraband.

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

Staff means employees.

Strip search means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.


Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

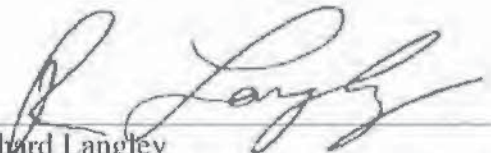
Unfounded allegation means an allegation that was investigated and determined not to have occurred.

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


Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the contractor.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations

	<p style="text-align: center;">TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p style="text-align: center;">Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.4</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 2</p>
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TITLE: Prison Rape Elimination Act Standards: Definitions related to sexual abuse

Sexual abuse includes—

- Sexual abuse of a client by another client; and
- Sexual abuse of a client by a staff member, contractor, or volunteer.

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

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of a client by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the client:

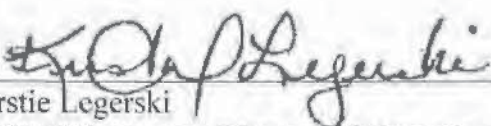
- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 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;

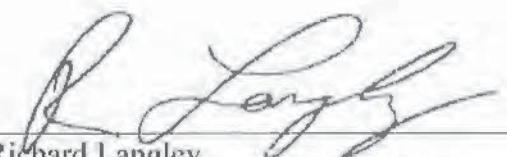
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an client, and
- Voyeurism by a staff member, contractor, or volunteer.


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

Sexual harassment includes—

- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one client directed toward another; and
- Repeated verbal comments or gestures of a sexual nature to a client 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.


Kirstie Legerski
PFCMOD, Deputy Director of Operations


Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.5</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 4</p>
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TITLE: Prison Rape Elimination Act Standards – Prevention Planning

POLICY:

It is the policy of the contractor to ensure that any form of conduct that meets the definition of sexual abuse, sexual activity or sexual harassment, regardless of consensual status, is strictly prohibited. Such conduct, if confirmed, will result in administrative disciplinary action and may result in criminal prosecution. The contractor must comply with all applicable PREA-related standards adopted by the U.S. Department of Justice. There is a zero tolerance of sexual abuse and sexual harassment.

PROCEDURE:

Supervision and monitoring

The contractor shall annually, develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect clients against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:

- The physical layout of the facility;
- The composition of the client population;
- The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- Any other relevant factors.

In circumstances where the staffing plan is not complied with, the contractor shall document and justify all deviations from the plan.

Whenever necessary, but no less frequently than once each year, the contractor shall assess, determine, and document whether adjustments are needed to:

- The staffing plan;
- Prevailing staffing patterns;
- The contractor’s deployment of video monitoring systems and other monitoring technologies; and
- The resources the contractor has available to commit to ensure adequate staffing levels.

Limits to cross-gender viewing and searches

Cross-gender strip searches and visual body cavity searches (meaning a search of the anal or genital opening) is prohibited.

Facility staff is required to loudly announce their entrance into a dorm housing residents of the opposite gender. Likewise, staff members are prohibited from entering the restroom area in opposite-gender dorms without loudly announcing their presence and gaining verbal assurance that occupants in the area are fully clothed.

Residents have the right to shower, perform bodily functions and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks or genitalia excluding exigent circumstances (such as a medical emergency where same-gender staff are not available to render first aid).

In the event a staff has observed the breasts, buttocks or genitalia or a resident of the opposite gender, excluding exigent circumstances (such as medical emergency where same-gender staff are not available to render first aid) the staff member is responsible for making an immediate report and submitting a written statement describing the circumstances that resulted in the incident. This report must be submitted to the facility director prior to the end of the employee's work shift.

Facility staff shall not search or physical examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, by consulting parole authorities and/or if necessary by learning the information as part of a broader medical examination conducted in private by a medical practitioner.

Security staff will be trained on how to conduct all searches (including searches of transgender and intersex residents) in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.

Clients with disabilities and clients who are limited English proficient

The contractor shall take appropriate steps to ensure that client with disabilities (including, for example, client who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the contractor's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with client who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the contractor shall ensure that written materials are provided in formats or through methods that ensure effective communication with client with disabilities, including client who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

The contractor shall take reasonable steps to ensure meaningful access to all aspects of the contractor's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to client who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The contractor shall not rely on client interpreters, client readers, or other types of client assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the client's safety, the performance of first-response duties under § 115.264, or the investigation of the client's allegations.

Hiring and promotion decisions

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

- 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);
- Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

The contractor 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 client.

Before hiring new employees who may have contact with client, the contractor shall have TDCJ:

- Perform all criminal record background checks, for the contractor, on all newly hired employees during the clearance process. This is done regardless of whether they may have contact with client. The employee information is entered into the Criminal Justice Information System (CJIS) and a response is sent back by the Texas Department of Public Safety (DPS). The DPS also immediately provides an automatic notification to the facility through e-mail if any criminal charges are brought against any employee or contractor during their employment.
- Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

The contractor shall also perform a criminal background records check before enlisting the services of any contractor, in the event they ever use one, who may have contact with client.

The contractor does not perform records checks every five years. During the initial criminal history check, each employee's information is entered into CJIS. The DPS will immediately provide an automatic notification to TDCJ by e-mail of any new criminal activity and will forward this information to the contractor.

The contractor shall also ask all applicants and employees who may have contact with client directly about previous misconduct described above in this section 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 contractor shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

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

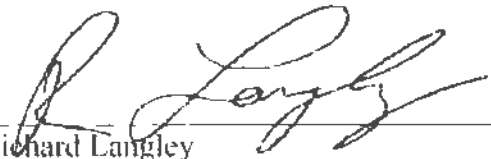
Unless prohibited by law, the contractor shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.


Upgrades to facilities and technologies

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the contractor shall consider the effect of the design, acquisition, expansion, or modification upon the contractor's ability to protect clients from sexual abuse.

When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the contractor shall consider how such technology may enhance the contractor's ability to protect clients from sexual abuse.


Kirstie Legerski
PFCMOD, Deputy Director of Operations


Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.6</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 3</p>
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TITLE: Prison Rape Elimination Act Standards – Response Planning

PROCEDURE:

Evidence protocol and forensic medical examinations

The contractor will conduct an administrative investigation of all allegations of sexual abuse and sexual harassment. The Agency investigator will follow a uniform-evidence collection procedure.

The contractor will notify local law enforcement via email asking them to utilize the appropriate protocol. The protocol shall be developmentally appropriate and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents, or similarly comprehensive and authorized protocols developed after 2011. This maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

The contractor offers all victims of sexual abuse access to forensic medical examinations, without financial cost, where evidentiary or medically appropriate. Such examinations will be performed by Sexual Assault Forensic Examiners (SAFR) or Sexual Assault Nurse Examiners (SANE) where possible. If SAFR’s or SANE’s cannot be made available, the examination can be performed by other qualified medical practitioners. The contractor will document its efforts to provide SAFR or SANE.

The contractor will attempt to make a victim advocate available from rape crisis center, to the victim.

- The contractor will call the Family Crisis Center to request a victim’s advocate.
- If a rape crisis center is not available to provide victim advocate services, the agency will make available, a qualified staff member from a community-based organization or a qualified agency staff member, to provide these services.
- The contractor will document efforts to secure services from rape crisis centers. For the purposes of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in section 42 U.S.C. 14043g (b) (2) (C), to victims of sexual assault of all ages.

- The contractor may utilize a rape crisis center that is part of a government unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

As requested by the victim, the victim advocate, a qualified agency staff member or qualified community-based organization staff member will accompany and support the victim through the forensic medical examination process and investigator interviews and will provide emotional support, crisis intervention, information and referrals.

The following also applies to the above requirements:

- Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in community confinement facilities; and
- Any Department of Justice component that is responsible for investigating allegations of sexual abuse in community confinement facilities.
- For the purposes of this standard, a qualified agency staff member or a qualified community-based staff member is an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

Policies to ensure referrals of allegations for investigations

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

The contractor ensures that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations (local police department/TDCJ), unless the allegations do not involve potentially criminal behavior.


- Any staff who becomes aware of an alleged incident of sexual abuse/harassment, immediately informs the shift supervisor and documents accordingly in an incident report.
- The shift supervisor contacts law enforcement.
- Law enforcement determines if the incident is a criminal matter. If so, law enforcement follows investigative procedures. In all incidents, criminal matter or not, the shift supervisor informs the PREA coordinator who conducts an agency internal investigation.

The contractor publishes the policy on its website. The agency documents all such referrals on the incidents report.

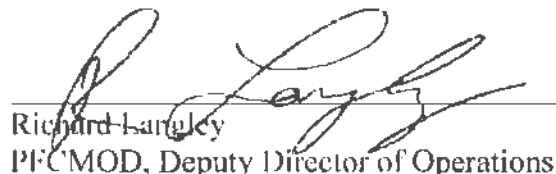
For investigations conducted by an agency with the legal authority to conduct criminal investigations (i.e., local Police Department, TDCJ), the Contractor's PREA Coordinator will be the single point of contact between the Agency and the Agency authorized to conduct the investigation. The PREA Coordinator will ensure that the investigator stays informed about the progress of the investigation and makes this information available to the alleged victim, as required by Agency policies and procedures.

The Contractor will ask any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment on community confinement facilities to have a policy in place governing the conduct of such investigations.

The Contractor will ask that any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in community confinement facilities to have a policy in place governing the conduct of such investigations.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations



**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE**

**Private Facility Contract
Monitoring/Oversight
Division**

NUMBER: TTC 1.7

DATE: September 1, 2019

PAGE: 1 of 3

TITLE: Prison Rape Elimination Act Standards – Training and Education

PROCEDURE:

Employee training

The contractor shall train all employees who may have contact with client on:

- Its zero-tolerance policy for sexual abuse and sexual harassment;
- How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- Client' right to be free from sexual abuse and sexual harassment;
- The right of client and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- The dynamics of sexual abuse and sexual harassment in confinement;
- The common reactions of sexual abuse and sexual harassment victims;
- How to detect and respond to signs of threatened and actual sexual abuse;
- How to avoid inappropriate relationships with client;
- How to communicate effectively and professionally with client, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming client; and
- How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Such training shall be tailored to the gender of the client assigned to the contracted facility.

All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the contractor shall provide each employee with refresher training annually.

The contractor shall document, through employee signature or electronic verification that employees understand the training they have received.

Volunteer and contractor training

In the event contractor or volunteers are used, the Contractor shall ensure that all Volunteers and Contractors who have contact with clients have been trained on their responsibilities under the contractor's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with client, but all volunteers and contractors who have contact with client shall be notified of the contractor's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents, advised that local law enforcement will be called for all claims of sexual abuse, and claims for sexual harassment will be investigated internally by the contractor.

The contractor shall document, through signature confirmation that volunteers and contractors understand the training they have received.

Client education

During the intake process, client shall receive information explaining the contractor's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

The contractor shall provide refresher information in the event a client is released and then returns.

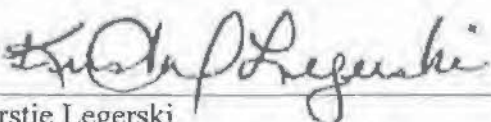
The contractor shall provide client education in formats accessible to all clients, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as client who have limited reading skills.

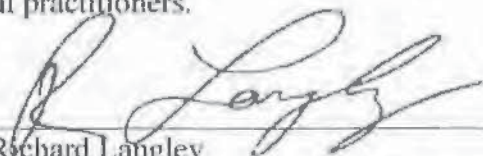
The contractor shall maintain documentation of client participation in these education sessions.


In addition to providing such education, the contractor shall ensure that key information is continuously and readily available or visible to client through posters, client handbooks, or other written formats.

Specialized training: Medical and mental health care

The contractor does not employ mental health care or medical practitioners.


Kirstie Legerski
PFCMOD, Deputy Director of Operations


Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.8</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 2</p>
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TITLE: Prison Rape Elimination Act Standards – Screening for Risk of Sexual Victimization and Abusiveness

PROCEDURE:

Screening for risk of victimization and abusiveness

All clients shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other clients or sexually abusive toward other clients.

Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

Such assessments shall be conducted using an objective screening instrument. In addition to a specific screening instrument, the staff documents the bulleted items in the psychosocial assessment.

The intake screening shall consider, at a minimum, the following criteria to assess clients for risk of sexual victimization:

- Whether the client has a mental, physical, or developmental disability;
- The age of the client;
- The physical build of the client;
- Whether the client has previously been incarcerated;
- Whether the client’s criminal history is exclusively nonviolent;
- Whether the client has prior convictions for sex offenses against an adult or child;
- Whether the client is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- Whether the client has previously experienced sexual victimization; and
- The client’s own perception of vulnerability.

The intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the contractor, in assessing clients for risk of being sexually abusive.

Within a set time period, not to exceed 30 days from the client's arrival at the facility, the contractor will reassess the client's risk of victimization or abusiveness based upon any additional, relevant information received by the contractor since the intake screening.

A client's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the client's risk of sexual victimization or abusiveness.

Clients may not be disciplined for refusing to answer, or for not disclosing complete information.

The contractor shall implement appropriate controls on the dissemination of investigation materials within the facility regarding responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the client's detriment by staff or other clients.

Use of screening information

The contractor shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those clients at high risk of being sexually victimized from those at high risk of being sexually abusive.

The contractor shall make individualized determinations about how to ensure the safety of each client.

In making housing and programming assignments, the contractor shall consider on a case-by-case basis whether a placement would ensure the client's health and safety, and whether the placement would present management or security problems.

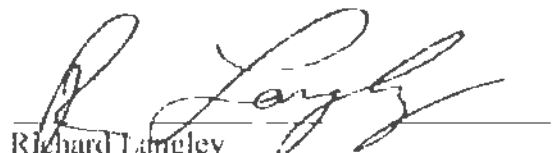
A transgender or intersex client's own views with respect to his or her own safety shall be given serious consideration.

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


The contractor shall not place lesbian, gay, bisexual, transgender, or intersex client in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such client.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.9</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 2</p>
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TITLE: Prison Rape Elimination Act Standards – Reporting

PROCEDURE:

Client reporting

The contractor shall provide multiple internal (verbal, email, letter) ways for client to privately report sexual abuse and sexual harassment, retaliation by other client or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

The contractor shall also inform clients of at (call, write, report on internet) least one way to report abuse or harassment to a public or private entity or office that is not part of the contractor and that is able to receive and immediately forward client reports of sexual abuse and sexual harassment to agency officials, allowing the client to remain anonymous upon request.

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

The contractor shall provide a procedure for staff to privately report sexual abuse and sexual harassment of client.

Client access to outside confidential support services

The contractor shall provide client with access to outside victim advocates for emotional support services related to sexual abuse by giving client mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between client and these organizations, in as confidential a manner as possible.

The contractor shall inform client, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

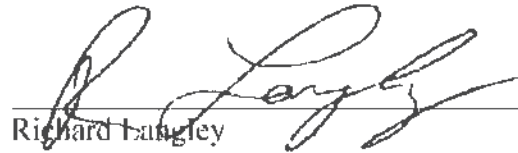
The contractor shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide client with confidential emotional support services related to sexual abuse. The contractor shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

Third-party reporting


The contractor shall establish a method (email, phone, fax letter) to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a client.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.10</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 3</p>
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TITLE: Prison Rape Elimination Act Standards – Official Response Following a Client Report

PROCEDURE:

Staff and agency reporting duties

The contractor shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the contractor; retaliation against client or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse and to inform clients of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services.

The contractor shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the local Police Department:

Agency protection duties

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

Reporting to other confinement facilities

Upon receiving an allegation that a client was sexually abused while confined at another facility, the contractor shall notify the head of the Agency or appropriate office of TDCJ where the alleged abuse occurred.

Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

The contractor shall document that it has provided such notification.

Staff first responder duties

Upon learning of an allegation that a client was sexually abused, the first staff member to respond to the report shall be required to:

- Separate the alleged victim and abuser;
- Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
- If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

If the first staff responder is not a monitor/driver staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify their supervisor.

Coordinated response

The contractor shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, law enforcement, and facility leadership.

Preservation of ability to protect clients from contact with abusers

The contractor shall not enter into any collective bargaining agreement or other agreement that limits the contractor's ability to remove alleged staff sexual abusers.

Agency protection against retaliation

The contractor shall protect all clients and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other clients or staff and shall designate which staff members or departments are charged with monitoring retaliation.


The contractor shall employ multiple protection measures, such as housing changes or transfers for client victims or abusers, removal of alleged staff or client abusers from contact with victims, and emotional support services for client or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

For at least 90 days following a report of sexual abuse, the contractor shall monitor the conduct and treatment of client or staff who reported the sexual abuse and of client who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by client or staff, and shall act promptly to remedy any such retaliation. Items the contractor should monitor include any client disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The contractor shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

In the case of client, such monitoring shall also include periodic status checks.

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


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



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.11</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 2</p>
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TITLE: Prison Rape Elimination Act Standards – Investigations

PROCEDURE:

Criminal and administrative agency investigations

The contractor does not conduct its own criminal investigations into allegations of sexual abuse and sexual harassment; however, the agency will ensure that an administrative investigation is completed on all allegations of sexual abuse and sexual harassment.

The Program Manager/designee will ensure a thorough incident report is completed along with written statements, verbal statements, and any other data collected is forwarded to the local police department for a formal investigation. Efforts will be made to preserve physical data.

Administrative investigations by the contractor include an effort to determine whether staff actions or failures to act contributed to the abuse and the investigation is documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

The contractor retains all written reports referenced above for as long as the alleged abuser is housed at the facility or employed by the agency, plus five years.

The departure of the alleged abuser or victim from the employment or control of the contractor does not provide a basis for terminating an investigation.

Any State entity or Department of Justice component that conducts such investigations does so pursuant to the above requirements.

When outside agencies investigate sexual abuse, the contractor cooperates with outside investigators and endeavors to remain informed about the progress of the investigation.

Evidentiary standard for administrative investigations

The contractor does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Reporting to clients

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


If the contractor did not conduct the investigation, it requests the relevant information from the investigative agency in order to inform the resident.


Following a resident's allegation that a staff member has committed sexual abuse against the resident, the contractor will inform the resident (unless the agency has determined that the allegation is unfounded) whenever:


- The staff member is no longer posted within the resident's program.
- The staff member is no longer employed at the facility.
- The contractor learns that the staff member has been indicted on a charge related to sexual abuse within the facility.
- The contractor learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following a resident's allegation that he or she has been sexually abused by another resident, the contractor will subsequently inform the alleged victim whenever:

- The contractor learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- The contractor learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- All such notifications or attempted notifications are documented.
- The contractor's obligation to report under this standard terminates if the resident is released from the agency's custody.


Kirstie Legerski
PFCMOD, Deputy Director of Operations


Richard Langley
PFCMOD, Deputy Director of Operations

	<p style="text-align: center;">TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p style="text-align: center;">Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.12</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 2</p>
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TITLE: Prison Rape Elimination Act Standards – Discipline

PROCEDURE:

Disciplinary sanctions for staff

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

Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Disciplinary sanctions for clients

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

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

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

The contractor shall consider whether to require the offending client to participate in therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse as a condition of access to programming or other benefits.

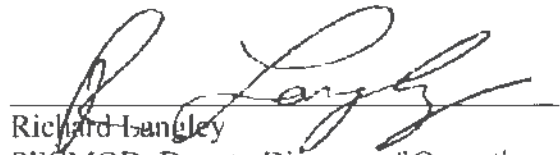
The contractor may discipline a client for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.


The contractor prohibits all sexual activity between clients and may discipline clients for such activity. The contractor may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.13</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 2</p>
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TITLE: Prison Rape Elimination Act Standards – Medical and Mental Care

PROCEDURE:

Access to emergency medical and mental health services

Client victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

The contractor staff first responders shall take preliminary steps to protect the victim pursuant to § 115.262 and shall immediately notify their supervisor for transport to appropriate medical and mental health practitioners.

Client victims of sexual abuse while residing at the facility shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

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

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

The contractor shall offer medical and mental health evaluation and, as appropriate, treatment to all clients who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility through the local mental health provider.

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

The contractor shall provide such victims with medical and mental health services consistent with the community level of care.

Client victims of sexual abuse while a resident shall be offered tests for sexually transmitted infections as medically appropriate.

Client victims of sexually abusive vaginal penetration while incarcerated shall be offered a pregnancy test.

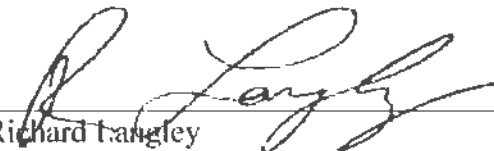
If pregnancy results from the conduct described in paragraph above, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.

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


The contactor shall attempt to conduct a mental health evaluation of all known client-on-client abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations

	<p>TEXAS DEPARTMENT OF CRIMINAL JUSTICE</p> <p>Private Facility Contract Monitoring/Oversight Division</p>	<p>NUMBER: TTC 1.14</p> <p>DATE: September 1, 2019</p> <p>PAGE: 1 of 3</p>
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TITLE: Prison Rape Elimination Act Standards – Data Collection and Review

PROCEDURE:

Sexual abuse incident reviews

The contractor shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

The review team shall include upper-level management officials, supervisors and first responders.

The review team shall:

- Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- 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.
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts;
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- Prepare a report of findings and any recommendations for improvement, and submit such report to the contractor’s executive director and PREA compliance manager.

The contractor shall implement the recommendations for improvement or shall document its reasons for not doing so.

Data collection

The contractor shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

The contractor shall aggregate the incident-based sexual abuse data at least annually.

The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

The contractor shall maintain, review and collect data as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews.

The contractor shall use data collected from the facility operated by the contractor.

Upon request, the contractor shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

Data review for corrective action

The facility shall review data collected in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training, including:

- Identifying problem areas;
- Taking corrective action on an ongoing basis; and
- Preparing an annual report of its findings and corrective actions for each facility, as well as the contractor as a whole.

Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the contractor's progress in addressing sexual abuse.

The contractor's report shall be approved by the contractor and made readily available to the public when requested.

The contractor may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

Data storage, publication, and destruction

The contractor shall ensure that data collected are securely retained.

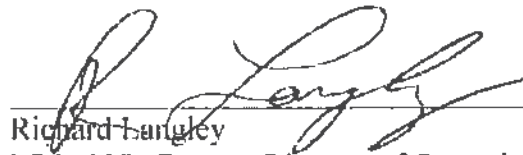
The contractor shall make all aggregated sexual abuse data readily available to the public at least annually through requests for the information. Posters with information on how to request data will be posted in common area of the facility.

Before making aggregated sexual abuse data publicly available, the contractor shall remove all personal identifiers.

The contractor shall maintain sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.



Kirstie Legerski
PFCMOD, Deputy Director of Operations



Richard Langley
PFCMOD, Deputy Director of Operations