

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

**CORRECTIONAL INSTITUTIONS DIVISION**



***SAFE PRISONS/PREA PLAN***

February 2019

# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

## *SAFE PRISONS/PREA PLAN*

### FOREWORD

The Texas Department of Criminal Justice (TDCJ) has a zero tolerance for all forms of sexual abuse and sexual harassment of offenders. The TDCJ shall take a proactive approach concerning the detection, prevention, response, and punishment of sexual abuse, including consensual sexual contact while in TDCJ custody. The TDCJ shall be vigilant in establishing a safe environment for staff and offenders at all secure correctional facilities and take immediate action to address the protective needs of offenders who have been victimized. Every attempt shall be made to prevent the sexual abuse and sexual harassment of offenders in accordance with agency policy. ED-03.03, "Safe Prisons/PREA Program," directs the TDCJ to develop and implement a plan to govern the operation of the Safe Prisons/PREA Program. The TDCJ *Safe Prisons/PREA Plan* (plan) shall be applicable to all individuals, including visitors and volunteers, employed by, under contract with, or supervised by the TDCJ, including professional staff and any person who is involved, directly or indirectly, with the care and custody of offenders.

As the director of the Correctional Institutions Division (CID), and the appointed Safe Prisons/PREA coordinator, I hereby rescind the TDCJ *Safe Prisons Plan* (rev. 2) dated January 5, 2012, and establish the TDCJ *Safe Prisons/PREA Plan* to ensure every effort is made to maintain a safe and secure environment for staff and offenders and incorporate the national PREA standards into agency policies and procedures. I hereby implement the attached plan for use in the operation of the TDCJ Safe Prisons/PREA Program. This plan is in compliance with Tex. Gov't Code §§ 411.148, 492.013, 493.006(b), 494.002, 501.002, 501.011, 501.014, 501.173, 501.174; Tex. Pen. Code §§ 1.07, 22.011, 22.021, 31.01(2), 31.03, 37.10, 39.04; Tex. Code of Crim. Proc. arts. 42.19, 56.02-56.04, 56.07, 56.11, 56.045; Tex. Fam. Code §§ 261.401-.410; 2014-2015 *General Appropriations Act*, Rider 38, V-15, 83rd Leg.; 42 USC § 1983; and 28 CFR §§ 115.5-.93

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Lorie Davis, Director  
Correctional Institutions Division

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Date

# ***SAFE PRISONS/PREA PLAN***

## **TABLE OF CONTENTS**

INTRODUCTION .....	1
DEFINITIONS.....	2
I. ADMINISTRATION AND DESIGNATED STAFF .....	7
A. Safe Prisons/PREA Management Office .....	7
B. TDCJ Safe Prisons/PREA Manager.....	7
C. Regional Safe Prisons/PREA Manager.....	8
D. Unit Safe Prisons/PREA Manager .....	8
II. OFFENDER MANAGEMENT AND SERVICES .....	9
A. Contracts With Other Facilities .....	9
B. Supervising Offenders .....	9
C. Youthful Offenders .....	10
D. Security Staffing .....	10
E. General Services .....	12
F. Immediate Response .....	13
G. Ongoing Medical and Mental Health.....	14
H. Intervention Strategies .....	14
III. OFFENDER SCREENING AND ASSESSMENT .....	16
A. Intake.....	16
B. Obtaining Information from Offenders.....	16
C. Use of Screening Information.....	18
D. Screening Information Management.....	19

IV.	REPORTING ALLEGATIONS .....	20
A.	Offender Reporting of Allegations .....	20
B.	Staff and Third-Party Reporting of Allegations.....	23
C.	Protection from Retaliation.....	23
D.	Reporting to Other Confinement Facilities.....	24
V.	INVESTIGATIONS .....	25
A.	General Considerations .....	25
B.	Response to Reports of Sexual Abuse .....	25
C.	Offender Notification by Type of Investigation .....	26
D.	Investigators and Investigation Criteria .....	27
E.	Investigation Process .....	28
F.	Offender Protection Investigation Review and Committee Action .....	29
G.	Investigation Follow-Up.....	30
H.	Disciplinary Sanctions .....	30
I.	Incident Review Team .....	31
VI.	TRAINING AND EDUCATION .....	32
A.	Offender Orientation and Education.....	32
B.	Employee Training.....	32
C.	Employee Training Design and Efficacy .....	34
D.	Contractor and Volunteer Training Content .....	34
VII.	DATA COLLECTION .....	35
A.	Data Collection Processes.....	35
B.	Data Usage .....	36

C.	Data Management .....	36
D.	Monitoring and Tracking .....	37
VIII.	ADMINISTRATIVE CONSIDERATIONS.....	38
A.	Employees.....	38
B.	Contractors and Volunteers.....	39
C.	Background Checks .....	39

# TEXAS DEPARTMENT OF CRIMINAL JUSTICE

## *SAFE PRISONS/PREA PLAN*

### INTRODUCTION

This plan outlines the process of preventing, detecting, and responding to sexual abuse, sexual harassment, extortion, and acts of violence perpetrated against an offender. The plan is intended to ensure consistency in the screening, identification, investigation, reporting, and response procedures, including maintaining adequate tracking methods for identifying victims and predators, documentation, data collection, and records related to Safe Prisons/PREA investigations.

TDCJ employees play an invaluable role in the Safe Prisons/PREA Program. Staff participation in the program is essential in identifying aggressive behavior and taking the necessary steps to ensure the safety and security of Texas correctional institutions.

## DEFINITIONS

“Allegation,” for the purpose of this plan, is an unconfirmed report or claim made by any person regarding a potential risk to an offender’s safety.

“Alleged Sexual Harassment” is:

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

“Appropriate,” for the purpose of this plan, is to transfer or attempt to transfer entitlement, ownership, or other interest in property, or to acquire or otherwise exercise control over property other than real estate. Property is unlawfully appropriated if:

- The property is obtained by using deception or coercion; or
- An offender obtains property knowing it is stolen.

“Coercion” is the practice of forcing another person to behave in an involuntary manner, whether through action or inaction, by use of threats, rewards, intimidation, or some other form of pressure or force.

“Consent” is an agreement to or approval of what is done or proposed by another without duress, force, threat, or a perceived threat.

“Deprive” is to withhold property from the owner permanently or for an extended period of time so a major portion of the value or enjoyment of the property is lost to the owner; to restore property only after payment of reward or other compensation; or to dispose of property in a manner that makes recovery of the property by the owner unlikely.

“Employee” is any individual employed by the TDCJ on a full-time, part-time, contract or temporary basis. For the purpose of this plan, staff may be used interchangeably with employee.

“Exigent Circumstances” are temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security of a facility.

“Extortion” is when an individual:

- Appropriates currency or property by coercion, violence, or the threat of violence with the intent to deprive the owner of the currency or property; or

- Demands the performance of an action by coercion, violence, or the threat of violence.

“Forensic Medical Examination” is an examination of a sexual abuse patient by a health care provider related to collection of forensic evidence and treatment of the patient.

- The forensic component includes gathering information from the patient for the medical forensic history, an examination, coordinating treatment of injuries, documentation of biological and physical findings, collecting evidence using the Sexual Assault Evidence Collection Kit, information, treatment, and referrals for sexually transmitted infections (STIs).
- The medical component includes coordinating treatment of injuries, providing care for STIs, assessing pregnancy risk, discussing treatment options, and providing instructions and referrals for follow-up medical care.

“Gender Identity” refers to an individual’s inner sense of being male, female or another gender. Gender identity is not necessarily the same as sex assigned or presumed at birth.

“Gender Nonconforming” refers to a person whose appearance or manner does not conform to traditional societal gender expectations.

“Intake Facility” refers to any TDCJ reception and diagnostic center where newly received offenders are processed for determination of the offenders’ needs and requirements relative to security, supervision, and treatment. For the purpose of this plan, this shall include state jail facilities receiving offenders directly from counties.

“Intersex” is 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.

“LGBTI” is an acronym for lesbian, gay, bisexual, transgender, and intersex.

“Offender” is an individual under the supervision, custody, incarceration, or otherwise confined in a facility operated by the TDCJ, or any facility under contract with the TDCJ.

“Offender-on-Offender Alleged Sexual Abuse” is an allegation of sexual abuse of an offender by another offender that 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 to refuse:

- Contact between the penis and vulva or the penis and 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.

“Offender Protection Investigation” (OPI) is a formal administrative investigative report documenting facts and findings associated with offender-on-offender allegations of sexual abuse, sexual harassment, extortion, violence, and threats of violence.

“Offender Victim Representative” (OVR) is a qualified staff member, approved by the warden, who is a mental health clinician, sociologist, chaplain, social worker, or case manager, who provides emotional support services to an offender during a forensic medical examination. OVRs shall be screened for appropriateness and must complete the TDCJ Sexual Assault Offender Victim Representative Training. (For community advocates, refer to Victim Advocate.)

“Prison Rape Elimination Act (Public Law 108-79)” is a federal law established to provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information resources, recommendations, and funding to protect individuals from prison rape.

“Prison Rape Elimination Act (PREA) Ombudsman” is the official appointed by the Texas Board of Criminal Justice to respond to PREA complaints or PREA inquiries.

“Property” is an offender’s personal items that have or represent value, as defined in AD-03.72, “Offender Property.”

“Protective Safekeeping” is designated for offenders who require the highest level of protection in a more controlled environment than other general population offenders, due to threats of harm by others or a high likelihood of victimization.

“Safe Prisons/PREA Operations Manual” (SPPOM) is a departmental manual that provides specific details, including responsibilities, roles, and procedures, for all departments and staff directly involved in the development, operation, and implementation of the Safe Prisons/PREA Program.

“Safe Prisons/PREA Program” is the TDCJ program established to prevent, detect, and respond to sexual abuse, sexual harassment, extortion, and acts of violence perpetrated against an offender. The Safe Prisons/PREA Management Office is responsible for coordinating TDCJ efforts to incorporate PREA standards into agency policies and procedures, maintain compliance with agency policies and procedures relating to safe prisons and PREA standards, and for database management regarding sexual abuse incidents.

“Safekeeping Status” is a status assigned to offenders who require separate housing from general population because of threats to their safety due to a history of homosexual behavior, a potential for victimization, or other similar reasons. Prison offenders in safekeeping are also assigned a principal custody designation, including safekeeping Level II-P2, safekeeping Level III-P3,

safekeeping Level IV-P4, and safekeeping Level V-P5. State jail offenders in safekeeping status are assigned to PJ custody.

“Staff-on-Offender Alleged Sexual Abuse” is an allegation of sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer, that includes any of the following acts, with or without the consent of the offender, detainee, or resident:

- Contact between the penis and vulva or the penis and anus, including penetration, however slight;
- Contact between the mouth and 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 above;
- Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, detainee, or resident; and
- “Voyeurism” by a staff member, contractor, or volunteer, is an invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an offender who is using the toilet in his or her cell to perform bodily functions; requiring an offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an offender’s naked body or of an offender performing bodily functions.

“Substantiated Allegation” is an allegation that was investigated and determined to have occurred.

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

“Unfounded Allegation” is an allegation that was investigated and determined not to have occurred.

“Unsubstantiated Allegation” is an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the incident occurred.

“Victim Advocate” is a qualified staff member from a rape crisis center or community-based organization who accompanies and supports offenders who were victims of sexual assault through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals. This individual shall have completed a sexual assault training program certified by the Texas Attorney General’s office and be employed by a sexual assault program or provide services through a sexual assault program as a volunteer under the supervision of an advocate.

“Volunteer” is an individual who donates time on a recurring basis to enhance the activities and programs of the TDCJ. Reference the TDCJ *Volunteer Services Plan* for definitions of the various types of volunteers.

“Youthful Offender” is an offender who is under 18 years of age.

I. Administration and Designated Staff

A. Safe Prisons/PREA Management Office (SPPMO)

The SPPMO is the central office established to monitor the incidence of offender sexual abuse and provide statistical analyses regarding the frequency of reports.

B. TDCJ Safe Prisons/PREA Manager (TDCJ SPPM)

1. The CID director shall select a TDCJ SPPM to direct the SPPMO.
2. The TDCJ SPPM shall conduct statistical analyses of alleged sexual abuse incidents occurring on TDCJ operated facilities; monitor each alleged sexual abuse incident to ensure compliance with current state and federal laws and TDCJ policies and procedures; and identify issues for further policy development.
3. The TDCJ SPPM shall:
  - a. Coordinate with unit and departmental staff within the TDCJ by providing technical support and assistance regarding efforts to comply with the requirements of the Safe Prisons/PREA Program.
  - b. Coordinate with TDCJ regional directors in the selection and supervision of regional Safe Prisons/PREA managers (RSPPM).
  - c. Provide training, technical assistance, and program support to regional and unit Safe Prisons/PREA managers (USPPM).
  - d. Collaborate with and assist TDCJ officials in the collection of statistical data for completion of the annual U.S. Department of Justice, Bureau of Justice Statistics, *Survey of Sexual Violence* (SSV).
  - e. Facilitate and coordinate Safe Prisons/PREA Program training and awareness programs for staff and offenders.
  - f. Participate in annual unit staffing plan reviews by providing information regarding the prevalence of substantiated and unsubstantiated sexual abuse incidents.
  - g. Coordinate, maintain, and attempt to enter into memoranda of understanding or other agreements with community service providers (victim advocates) who are able to provide offenders with confidential emotional support services related to sexual abuse.

Copies of agreements or documentation showing attempts to enter into such agreements shall be maintained.

- h. Additional procedures related to the duties of the TDCJ SPPM or designee shall be performed in accordance with the SPPOM.

C. Regional Safe Prisons/PREA Manager (RSPPM)

1. The SPPMO, in coordination with each regional director's office, shall select an RSPPM to assist with the implementation and monitoring of the Safe Prisons/PREA Program within the region.
2. The RSPPM shall perform region-based initiatives identified by the CID director, SPPMO, and regional director.
3. The RSPPM shall provide technical assistance, training, and support to each USPPM, correctional, and departmental staff when requested by the regional director, SPPMO, and unit administration to ensure unit efforts in maintaining compliance with the Safe Prisons/PREA Program policies.
4. The RSPPM shall review each sexual abuse administrative review and all investigative documents after receipt at the regional office for compliance with state and federal laws, along with TDCJ policies and procedures.
5. Additional procedures related to the duties of the RSPPM shall be performed in accordance with the SPPOM.

D. Unit Safe Prisons/PREA Manager (USPPM)

1. Each warden shall select a correctional officer with sufficient time and authority to perform the duties of the USPPM.
2. The USPPM shall coordinate the implementation and monitoring of the Safe Prisons/PREA Program on the unit.
3. The USPPM shall provide training, technical assistance, and support to unit correctional and departmental staff to ensure compliance with the Safe Prisons/PREA Program.
4. The USPPM shall ensure each offender protection investigation (OPI) involving sexual abuse or sexual harassment is reviewed ensuring compliance with TDCJ policies and procedures.
5. Procedures and duties related to the functions of the USPPM shall be performed in accordance with the SPPOM and PO-07.150, "Unit Safe Prisons/PREA Manager."

## II. Offender Management and Services

### A. Contracts With Other Facilities

Any new contract or renewal with entities for the confinement of offenders shall adopt and comply with TDCJ policies and procedures.

### B. Supervising Offenders

1. Security supervisors at each unit shall conduct and document unannounced rounds to identify and deter sexual abuse and sexual harassment. These rounds shall be conducted during all shifts in accordance with applicable post orders.
2. Staff is prohibited from alerting other staff members when these rounds are occurring, unless the announcement is related to the legitimate operational functions of the unit. Violations shall be handled in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."
3. Staff shall not conduct cross-gender strip searches or cross-gender visual body cavity searches, such as a search of the anal or genital opening, except in exigent circumstances or when performed by medical practitioners in accordance with AD-03.22, "Offender Searches."
4. Unit staff shall document all cross-gender strip searches and cross-gender visual body cavity searches for male offenders, and all cross-gender visual body cavity searches or pat-down searches for female offenders.
5. These searches shall be documented on an Inter-Office Communication containing a supervisor's signed approval and filed with the USPPM.
6. Correctional officers shall make best efforts to allow offenders to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff of the opposite gender shall announce their presence when entering an offender housing area in accordance with applicable post orders. Under no circumstances shall an offender search be conducted solely for the purpose of determining an offender's genital status.
7. Offenders identified as transgender or intersex shall be given the opportunity to shower separately from other offenders in accordance with Correctional Managed Health Care (CMHC) policies.

### C. Youthful Offenders

1. Offenders younger than 18 are considered children or minors for the purpose of reporting and investigating child abuse. Offenders in the Challenge Opportunity Understanding Respect Acceptance Growth Education (COURAGE) program and the Travis County State Jail Youthful Offender Program requiring protection shall be housed in accordance with this plan and the *Youthful Offender Program (YOP)/ Challenge Opportunity Understanding Respect Acceptance Growth Education (COURAGE) Program Operations Manual*.
2. In accordance with the TDCJ *Classification Plan* and TDCJ *Unit Classification Procedures Manual*, youthful offenders shall not be placed in a housing unit where the youthful offenders will have sight, sound, or physical contact with any adult offenders through use of a shared dayroom or other common space, shower area, or sleeping quarters.
3. When youthful offenders are outside the housing areas, correctional staff shall:
  - a. Maintain sight and sound separation between youthful offenders and adult offenders; or
  - b. Provide direct supervision when youthful and adult offenders have sight, sound, or physical contact.

The TDCJ shall make best efforts to avoid placing youthful offenders in isolation for the purposes of maintaining sight and sound separation. Youthful offenders' daily large muscle exercise and any legally required special education services required to comply with this provision shall not be denied, except in exigent circumstances. Youthful offenders shall also have access to other programs and work opportunities to the extent possible.

### D. Security Staffing

1. The TDCJ shall ensure each unit develops, documents, and complies with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, units shall take into consideration TDCJ policies and procedures, and:
  - a. Generally accepted detention and correctional practices;
  - b. Any judicial findings of inadequacy;

- c. Any findings of inadequacy from federal investigative agencies;
  - d. Any findings of inadequacy from internal or external oversight agencies;
  - e. All components of the unit's physical plant, including "blind spots" or areas where staff or offenders may be isolated;
  - f. The composition of the offender population;
  - g. The number and placement of supervisory staff;
  - h. Institutional programs occurring on a particular shift;
  - i. Any applicable state or local laws, regulations, or standards;
  - j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
  - k. Any other relevant factors.
2. In circumstances where the staffing plan is not complied with, the unit shall document and justify all deviations from the plan.
  3. Each unit the TDCJ operates shall complete an assessment, whenever necessary, but no less frequently than once each year in consultation with the CID director, who serves as the PREA coordinator, and the TDCJ SPPM, to determine and document if the following require adjustments:
    - a. The staffing plan established pursuant to paragraph 1 of this section;
    - b. The unit's deployment of video monitoring systems and other monitoring technologies; or
    - c. Resources the unit has available to commit to ensure adherence to the staffing plan.
  4. When designing or acquiring any new unit and in planning any substantial expansion or modification of existing units, the TDCJ shall consider the effect of the design, acquisition, expansion, or modification on the ability to protect offenders from sexual abuse.
  5. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, consideration shall be given as to how the technology may enhance the ability to protect offenders from sexual abuse.



E. General Services

1. Offender Victim Services (OVS)

Attempts shall be made to make a victim advocate from a rape crisis center available to the offender victim first. If a rape crisis center is not able to provide the offender with victim advocate services, the unit shall make available a qualified staff member from a community-based organization. If a qualified staff member from a community-based organization is not able to provide the offender with victim advocate services, the unit shall make available a qualified TDCJ staff member to provide the offender with victim advocate services.

a. As requested by the offender victim, the victim advocate or qualified TDCJ staff member, or qualified community-based organization staff member shall:

- (1) Accompany and support the victim through the forensic medical examination process and investigatory interviews;
- (2) Provide emotional support, crisis intervention, information, and referrals; and
- (3) Not delay or otherwise impede the screening or stabilization of an emergency medical condition.

b. For the purposes of this section, a qualified TDCJ staff member is an offender victim representative (OVR).

2. Offender Victim Representatives

a. The warden shall designate at least two OVRs. An OVR shall be a mental health clinician, sociologist, chaplain, social worker, or case manager who has completed the TDCJ Sexual Assault Offender Victim Representative training.

b. Wardens shall coordinate with the SPPMO when a newly designated OVR requires training.

c. The function of an OVR shall not begin until such training is received.

3. Contact Information

- a. Offenders shall be provided access to victim advocates for emotional support services related to sexual abuse by giving offenders mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. The unit shall enable reasonable communication between offenders and these organizations and agencies, in as confidential a manner as possible.
- b. Offenders shall be informed, prior to giving them access, of the extent to which these communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

F. Immediate Response

1. Offender 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 in accordance with CMHC policies.
2. If no qualified medical or mental health practitioners are on duty at the time a report of abuse is made, staff first responders shall take preliminary steps to protect the victim and immediately notify the appropriate on-call medical and mental health practitioners.
3. Offenders who become victims of sexual abuse while incarcerated shall be offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis, according to professionally accepted standards of care, where medically appropriate, in accordance with CMHC policies.
4. Treatment services shall be provided to the offender victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.
5. All offender victims of sexual abuse shall be offered access to forensic medical examinations, whether on-site or at an outside medical facility, without financial cost, where evidentiary or medically appropriate. Such examination shall be performed by a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE) when possible. If neither a SAFE nor SANE can be made available, the examination may be performed by other qualified medical practitioners in accordance with

CMHC policies. Efforts to provide a SAFE or SANE shall be documented.

#### G. Ongoing Medical and Mental Health

1. All offenders who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile unit shall be offered medical and mental health evaluation and treatment, as appropriate.
2. The evaluation and treatment of such offender 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 units in accordance with CMHC policies or their release from custody.
3. Offender victims shall be provided medical and mental health services consistent with the community level of care.
4. Offenders who have the capacity to become pregnant as a result of sexually abusive penile-vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the conduct described in this section, the victim shall receive timely and comprehensive information about and access to all lawful pregnancy-related medical services in accordance with CMHC policies.
5. Offenders who become victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate and in accordance with CMHC policies.
6. A mental health evaluation of all known offender-on-offender abusers shall be attempted within 60 days of learning of the abuse and treatment shall be offered when deemed appropriate in accordance with CMHC policies.

#### H. Intervention Strategies

It is the responsibility of all TDCJ employees to ensure the safety and security of offenders. An offender does not have to prove life endangerment to be considered for intervention options. The following intervention methods shall be used to create a safer and more secure environment for offenders and staff. These methods of intervention shall be performed in accordance with the procedures outlined in the SPPOM, the TDCJ *Classification Plan*, and the *Unit Classification Procedures Manual*.

1. Verbal Intervention

Staff shall use verbal intervention methods, such as observation and listening skills, to identify problems and ask questions to gain a better understanding of the issues surrounding an offender's situation. Staff shall be aware of changes in offender behavior, as these changes may indicate an underlying problem.

2. Changes in Housing Assignments, Work Assignments, or Work Shift Hours

To alleviate tension between offenders, changes may be made to an offender's housing assignment, work assignment, or work shift hours. This option is effective for offenders having specific problems with other offenders in the same housing or work area.

3. Custody Changes and Restrictive Housing

Placement of an aggressive or assaultive offender in a more restrictive custody limits an offender's opportunity to victimize other offenders. These options shall be considered in accordance with the TDCJ *Disciplinary Rules and Procedures for Offenders*, the TDCJ *Classification Plan*, and the TDCJ *Restrictive Housing Plan (formerly the Administrative Segregation Plan)*.

4. Transfer to a New Unit of Assignment

Transferring an offender to another unit of assignment shall be handled in accordance with the TDCJ *Classification Plan* and objective evidence supporting the need for a transfer.

5. Safekeeping Status

An offender assigned to safekeeping status shall be reviewed in accordance with the TDCJ *Classification Plan*.

6. Protective Safekeeping

Protective safekeeping provides offenders maximum supervision and the highest degree of protection from threats of harm by other offenders. This is the most restrictive option available to offenders and limits the ability to participate in work, education, and other privileges. Placement in protective safekeeping shall be in accordance with the TDCJ *Protective Safekeeping Plan*.

7. Interstate Corrections Compact (ICC) Transfer

This option is considered when an offender's need for protection cannot be met by housing the offender in TDCJ units. A request for an ICC transfer shall be in accordance with the TDCJ *Classification Plan*.

III. Offender Screening and Assessment

A. Intake

1. During the intake process, non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status.
2. If the offender's genital status is unknown, it may be determined during conversation with the offender, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner.
3. Offenders identified as transgender or intersex during intake shall be referred to medical in accordance with the TDCJ *Intake Procedures Manual*.

B. Obtaining Information from Offenders

1. All offenders shall be assessed during intake, and if transferred to another unit for permanent assignment, to determine the risk of being sexually abused by or sexually abusive toward other offenders.
2. Intake screening shall take place within 24 hours of arrival at the unit in accordance with the SPPOM.
3. Assignments shall be made through the collaborative efforts of intake staff, the USPPM, and medical and mental health services by using objective screening instruments.
  - a. The intake screening shall include, at a minimum, the following criteria to assess offenders for risk of sexual victimization:
    - (1) Any mental, physical, or developmental disability;
    - (2) The age of the offender;
    - (3) The physical build of the offender;
    - (4) Previous incarceration;

- (5) Whether the criminal history is exclusively nonviolent;
  - (6) Prior convictions for sex offenses against an adult or child;
  - (7) Perception of the offender as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
  - (8) Previous sexual victimization; and
  - (9) The offender's own perception of vulnerability.
- b. The initial 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 TDCJ, in assessing offenders for risk of being sexually abusive.
  - c. After completion of the screening instrument, the USPPM shall forward a copy to the intake coordinator, for intake facilities, and the original shall be provided to the unit classification department for review.
4. Within a period of time not to exceed 30 days from the offender's arrival at an intake facility, the offender shall be reassessed for risk of victimization or abusiveness following receipt of any additional or relevant information received by the TDCJ since the initial intake screening.
  5. An offender's risk level shall be reassessed following a referral, request, incident of sexual abuse, or receipt of additional information that may affect the offender's risk of sexual victimization or abusiveness.
    - a. An investigation shall be conducted upon referral, request, an incident of sexual abuse, or receipt of additional information that may affect the offender's risk of sexual victimization or abusiveness.
    - b. The unit classification committee or warden shall review the investigation and any prior assessment screening to determine the offender's current risk level.
  6. If the screening pursuant to this section indicates an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

7. If the screening pursuant to this section indicates an offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
8. If information indicates an offender has previously perpetrated sexual abuse in an institutional setting, the USPPM shall ensure the SPPMO is notified in accordance with the SPPOM.

C. Use of Screening Information

1. The Unit Classification Committee (UCC), or a similarly designed committee for units without a UCC, shall use information from the risk screening document required by Section III.B of this plan to make housing, bed, work, education, and program assignments with the goal of separating offenders at high risk of being sexually victimized from offenders at high risk of being sexually abusive in accordance with the *TDCJ Classification Plan* and the *TDCJ Unit Classification Procedures Manual*.
2. The committee shall make individualized determinations regarding how to ensure the safety of each offender.
3. Offenders at high risk for sexual victimization shall not be placed in protective safekeeping unless an assessment of all available alternatives has been made and it is determined there is no available alternative means of separation from likely abusers. If the assessment cannot be completed immediately, the unit may hold the offender in involuntary segregated housing while completing the assessment, for no longer than 24 hours.
4. If a protective safekeeping housing assignment is made pursuant to Section III.C.3, the unit shall clearly document:
  - a. The basis of the concern for the offender's safety; and
  - b. The reason why no alternative means of separation can be arranged.
5. Offenders shall be assigned to protective safekeeping only until an alternative means of separation from likely abusers is arranged, for no longer than 30 days.
6. Offenders placed in protective safekeeping for this purpose shall have access to programs, privileges, education, and work opportunities to the

extent possible. If the unit restricts access to programs, privileges, education, or work opportunities, the unit shall document:

- a. The opportunities that have been limited;
  - b. The duration of the limitations; and
  - c. The reasons for the limitations.
7. Every 30 days, the unit shall conduct a review to determine if there is a continuing need for separation of the offender from the general population.
  8. LGBTI offenders shall not be placed in dedicated facilities, units, or wings solely on the basis of this identification or status, unless the placement is in a dedicated unit wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting these offenders.
  9. When deciding to assign a transgender or intersex offender to a unit for male or female offenders, and when making other housing and programming assignments, consideration shall be made on a case-by-case basis with regard to the health and safety of the offender and potential management or security problems. Housing determinations shall not be made solely on the basis of LGBTI status.
    - a. Placement and programming assignments for each transgender or intersex offender shall be reassessed semiannually to review any threats to safety experienced by the offender.
    - b. A transgender or intersex offender's views with respect to his or her own safety shall be given serious consideration.
  10. Offenders shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to Section III.B.3.

D. Screening Information Management

1. Staff shall use appropriate controls to disseminate responses to questions asked pursuant to this plan within the units, ensuring that sensitive information is not exploited to the detriment of any offender by staff or other offenders.
2. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and



mental health practitioners and other staff, as necessary, assisting with making treatment plans and informed management decisions, including those related to housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

3. In accordance with CMHC policies, medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18.

#### IV. Reporting Allegations

An OPI may be requested by anyone who has information that an offender may be in need of protection. This information can come from the offender in need of protection, other offenders, the offender's family, TDCJ staff, or others. An OPI shall be conducted in accordance with the procedures outlined in the SPPOM.

##### A. Offender Reporting of Allegations

1. Offenders shall be provided multiple internal methods to privately report sexual abuse, sexual harassment, and other acts of aggression including, but not limited to, extortion and violence.
  - a. Offenders may report retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to the incidents.
  - b. Offenders may report allegations directly to the major, the Office of Inspector General (OIG), or the PREA ombudsman. Reports to the PREA ombudsman may be made confidentially and in accordance with ED-02.10, "Prison Rape Elimination Act Complaints and Inquiries."
  - c. Offenders may remain anonymous upon request when reporting allegations of sexual abuse and sexual harassment to the PREA Ombudsman.
2. Appropriate steps shall be taken to ensure offenders with disabilities, including offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities, have an equal opportunity to participate in or benefit from all aspects of TDCJ efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Staff shall provide access to qualified interpreters, when necessary, to ensure effective communication with offenders who are deaf or hard of hearing. Written materials shall be provided in

accordance with TDCJ policies and procedures, to ensure effective communication with offenders with disabilities, limited reading skills, or who are blind or have low vision.

3. Offenders with limited English proficiency shall be provided meaningful access to information regarding TDCJ efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
  - a. When seeking interpreters, staff shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties described within this plan, or the investigation of the offender's allegations.
  - b. Staff shall follow appropriate TDCJ policies and procedures for obtaining a qualified interpreter.
4. Staff shall accept reports made verbally, in writing, anonymously, and from third parties, and shall promptly document any verbal reports.
5. Third parties, including fellow offenders, staff members, family members, attorneys, and advocates, shall be permitted to assist offenders in filing requests for administrative remedies relating to an allegation of sexual abuse, and shall also be permitted to file these requests on behalf of offenders.
  - a. If a third party files a request on behalf of an offender, the unit may require, as a condition of processing the request, the alleged victim to agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process in accordance with the *TDCJ Offender Grievance Operations Manual*.
  - b. If the offender declines to have the request processed on his or her behalf, the decision shall be documented in accordance with the *TDCJ Offender Grievance Operations Manual*.
6. A time limit shall not be imposed when an offender may submit a grievance regarding an allegation of sexual abuse.

- a. Time limits to any portion of a grievance that does not allege an incident of sexual abuse shall be managed in accordance with the *TDCJ Offender Grievance Operations Manual*.
  - c. Offenders shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
- 7. In accordance with the *TDCJ Offender Grievance Operations Manual*:
  - a. An offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; and
  - b. A grievance of this nature shall not be referred to a staff member who is the subject of the complaint.
- 8. A final decision shall be made on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.
  - a. Computation of the 90-day time period shall not include time used by offenders for preparing an administrative appeal.
  - b. If the 90-day time period is insufficient to make an appropriate decision, an extension of up to 70 days may be granted. The offender shall be notified in writing of the extension and a date by which the decision will be made.
- 9. An emergency grievance alleging substantial risk of imminent sexual abuse shall be filed and managed in accordance with the *TDCJ Offender Grievance Operations Manual*.
- 10. When an emergency grievance is received, any portion that alleges the substantial risk of imminent sexual abuse shall be forwarded to a level of review for immediate corrective action. An initial response shall be provided within 48 hours of receipt, and a final decision rendered within five calendar days. The initial response and final decision shall document whether the offender is in substantial risk of imminent sexual abuse and the action taken. Information related to this item may be found in the *TDCJ Offender Grievance Operations Manual*.
- 11. An offender may be disciplined for filing a grievance related to alleged sexual abuse only when the investigation determines the offender filed the grievance in bad faith.

12. At any level of the grievance process, including the final level, if the offender does not receive a response within the allotted time, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level. A response shall be provided to the offender in accordance with the *TDCJ Offender Grievance Operations Manual*.
13. Staff shall not reveal any information related to a sexual abuse report to anyone other than designated supervisors or officials, and only to the extent necessary to make informed treatment, investigative, security, and management decisions.
14. An offender may report allegations verbally or in writing to any staff member pursuant to all standards defined in Section IV of this plan.

B. Staff and Third-Party Reporting of Allegations

1. All staff members shall immediately report, according to TDCJ policy, any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred on a unit, whether or not it is a TDCJ facility; retaliation against offenders or staff who reported an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
2. A method shall be provided for staff to privately report sexual abuse and sexual harassment of offenders. Staff shall accept reports made verbally; in writing, including by letter, Inmate Request to Official (I-60), sick call form, or a grievance submitted through the grievance process; anonymously; and from third parties. All verbal reports shall be promptly documented.
3. Family members or other individuals may report verbally or in writing to unit administration, the TDCJ Ombudsman office, OIG, or PREA ombudsman office any time they have knowledge of or suspect an offender has been sexually abused, sexually harassed, or requires protection.
4. Unless otherwise precluded by federal, state, or local law, and at the initiation of services, medical and mental health practitioners shall be required to report sexual abuse pursuant to Section IV.B.1 of this plan, and to inform offenders of the practitioner's duty to report, as well as the limitations of confidentiality.
5. Suspected or reported staff-on-offender sexual abuse, staff neglect, or violation of responsibilities shall be reported in accordance with the guidelines in PD-29, "Sexual Misconduct with Offenders."

### C. Protection from Retaliation

1. Offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other offenders or staff. The USPPM shall monitor for incidents of retaliation in accordance with the SPPOM.
2. As appropriate, multiple protective measures may be taken, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offender or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least 90 days following a report of sexual abuse, the USPPM shall monitor and document the conduct and treatment of offenders or staff who reported the sexual abuse, and of offenders who were reported to have been victims of sexual abuse, for changes that may indicate possible retaliation by offenders or staff, and shall act promptly to address any retaliation.
4. Monitoring shall include a review of offender disciplinary reports and housing or program changes; and negative performance reviews and reassignments of staff. The monitoring shall continue beyond 90 days if circumstances dictate the need.
5. The monitoring shall also include periodic status checks of offenders.
6. The USPPM on the facility where the incident was originally reported shall coordinate continued monitoring with the receiving USPPM in the event the offender is transferred.
7. If any other individual who cooperates with an investigation expresses a fear of retaliation, the TDCJ shall take appropriate measures to protect that individual against retaliation.
8. If the TDCJ investigation determines the allegation to be unfounded, the monitoring shall be discontinued.

### D. Reporting to Other Confinement Facilities

1. After receiving an allegation that an offender was sexually abused while confined at another facility, such as a county jail or out of state facility, the individual taking the initial report shall immediately notify the USPPM. The USPPM shall provide the SPPMO with the details of the alleged

incident so the SPPMO may initiate notification to the appropriate office of the outside agency where the alleged abuse occurred.

- a. The SPPMO shall provide the notification to the appropriate agency as soon as possible, but no later than 72 hours after receiving the allegation.
  - b. The SPPMO shall document the notification.
2. Any TDCJ warden or departmental office receiving notification from an outside agency that an offender in the outside agency's custody alleged sexual abuse while assigned to TDCJ custody shall ensure the allegation is forwarded to the PREA ombudsman in accordance with ED-02.10, "Prison Rape Elimination Act Complaints and Inquiries," for possible investigation.

## V. Investigations

### A. General Considerations

1. All allegations of sexual abuse shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
2. The protocol shall be developmentally appropriate for youth, where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice Office on Violence against Women publication, "*A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents*," or similarly comprehensive and authoritative protocols developed after 2011.
3. The requirements of evidence protocol and forensic medical examinations shall also apply to:
  - a. Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and
  - b. Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.
4. Investigations of sexual abuse, threatened sexual abuse, and sexual harassment shall be conducted promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

5. Investigations involving allegations of sexual abuse shall be conducted by investigators who have received special training in sexual abuse investigations pursuant to this plan.

B. Response to Reports of Sexual Abuse

1. After learning of an allegation that an offender was sexually abused, the first correctional officers responding to the report shall:
  - a. Notify a security supervisor;
  - b. Separate the alleged victim and assailant;
  - c. Preserve and protect the crime scene, if applicable, until appropriate steps can be taken to collect any evidence;
  - d. Be required to request that the alleged victim not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence.
  - e. 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 abuse occurred within a time period that still allows for the collection of physical evidence.
  - f. Refer the alleged victim and known abuser to medical and mental health services for examination and evaluation. If medical and mental health staff are not available at the time the allegation is made, staff first responders shall take preliminary steps to protect the victim and shall notify on-call medical or mental health staff. The nature and scope of treatment shall be determined by medical and mental health practitioners in accordance with CMHC policies and Section II.G of this plan.
  - g. As appropriate, the services of a victim advocate or an OVR shall be made available in accordance with this plan.
  - h. Additional information regarding coordinated response procedures may be found in the SPPOM.
2. If the first staff responder is not a correctional officer, the responder shall be required to request that the alleged victim not take any actions that

could destroy physical evidence, and shall immediately notify a correctional officer.

3. Any use of protective safekeeping to protect an offender who is an alleged sexual assault victim shall be subject to the requirements of Section III.C.3-7 of this plan.
4. An administrative and criminal investigation, as appropriate, shall be completed for all allegations of sexual abuse and sexual harassment.

#### C. Offender Notification by Type of Investigation

1. Allegations of sexual abuse and sexual harassment shall be referred to the OIG for investigation. These referrals shall be documented on the appropriate investigative forms contained within AD-02.15, "Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents," for staff-on-offender allegations and the SPPOM for offender-on-offender allegations.
2. Sexual abuse response and notification procedures contained within this plan and the SPPOM shall be followed to coordinate actions taken in response to an incident of sexual abuse.
3. Offenders shall be notified of relevant information regarding criminal investigations, in accordance with the SPPOM.
4. If an offender is determined to have been a victim of staff-on-offender sexual abuse, the warden shall inform the offender when:
  - a. The staff member is no longer assigned to the offender's unit; or
  - b. The staff member is no longer employed by the TDCJ.
5. If an offender is determined to have been a victim of staff-on-offender sexual abuse and the abuse is determined criminal, the SPPMO shall inform the offender when:
  - a. The staff member has been indicted on a charge related to sexual abuse within the unit; or
  - b. The staff member has been convicted on a charge related to sexual abuse within the unit.
6. If an offender alleges to have been a victim of offender-on-offender sexual abuse, the SPPMO will subsequently inform the alleged victim when:



- a. The alleged assailant has been indicted on a charge related to sexual abuse within the unit; or
  - b. The alleged assailant has been convicted on a charge related to sexual abuse within the unit.
7. The TDCJ SPPM shall ensure the relevant criminal information is received from the OIG in order to inform the offender.
  8. All offender notifications or attempted notifications described in items 4-6 of this section shall be documented.
  9. The requirement to provide offender notification shall terminate if the offender is released from the custody of the TDCJ.

D. Investigators and Investigation Criteria

1. Sexual abuse and sexual harassment investigations alleged against staff shall only be conducted by a staff member with the rank of captain or above. Unit administrators shall ensure the investigating staff member is at least one rank above the accused staff member. If the OIG conducts administrative investigations against staff, the investigation shall be performed in accordance with OIG policies and procedures.
2. When the evidence supports criminal prosecution, OIG shall conduct compelled interviews only after consulting with prosecutors to ensure the interviews do not impede subsequent criminal prosecution.
3. An offender who alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of the allegation.
4. The departure of the alleged assailant or victim from employment or custody of the TDCJ shall not be the basis for terminating an investigation.
5. No standard higher than the preponderance of evidence shall be imposed in determining if allegations of sexual abuse or sexual harassment are substantiated.

E. Investigation Process

1. Sexual Abuse Investigations

- a. Offender-on-offender sexual abuse investigations shall be documented on the appropriate Safe Prisons/PREA forms contained within the SPPOM.
- b. Investigations shall include, at a minimum, interviews with alleged victims, suspected assailants, and witnesses; a review of prior complaints and reports of sexual abuse involving the alleged assailant; review of video surveillance where available; and any evidence, including physical evidence.
- c. The credibility of an alleged victim, assailant, or witness shall be assessed on an individual basis and not on the status as an offender or staff member.
- d. Staff shall document the description of physical and testimonial evidence in the body of the report, the reasoning behind credibility assessment, and investigative facts and findings.
- e. Information regarding staff action or inaction that may have contributed to the alleged abuse shall be included in the investigative report.
- f. Unit staff conducting OPIs shall cooperate with the OIG when applicable, to avoid interfering with possible criminal investigation related to the same incident.
- g. Additional information related to investigations may be found in the SPPOM.

## 2. Additional Sexual Abuse Documentation

All staff-on-offender sexual abuse and sexual harassment allegations against staff shall be reported, investigated, and documented in accordance with PD-29, "Sexual Misconduct with Offenders," AD-02.15, "Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents," and AD-16.20, "Reporting Incidents/Crimes to the Office of the Inspector General."

## 3. Extortion, Sexual Harassment, and Violence OPIs

- a. Allegations involving offender-on-offender extortion, sexual harassment, violence, and retaliation shall be reported, documented, and investigated in accordance with the SPPOM.
- b. Investigations shall be conducted in accordance with the procedures in Section V.E.1.

- c. Types of extortion may involve demands for money, commissary items, and specific actions for which an offender may fear retaliation if the demands of the alleged assailant are not met.
- d. Extortion involving large sums of money shall be referred to the OIG for possible criminal investigation in accordance with the SPPOM.

F. Offender Protection Investigation Review and Committee Action

1. A staff member with the rank of major or above shall review, monitor, and track all OPIs to ensure each investigation is thorough, accurate, and completed in a timely manner.
2. Following review, all completed OPIs shall be submitted to the unit chief of classification for committee review in accordance with the SPPOM, the TDCJ *Classification Plan*, and the TDCJ *Unit Classification Procedures Manual*.
3. Units without a UCC shall establish a committee consistent with the composition of a UCC to review all OPIs. The committee shall consist of a duty warden, staff representative from the courtroom, and health care staff.
4. Following an OPI committee review, the committee shall inform the offender if the allegations were determined to be substantiated, unsubstantiated, or unfounded.

G. Investigation Follow-Up

1. Administrative investigations shall:
  - a. Include an effort to determine if staff actions or inactions contributed to the abuse; and
  - b. Be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
2. Criminal investigations shall be documented in accordance with OIG policies and procedures.
3. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution in accordance with OIG policies and procedures.

4. All administrative and criminal investigations shall be retained in accordance with the TDCJ *Records Retention Schedule*.

#### H. Disciplinary Sanctions

1. Offenders shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse, sexual harassment, extortion, substantiated acts of violence, or following a criminal finding of guilt for offender-on-offender sexual abuse in accordance with the TDCJ *Disciplinary Rules and Procedures for Offenders*.
2. Sanctions shall be appropriate to the nature of abuse committed, the offender's disciplinary history, and the sanction imposed for comparable offenses by other offenders with similar histories.
3. The disciplinary process shall consider whether an offender's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
4. If the unit offers therapy, counseling, or other interventions designed to address and correct possible underlying reasons or motivations for the abuse, consideration shall be made to determine if participation should be a requirement for access to programming or other benefits.
5. An offender may be disciplined for sexual contact with staff only if it is determined the staff member did not consent to the contact.
6. Disciplinary actions related to staff-on-offender sexual abuse or sexual harassment violations shall be handled in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."
7. Sexual misconduct between offenders is prohibited and shall result in disciplinary sanctions in accordance with the TDCJ *Disciplinary Rules and Procedures for Offenders*. However, sexual misconduct between offenders shall not constitute sexual abuse if it is determined the activity is consensual.
8. A report of sexual abuse made in good faith, based on 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. When the preponderance of evidence exists supporting a false allegation, the offender involved in the false allegation shall be disciplined in accordance with the TDCJ *Disciplinary Rules and Procedures for Offenders*.

9. As warranted, the OIG will pursue criminal prosecution for allegations determined to be criminal in accordance with OIG policies and procedures. An offender assailant shall be disciplined following a criminal finding of guilt even when a sexual abuse OPI does not result in a substantiated outcome due to the lack of supporting evidence.

#### I. Incident Review Team

1. An administrative review shall be completed for all alleged sexual abuse and staff sexual harassment incidents, unless determined unfounded. The unit warden shall obtain input from security supervisors, investigators, and medical or mental health practitioners when completing the review.
2. The review shall be conducted in accordance with AD-02.15, "Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents."
3. The review team shall include upper-level management, with input from line supervisors, investigators, and medical or mental health practitioners.
4. The unit shall implement recommendations that result from the review, or document the reasons for not doing so.

### VI. Training and Education

#### A. Offender Orientation and Education

1. During the intake process, offenders shall be provided with educational information explaining the TDCJ's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment in accordance with the TDCJ *Classification Plan* and TDCJ *Unit Classification Procedures Manual*.
2. Within 30 days of intake, the USPPM shall ensure offenders are provided with comprehensive education either in person or through video regarding their rights to be free from sexual abuse and sexual harassment, and any retaliation for reporting these incidents; and regarding TDCJ policies and procedures from responding to these incidents in accordance with the SPPOM.
3. Offenders shall receive information as described in Section VI.A.1, if transferred to a different facility, to the extent that the policies and procedures of the new facility differ from those of the previous facility, or if there is no documented record the offender received the information.

4. Offenders shall be provided education in formats accessible to all offenders, including those who are limited English proficient, deaf, hard of hearing, blind, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.
5. The USPPM shall maintain documentation of completion rosters in accordance with the TDCJ *Records Retention Schedule* and record the information in accordance with the TDCJ *Individualized Treatment Plan Procedures Manual*.
6. Educational posters and brochures regarding sexual abuse and sexual harassment prevention and reporting shall be displayed and made available to offenders in accordance with the SPPOM.

B. Employee Training

All Safe Prisons/PREA Program training and education shall be performed in accordance with the Correctional Training and Staff Development program schedule, the SPPOM, and this plan.

1. All employees who may have contact with offenders shall receive the following information in accordance with Safe Prisons/PREA requirements:
  - a. The TDCJ's zero tolerance policy on sexual abuse and sexual harassment;
  - b. Methods for fulfilling responsibilities under the TDCJ sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
  - c. The right of offenders to be free from sexual abuse and sexual harassment;
  - d. The right of offenders and staff to be free from retaliation for reporting sexual abuse and sexual harassment;
  - e. The characteristics of sexual abuse and sexual harassment in confinement;
  - f. The common reactions of sexual abuse and sexual harassment victims;
  - g. How to detect and respond to signs of threatened and actual sexual abuse;

- h. How to avoid inappropriate relationships with offenders;
  - i. How to communicate effectively and professionally with offenders, including LGBTI, or gender nonconforming offenders;
  - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and
  - k. The common characteristics of victims and predators, sometimes referred to as red flags.
2. Correctional staff shall be trained in the methods of conducting cross-gender, transgender, and intersex offender pat-down searches in order to ensure the searches are conducted professionally and respectfully, in the least intrusive manner possible, but with attention to security needs.
  3. The training shall be tailored to the gender of the offenders at the unit of assignment. The employee shall receive additional training when transferring to a unit with offenders of a different gender.
  4. In addition to the CTSD curriculum and requirements of this plan, unit administration shall be responsible for maintaining employee awareness of unit-specific victim and predator population information.
  5. Sergeants and above, including Security Threat Group correctional officers and Safe Prisons/PREA officers, shall receive training on conducting sexual abuse investigations in confinement settings. Training shall include:
    - a. Techniques for interviewing sexual abuse victims;
    - b. Sexual abuse evidence collection and handling; and
    - c. Criteria and evidence required to substantiate an investigation.
  6. Records documenting the staff investigators have completed the required sexual abuse investigations training shall be maintained in accordance with the TDCJ *Records Retention Schedule*.

C. Employee Training Design and Efficacy

1. All employees who have contact with offenders, including medical and mental health care practitioners, shall receive training as outlined in Section VI.B.1, at least every two years. In the interim years, employees shall be provided refresher information on current sexual abuse and sexual harassment policies.

2. All training shall be documented, through employee signature or electronic verification, confirming that employees understand the training and information they have received.

D. Contractor and Volunteer Training Content

1. All volunteers and contractors who have contact with offenders shall be trained regarding sexual abuse and sexual harassment prevention, detection, and response policies and procedures in accordance with the TDCJ *Volunteer Services Plan*, PD-29, “Sexual Misconduct with Offenders,” and this plan.
2. The level and type of training provided to volunteers and contractors shall be specific to the services provided and the level of contact with offenders; however, all volunteers and contractors who have contact with offenders shall be notified of the TDCJ’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed of the procedures for reporting incidents.
3. Training documentation confirming the volunteers and contractors have received and understand the training shall be maintained in accordance with the TDCJ *Records Retention Schedule*.
4. All full- and part-time medical and mental health care practitioners who work regularly in TDCJ operated facilities shall be 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.
5. All medical staff employed or under contract with the TDCJ who conduct forensic examinations shall be appropriately trained.
6. Documentation verifying that medical and mental health practitioners have received all necessary training referenced in this plan, either from the TDCJ or from outside sources, shall be maintained by the TDCJ.



## VII. Data Collection

### A. Data Collection Processes

1. Accurate, uniform data shall be collected for every incident of sexual abuse alleged to have occurred at a TDCJ operated facility using a standardized instrument and set of definitions.
2. Incident-based sexual abuse data shall be aggregated at least annually.
3. The incident-based data collected shall include, at a minimum, information necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice.
4. All available incident-based documents, including reports, investigation files, and sexual abuse incident reviews shall be maintained, reviewed, and collected as needed to complete the SSV.

### B. Data Usage

1. The SPPMO shall compile a monthly report using information collected from reports, investigations, reviews, and EAC statistics to analyze and evaluate trends related to sexual abuse, sexual harassment, and extortion in accordance with the SPPOM.
2. The TDCJ shall review data collected pursuant to Section VII.A of this plan in order to assess and improve the effectiveness of the sexual abuse prevention, detection, and response policies, procedures, and training by:
  - a. Identifying problematic areas;
  - b. Taking corrective action on an ongoing basis; and
  - c. Preparing an annual report of findings and corrective actions for each unit, as well as the TDCJ as a whole, in collaboration with the OIG and PREA ombudsman.
3. The annual report shall include a comparison of the data and corrective actions from the current year with those from prior years and shall provide an assessment of the progress made in addressing sexual abuse.
4. Annual reports shall be approved by the TDCJ executive director and made readily available to the public through the TDCJ website.

5. Once requested, the TDCJ shall provide all relevant data from the previous calendar year to the Department of Justice.

C. Data Management

1. All data collected pursuant to Section VII.A shall be securely maintained.
2. Aggregated sexual abuse data, from all TDCJ operated facilities, including privately contracted facilities, shall be readily available to the public at least annually, through a website or other means.
3. Personal identifiers and sensitive information shall be redacted from the reports in instances when publication would present a clear and specific threat to the safety and security of a unit, while maintaining the nature of the material.
4. All sexual abuse data collected shall be maintained for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise.

D. Monitoring and Tracking

1. The SPPMO is responsible for the overall monitoring of the Safe Prisons/PREA Program to ensure the TDCJ is operating consistently on units in accordance with this plan, the SPPOM, and the applicable agency policies and procedures.
2. All Safe Prisons/PREA Program policies, procedures, and documentation are subject to review and performance measures, including, but not limited to:
  - a. Assessment of investigative logs and documents ensuring accurate and timely completion and review as specified in the SPPOM;
  - b. Timely screening of offenders;
  - c. Proper unit reporting, referral, and investigative processes following an allegation of offender sexual abuse and sexual harassment;
  - d. Unit participation in Safe Prisons/PREA Program meetings;
  - e. Proper display of Safe Prisons/PREA Program posters; and
  - f. Accuracy of records related to staff and offender Safe Prisons/PREA related training.

3. In accordance with the SPPOM, each USPPM shall maintain a file containing copies of investigative documents related to offender-on-offender sexual abuse, sexual harassment, and extortion for each offender involved in an incident. Additionally, files shall be maintained for each offender coded on the offender automated adjustment record as a sexual abuse or extortion victim or predator. All Safe Prisons/PREA offender files shall transfer with the offender to the next unit of assignment.
4. The USPPM on each unit shall maintain a Visual Tracking Grid (VTG) to track and monitor Safe Prisons/PREA related incidents, including, but not limited to sexual abuse, sexual harassment, extortion, offender fights, suicides, and suicide attempts. The VTG provides a visual display of incidents involving offender aggression, allegations resulting in investigations, and areas of increased activity that may impact the safety and security of the unit.

## VIII. Administrative Considerations

### A. Employees

1. The TDCJ shall not hire or promote anyone who may have contact with offenders, and shall not enlist the services of any contractor who may have contact with offenders, who previously:
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution, as defined in 42 USC 1997;
  - b. Has been convicted of engaging or attempting to engage in sexual activity in the community that was facilitated by force, overt or implied threats of force, coercion, or if the victim did not consent, refused, or was unable to consent or refuse; or
  - c. Has been civilly or administratively adjudicated to have engaged in the activity described in Section VIII.A.1.b.
2. The TDCJ 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 offenders.
3. The TDCJ shall directly ask all applicants and employees who may have contact with offenders about previous misconduct described in Section VIII.A.1.a in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of employee

review. The TDCJ shall also impose on employees a continuing affirmative duty to disclose knowledge of any such misconduct.

4. Material omissions regarding misconduct of this nature, or the provision of materially false information, shall be grounds for termination.
5. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
6. Disciplinary sanctions for violations of TDCJ policies relating to sexual abuse or sexual harassment, that do not involve actual 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.
7. All terminations for violations of TDCJ sexual abuse or sexual harassment policies, or resignations in lieu of termination, shall be reported to the OIG, unless the activity was clearly not criminal, and to any relevant licensing bodies.
8. Neither the TDCJ nor any other governmental entity responsible for collective bargaining on behalf of the TDCJ shall enter into or renew any collective bargaining agreement or other agreement that limits the ability of the TDCJ to remove alleged staff sexual abusers from contact with any offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
9. Nothing in this plan shall restrict the entering into or renewal of agreements that govern:
  - a. The disciplinary process, as long as the agreements are not inconsistent with the provision of this section or Section V.C of this plan; or
  - b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file if the allegation is determined unsubstantiated.

B. Contractors and Volunteers

All administrative considerations in Section VIII.A apply to contractors and volunteers. In addition:

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to applicable

law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

2. The unit shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any other violation of TDCJ sexual abuse or sexual harassment policies by a contractor or volunteer.

### C. Background Checks

1. Before hiring new employees who may have contact with offenders, the TDCJ shall:
  - a. Perform a criminal background check; and
  - b. Attempt 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, in accordance with federal, state, and local law.
2. A criminal background check shall be performed before enlisting the services of any contractor who may have contact with offenders.
3. Criminal background checks shall either be conducted at least every five years for current employees and contractors who may have contact with offenders, or a system shall be in place to otherwise attain the information for current employees.
4. Unless prohibited by law, information shall be provided on substantiated allegations of sexual abuse or sexual harassment involving a former employee after receiving a request from an institutional employer for whom the employee has applied to work.