**HAYS COUNTY JUVENILE CENTER**

**PRISON RAPE ELIMINATION ACT STANDARDS**

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**POLICY AND PROCEDURES**

**MANUAL**

**2018**

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**115.5 General definitions**

The following words and terms when used in this chapter shall have the following meanings, unless otherwise expressly defined within the chapter and will provide descriptions for different components of the Hays County Juvenile Center, hereinafter referred to as the HCJC.

1. **Agency** - 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 residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.
2. **Agency head** - the principal official of an agency.
3. **Community confinement facility** - a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.
4. **Contractor** - a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
5. **Detainee** - any person detained in a lockup, regardless of adjudication status.
6. **Direct staff supervision** - security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.
7. **Employee** - a person who works directly for the agency or facility.
8. **Exigent circumstances** - any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
9. **Facility** - 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 an agency for the confinement of individuals.
10. **Facility head** - the principal official of a facility.
11. **Full compliance** - compliance with all material requirements of each standard except for de minimis violations, or discrete and temporary violations during otherwise sustained periods of compliance.
12. **Gender nonconforming** - a person whose appearance or manner does not conform to traditional societal gender expectations.
13. **Inmate** - any person incarcerated or detained in a prison or jail.
14. **Intersex** - 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.
15. **Jail** - a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.
16. **Juvenile** - any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.
17. **Juvenile facility** - a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.
18. **Law enforcement staff** - employees responsible for the supervision and control of detainees in lockups.
19. **Lockup** - a facility that contains holding cells, cell blocks, or other secure enclosures that are:

(1) Under the control of a law enforcement, court, or custodial officer; and

(2) 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.

1. **Medical practitioner** - a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
2. **Mental health practitioner** - 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.
3. **Pat-down search** - a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.
4. **Prison** - an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.
5. **Resident** - any person confined or detained in a juvenile facility or in a community confinement facility.
6. **Secure juvenile facility** - a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility.
7. **Security staff** - employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.
8. **Staff** - employees.
9. **Strip search** - 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.
10. **Transgender** - a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.
11. **Substantiated allegation** - an allegation that was investigated and determined to have occurred.
12. **Unfounded allegation** - an allegation that was investigated and determined not to have occurred.
13. **Unsubstantiated allegation** - an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
14. **Volunteer** - an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
15. **Youthful inmate** - any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.
16. **Youthful detainee** - any person under the age of 18 who is under adult court supervision and detained in a lockup.

**115.6 Definitions related to sexual abuse**

The following words and terms when used in this chapter shall have the following meanings, unless otherwise expressly defined within the chapter and will provide descriptions for different components of the Hays County Juvenile Center, hereinafter referred to as the HCJC.

1. **Sexual abuse includes** -

(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and

(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

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

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

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

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

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

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

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

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

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

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

(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

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

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

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

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

1. **Sexual harassment includes** -

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

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

**Prevention Planning**

**115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator**.

(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.

(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

(c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.

**ZERO TOLERANCE of SEXUAL ABUSE AND SEXUAL HARASSMENT**: **The HAYS COUNTY JUVENILE CENTER (HCJC) mandates a zero tolerance for any and all forms of sexual abuse or sexual harassment of any HCJC youth.**

**HCJC’s Approach to Preventing, Detecting, and Responding to Sexual Abuse and Sexual Harassment**:

The purpose of this policy is to prevent, detect, and respond to sexual abuse and sexual harassment in the HCJC. The overriding approach taken by the HCJC to reduce or prevent sexual abuse and sexual harassment of HCJC residents is to ensure the uniformity of implementation of this zero tolerance policy in the HCJC. Part of this approach includes providing definitions of prohibited conduct or behaviors regarding sexual assault and sexual harassment and prescribing sanctions against staff (including contractors and volunteers) and/or residents who engage in sexual assault or sexual harassment. The HCJC’s zero tolerance policy establishes prohibited conduct and behaviors that are broader than those established by statutes as violations of law and provides for sanctions for those found to have participated in prohibited behaviors.

**The HCJC’s Strategies and Responses to Reduce and Prevent Sexual Abuse and Sexual Harassment of Residents***:*

The HCJC’s zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment will be implemented by utilizing the following strategies to reduce and/or prevent sexual abuse and sexual harassment of HCJC youth. These strategies include, but are not limited to, the following:

1. Designating an upper-level management staff member as the HCJC PREA Coordinator who will ensure that the HCJC is in full compliance with all PREA standards.
2. Training staff (including contractors and volunteers) to detect sexual abuse and sexual harassment.
3. Screening for risk of sexual victimization and abusiveness.
4. Requiring all staff (including contractors and volunteers) to promptly report any and all reported or suspected incidents of sexual abuse to the HCJC PREA Coordinator and the Texas Juvenile Justice Department*:* 1 (877) STOP-ANE or 1 (877) 786-7263.
5. Requiring all staff (including contractors and volunteers) to promptly report any and all reported or suspected incidents of sexual harassment or retaliation to the HCJC PREA Coordinator.
6. Responding promptly and effectively to all reports of sexual abuse, sexual harassment, and/or retaliation by ensuring that staff (including contractors and volunteers) cooperates fully with any investigation.
7. Administering sanctions for those found to have participated in prohibited conduct or behaviors.
8. Providing medical and mental health care to victims and abusers.
9. Performing an annual evaluation to assess how the HCJC can improve its zero-tolerance policy, procedures, and approaches for sexual abuse and sexual harassment.
10. Ensuring that the HCJC is audited for PREA compliance at least every 36 months (i.e., every three years).

Though every staff member, contractor, volunteer and resident will be required to do their part in implementing the HCJC zero tolerance policy the individual taking the primary lead and responsibility for implementing and sustaining the HCJC zero tolerance approach is the HCJC PREA Coordinator (PC). The PC, who also serves as the HCJC Facility Administrator, is an upper-level administrator (see the attached organizational chart) who has been provided with the sufficient time and authority to develop, implement, and oversee the HCJC’s agency-wide efforts to fully comply with the PREA standards.

Assisting the PC at the HCJC will be the designated PREA Compliance Manager (PCM). The PCM will help to ensure that his/her designated facility is fully implementing the HCJC’s zero tolerance policy and is in full compliance with all PREA standards. The PCM, who also serves as the facility’s Assistant Facility Administrator, has been provided with the sufficient time and authority to coordinate his/her assigned facility’s efforts to comply with the PREA standards. The HCJC PCM will report to the Facility Administrator.

**Goals of the HCJC’s Zero Tolerance Policy*:***

1. Prevent all forms of sexual abuse and sexual harassment of HCJC youth housed in the HCJC.
2. Define prohibited conduct or behaviors regarding sexual abuse and sexual harassment.
3. Prescribe sanctions for those found to have engaged in sexual abuse and sexual harassment.

**ZERO TOLERANCE of SEXUAL ABUSE AND SEXUAL HARASSMENT** – The HCJC PC will assure, to the best of his/her abilities that the HCJC has fully adopted and is in full compliance with PREA standards.

**PROCEDURES:**

1. The HCJC Facility Administrator will review and update the written policies and procedures mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly.
2. The **HCJC Facility Administrator will be designated the HCJC PREA Coordinator** for the purposes of this policy and the PREA Coordinator shall have sufficient time and authority to develop, implement, and oversee the HCJC’s efforts to comply with the PREA standards.
3. The HCJC Facility Administrator will assure that the PREA Coordinator (PC) position is visually represented in the HCJC Organizational Chart and that the same Organizational Chart documents the person to whom the PC reports.
4. It is the policy of HCJC to ensure that any form of sexual activity between youth or between youth and staff (to include volunteers and contract employees), regardless of consensual status, is strictly prohibited.
5. Youth under the HCJC jurisdiction in placement at the HCJC cannot give consent to engage in behavior defined as sexual abuse under this policy, regardless of the youth’s age.
6. The HCJC Facility Administrator will assure that staff members (including volunteers and contractors) who may have contact with a youth in HCJC’s jurisdiction are provided zero tolerance training that includes the fact that the HCJC has written policies and procedures identifying the prohibited behaviors and mandating Zero Tolerance toward all forms of sexual abuse and sexual harassment.
7. The HCJC Facility Administrator will ensure that the HCJC has a designate PCM who has sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards. **The HCJC’s Assistant Facility Administrator - Compliance/Investigator is the designated PCM**.
8. The HCJC Facility Administrator will ensure that each PCM is visually represented in the HCJC’s Organizational Chart and that the same Organizational Chart documents the person to whom the PCM reports.
9. That all new staff members (including contractors and volunteers) who may have contact with a youth in the HCJC’s jurisdiction are provided the zero tolerance training prior to their first contact with a youth in HCJC jurisdiction.
10. That all staff members (including contractors and volunteers) who may have contact with a youth in the HCJC’s jurisdiction will be provided annual ‘refresher’ training related to the HCJC’s zero tolerance policies and procedures.
11. The HCJC Facility Administrator will ensure that all staff members (including contractors and volunteers) who may have contact with a youth in the HCJC’s jurisdiction document, through employee signature or through electronic verification, that employees attended (including dates, times, duration) and understood the zero tolerance training received.
12. For the purposes of this policy the definitions of prohibited conduct or behaviors regarding sexual abuse and sexual harassment include, but are not limited to, the definitions outlined in Section 115.5 and 115.6.
13. Staff found to have engaged in such conduct (i.e., sexual abuse, sexual harassment and/or retaliation) will be subject to administrative disciplinary sanctions, up to and including termination of employment, and may result in criminal prosecution. Further, if allegations are substantiated, the HCJC PC will notify the relevant licensing bodies (e.g., TJJD, Texas Education Agency, Department of State Health Services, etc), as applicable.
14. Youth under the HCJC’s jurisdiction found to have engaged in such conduct (i.e., sexual abuse, sexual harassment and/or retaliation) will be subject to discipline as outlined in the Resident Code of Conduct and may result in criminal prosecution (e.g., if youth engaged in sexual activity where the victim was coerced; did not consent; or was unable to consent or refuse; etc.).
15. It is the policy of the HCJC to ensure that any form of sexual abuse and sexual harassment between youth or between youth and staff (to include volunteers and contract employees) is strictly prohibited. For staff, such conduct is subject to administrative disciplinary sanctions, up to and including termination of employment, and may result in criminal prosecution. For youth under HCJC jurisdiction in placement at the HCJC who engage in sexual harassment will be subject to discipline as outlined in the Resident Code of Conduct.
16. Retaliation against any youth or employee who reports or assists in the investigation of alleged sexual abuse or sexual harassment is strictly prohibited and is grounds for disciplinary action up to and including termination of employment. Youth who engage in retaliation will be subject to discipline as outlined in the Resident Code of Conduct and/or referred for criminal prosecution.

**115.312 Contracting with other entities for the confinement of residents.**

(a) A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards.

(b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

**CONTRACTING for CONFINEMENT FACILITIES POLICY**: In accordance with federal regulations, the HCJC shall stipulate within the signed residential contract(s) the facility’s obligation to adopt and to fully comply with the Prison Rape Elimination Act (PREA) standards and to undergo contract monitoring. **The HCJC does not contract with other facilities to house residents.**

**Goals of the HCJC’s Contracting for Confinement Facilities:**

1. To provide an orderly process for contracting;
2. To prevent sexual abuse and sexual harassment of HCJC youth housed in confinement facilities; and
3. To provide for initial contract monitoring to ensure that the HCJC is in full compliance with PREA standards prior to any youth being housed at the facility.

**CONTRACTING FOR CONFINEMENT FACILITIES** – The HCJC Facility Administrator shall assure the following takes place: (1) New facility contract processing and (2) Review and action.

1. New Facility Contract Processing –
2. The HCJC Facility Administrator will make the following assurances:
3. That the HCJC Facility Administrator shall immediately (within 1 day) notify the contracting CJPO, via email and phone message, of any changes in the facility’s compliance with PREA standards;
4. That the HCJC Facility Administrator shall within 48-hours notify the contracting CJPO, via Priority Overnight Delivery, of any changes in the facility’s compliance with PREA standards;
5. Will immediately (within-24 hours) provide a complete copy of any PREA Audit of the confinement facility; and
6. That all information provided by the facility administrator is true and accurate.
7. In addition to the written assurances the HCJC Facility Administrator shall provide the contracting CJPO with the following information:
8. Copy of the latest PREA audit results and auditor reports;
9. Date of the next scheduled PREA Audit (must be within 3 years of the previous PREA audit);
10. Number of alleged sexual abuse incidents, disaggregated by month, in the 12-month period prior to the proposed contract effective date;
11. Number of substantiated sexual abuse incidents, disaggregated by month, in the 12-month period prior to the proposed contract effective date;
12. Number of alleged sexual harassment incidents, disaggregated by month, in the 12-month period prior to the proposed contract effective date;
13. Number of substantiated sexual harassment incidents, disaggregated by month, in the 12-month period prior to the proposed contract effective date;
14. Number of alleged retaliation incidents, aggregated by month, in the 12-month period prior to the proposed contract effective date;
15. Number of substantiated retaliation incidents, aggregated, in the 12-month period prior to the proposed contract effective date; and
16. A copy of the facility’s annual report of its findings and corrective actions.
17. Review and Action- Prior to utilizing any confinement facility the CJPO shall do the following:
18. Conduct contract reviews, at a minimum, on an annual basis.

**115.313 Supervision and monitoring.**

(a) The agency shall ensure that each facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

(1) Generally accepted juvenile detention and correctional/secure residential practices;

(2) Any judicial findings of inadequacy;

(3) Any findings of inadequacy from Federal investigative agencies;

(4) Any findings of inadequacy from internal or external oversight bodies;

(5) All components of the facility’s physical plant (including “blind spots” or areas where staff or residents may be isolated);

(6) The composition of the resident population;

(7) The number and placement of supervisory staff;

(8) Institution programs occurring on a particular shift;

(9) Any applicable State or local laws, regulations, or standards;

(10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

(11) Any other relevant factors.

(b) The agency shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.

(c) Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.

(d) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.311, the agency shall assess, determine, and document whether adjustments are needed to:

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

(2) Prevailing staffing patterns;

(3) The facility’s deployment of video monitoring systems and other monitoring technologies; and

(4) The resources the facility has available to commit to ensure adherence to the staffing plan.

(e) Each secure facility shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

**SUPERVISION AND MONITORING POLICY**: The HCJC will develop, implement, and document a staffing plan that provides for adequate levels of staffing, and where applicable, the facility will utilize video monitoring, to protect residents against sexual abuse.

**Goals of the HAYS COUNTY JUVENILE CENTER’s Supervision and Monitoring Policy:**

1. Develop a supervision and monitoring plan at the HCJC;
2. Document the supervision and monitoring plan at the HCJC;
3. Implement the supervision and monitoring plan at the HCJC; and
4. Evaluate the effectiveness of the supervision and monitoring plan at the HCJC.

**SUPERVISION AND MONITORING** – The HCJC PREA Coordinator (PC), working in partnership with the HCJC’s PREA Compliance Manager (PCM), will assure the following takes place: (1) The HCJC has developed, implemented and documented a staff plan; (2) Each staff plan includes the use of, where applicable, video monitoring technology, and (3) The facility’s staffing plan is evaluated and updated, as needed, annually.

**PROCEDURES:**

1. The HCJC PCM will ensure that the facility has developed, implemented, documented, sustained and published a Facility Staffing Plan that provides for adequate staffing, and where applicable, will include the use of video monitoring, to protect residents against sexual abuse.
2. The HCJC Staffing Plan will be created using the following process.
	1. The facility’s PCM will work collaboratively with the HCJC PC to ensure that the facility takes into consideration the following when developing the Facility Staffing Plan:
		1. Generally accepted juvenile detention and secure residential practices;
		2. Any judicial findings, if any, related to any findings of the facility’s previous inadequacies;
		3. Any findings of inadequacy, if any, from Federal investigative agencies;
		4. Any findings of inadequacy, if any, from internal or external oversight bodies;
		5. A review of all components of the facility’s physical plant (to include any “blind spots” or areas where staff or residents may be isolated);
		6. The composition of the resident population;
		7. The number and placement of supervisory staff;
		8. Facility’s programs occurring on a particular shift;
		9. Any applicable State or local laws, regulations, or standards;
		10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
		11. Any other relevant factors**.**
3. The HCJC’s PCM will present the draft copy of the Facility Staffing Plan to the HCJC Facility Administrator for review and approval.
4. Any event that prevents the facility from adhering to its approved Facility Staffing Plan will be documented by the facility Shift Supervisor on duty at the time of the non-adherence. The Shift Supervisor will complete, by the end of the shift, the reason for the deviation via the HCJC Deviation Report. The Deviation Report will include the reason for the non-adherence and the duration of the non-adherence. A complete copy of each Deviation Report will be submitted, by the end of shift, to the HCJC PCM.
5. By October 1, 2017, each HCJC Shift Supervisor will ensure that during his/her shift the juvenile facility maintains staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which will be fully documented (see subsection (C), above) via the HCJC Deviation Report. For the purposes of clarity, only those staff members classified as “security staff” will be included in these ratios.
6. At least once per working day (i.e., 24 hours) the HCJC PCM will collect and review all the Facility DeviationReports pertaining to their facility. The PCM will review and investigate each Report with emphasis on confirming and certifying that any reported exigent circumstances qualified as an exigent circumstance.
7. On a monthly basis the HCJC PCM will create a Staff Plan Deviation Report. This report will note the date, time and duration of any and all deviations from the approved Facility Staffing Plan. Within this report will be a longitudinal tracking grid that identifies the top 10 most common reasons for deviating from the approved staffing plan (NOTE: The report will contain at least 12-months of data). A copy of this completed report will be forward to the HCJC PC by the 20th of the following month.
8. Whenever necessary, but no less frequently than once each year, the HCJC PCM, in consultation with the HCJC PC, will review and, as necessary, update the Facility Staffing Plan. During these reviews/updates, which will be conducted on or before August 31st of each year, the HCJC PCM will assess, determine, and document whether adjustments are needed to the Facility Staffing Plan based on, but not limited to, the following:
9. The Facility Staffing Plan established pursuant to paragraph (A) of this section;
10. Prevailing staffing patterns;
11. The facility’s deployment of video monitoring systems and other monitoring technologies;
12. Analysis of the Facility Deviation Reports; and
13. The resources the facility has available to commit to ensure adherence to its staffing plan.
14. The HCJC’s PCM will present the draft copy of the reviewed and/or updated Facility Staffing Plan to the HCJC Facility Administrator for review and approval.
15. A copy of the reviewed and/or updated Facility Staffing Plan will be maintained in the offices of the HCJC PCM and HCJC Facility Administrator. Each copy will denote the date of the most recent review and the date(s) of each edit or change to the previous Facility Staffing Plan.
16. To ensure that the HCJC conducts unannounced rounds to identify and deter staff sexual abuse and sexual harassment, the HCJC PCM will require that intermediate-level or higher level supervisors conduct unannounced rounds whenever necessary but at least once per month.
17. Intermediate-level or higher level supervisors will ensure that during each unannounced round that he/she walk through the entire facility, as practical. Further, each intermediate-level or higher supervisors will document, via the Facility Unannounced Rounds Form, the date, time, entry point of where the unannounced visit was initiated, areas visited, exit point (i.e., where the unannounced visit terminated) and a description of what they saw or encountered.
18. It is the policy of the HCJC to prohibit staff members, including contractors and volunteers, from alerting other staff members that these unannounced supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility. Staff members found to have engaged in such conduct (i.e., alerting other staff members about unannounced supervisory rounds) will be subject to administrative disciplinary sanctions, up to and including termination of employment.
19. Once per month the HCJC’s PCM will collect and review the Facility Unannounced Rounds forms pertaining to their facility to confirm that unannounced supervisory rounds are occurring during all shifts (i.e., day, night and ‘graveyard’), and that the staff conducting these rounds are visiting all areas of the facility and documenting what was seen or encountered. The HCJC PCM’s will document the findings, via the monthly Unannounced Rounds Report, which will be forwarded to the HCJC PC by the 20th of each month.
20. Every six months the HCJC PCM will ensure that all of the facility’s shifts and areas have been exposed to at least one unannounced supervisory round during the previous six months.

**115.314 Reserved.**

**115.315 Limits to cross-gender viewing and searches.**

(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

(b) The agency shall not conduct cross-gender pat-down searches except in exigent circumstances.

(c) The facility shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.

(d) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical 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. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit. In facilities (such as group homes) that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

(e) The facility shall not search or physically 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, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

**LIMITS TO CROSS-GENDER VIEWING AND SEARCHES POLICY**: Cross-gender strip searches or cross-gender visual body cavity searches are not permitted except in exigent circumstances or when performed by medical practitioners as part of their duties.

**Goals of the HAYS COUNTY JUVENILE CENTER Limits to Cross-Gender Viewing and Searches**:

1. To prohibit cross-gender strip searches;
2. To prohibit cross-gender visual body cavity searches;
3. To ensure that all staff of opposite gender announce their presence when entering a resident unit; and
4. To ensure that all juvenile supervision officers are properly trained in how to conduct cross-gender pat-down searches.

**CROSS-GENDER VIEWING AND SEARCHES** – The HCJC PREA Coordinator (PC), working in partnership with the HCJC’s PREA Compliance Manager (PCM), will assure that each of the following is in place at the HCJC: (1) Cross-gender strip searches and cross-gender visual body cavity searches are prohibited except in exigent circumstances or when conducted by medical practitioners as part of their duties; (2) All HCJC staff understand their requirement to announce their presence when entering a resident housing unit of the opposite gender; and (3) All juvenile supervision officers are properly trained in how to conduct cross-gender pat-down searches in accordance with HCJC Policy and Procedure 343.260.

**PROCEDURES:**

1. The HCJC PCM shall assure that his/her facility does NOT conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners as part of their duties.
2. The HCJC shall NOT conduct cross-gender pat-down searches except in exigent circumstances.
3. In the HCJC the Shift Supervisor on duty at the time shall document and justify, via the Serious Incident Report, all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches. Each of these Reports shall detail the following:
	1. Identifying the staff who conducted the search,
	2. Whether that staff was a medical practitioner,
	3. Gender of the staff,
	4. Gender of the individual searched, and
	5. Exigent circumstance that required this cross-gender search.
4. The Shift Supervisor will complete the Serious Incident Report and will submit the report to the HCJC PCM by the end of the shift of the occurrence of a cross-gender strip search, cross-gender visual body cavity search, or cross-gender pat down search.
5. The HCJC PCM shall assure that all residents are allowed to shower, perform bodily functions, and change clothing without nonmedical 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 (this includes viewing via video camera).
6. Any circumstance that invokes the exigent circumstances provision of this procedure will require the Shift Supervisor to complete a Serious Incident Report and submit this completed report to the HCJC PCM by the end of the shift of the occurrence.
7. At least once per working day (i.e., 24 hours) the HCJC PCM will collect and review all the Serious Incident Reportspertaining to this standard. The HCJC PCM shall review and investigate each report with emphasis on confirming and certifying that the causative circumstance(s) qualified as an exigent circumstance.
8. Once per month the HCJC’s PCM shall aggregate the Serious Incident Reports and create a monthly Facility Cross-Gender Searches, Cavity Searches, and Pat-Down Searches Deviation Report. This report will document the dates, times, and the exigent circumstances that resulted in the use of cross-gender searches, cross-gender cavity searches, and/or cross-gender pat-down searches. This report will be forwarded to the HCJC PC by the 20th of each month.
9. The HCJC requires that opposite gender staff announce their presence when entering a resident housing unit.
10. The HCJC requires that staffs of the opposite gender are required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.
11. The HCJC PCM at the facility assures that HCJC staff shall not search or physically 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 will be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner*.*
12. The HCJC PCM shall ensure, that before any juvenile supervision officer has contact with a resident that the staff member is trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with HCJC’s policies and procedures. The HCJC PCM will document all such training via the Staff Training Form.
13. The HCJC PCM will ensure that a copy of the training curricula and training logs showing the date, time, and signature of the staff attending this training is placed in the staff member’s training file.

**115.316 Residents with disabilities and residents who are limited English proficient.**

(a) The agency shall take appropriate steps to ensure that residents with disabilities (including, for example, residents 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 agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents 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 agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

(b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents 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.

(c) The agency shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under § 115.364, or the investigation of the resident’s allegations.

**RESIDENTS WITH DISABILITIES OR WHO ARE LIMITED ENGLISH PROFICIENT POLICY**: The HCJC shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities, and those who have limited reading skills), have an equal opportunity to participate in and benefit from all aspects of the facility’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

**Goals of the HAYS COUNTY JUVENILE CENTER’s Residents with Disabilities or who are Limited English Proficient Policy:**

1. To prohibit the use of resident interpreters, resident readers, or other types of resident assistants.
2. To assure that all residents have an equal opportunity to participate in and benefit from all aspects of HCJC’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.
3. To ensure effective communication with all residents HCJC staff will receive training on ‘best practices’ related to communicating with residents with disabilities and/or those with limited English proficiency.

**RESIDENTS WITH DISABILITIES OR WHO ARE LIMITED ENGLISH PROFICIENT** – The HCJC’s PREA Compliance Manager (PCM), working with HCJC’s PREA Coordinator (PC), will ensure that the following takes place at their facility: (1) All residents, including those with disabilities and those with limited English proficiency, are provided appropriate materials in formats that ensure effective communication according to HCJC Policy and Procedure 343.412 and 343.606; and (2) The facility does not provide or allow resident interpreters, readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties, or the investigation of a resident’s allegation(s).

**PROCEDURES:**

1. The HCJC PCM shall take appropriate steps to ensure that residents with disabilities (including, for example, residents 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 and benefit from all aspects of the facility’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.
2. The HCJC PCM shall ensure that written materials are provided through formats, or other methods, that assure effective communications with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision.
3. For residents who are deaf or hard of hearing the facility shall:
4. Provide access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary by contacting the San Marcos Interpreting Services at (512) 754-8047; and/or
5. Provide written materials written in the primary language and at an appropriate reading level for the resident(s).

1. For residents who are blind or have low vision the facility shall:
2. Provide access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; and/or
3. Provide information using pre-recorded information in the resident’s primary language and at an appropriate reading level for the resident(s).

1. For residents who have intellectual or psychiatric disabilities the facility shall:
2. Work with the facility’s mental health staff to relay and/or acquire information in a manner that the resident(s) can understand.
3. For residents that have speech disabilities the facility shall:
4. Work with the facility’s mental health staff to relay and/or acquire information in a manner that the resident(s) can understand.
5. For residents that have limited reading skills the facility shall:
6. Provide access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; and/or
7. Provide written materials written in the primary language and at an appropriate reading level for the resident(s).

1. For residents that have limited English proficiency the facility shall:
	1. Provide interpreters who can interpret effectively, accurately and impartially, both receptively and expressively, using specialized vocabulary when necessary by contacting James or Sophia Leon at (512) 560-4634; and/ or
	2. Provide materials written in the primary language of the resident(s) and at an appropriate reading level for the resident(s).
2. The HCJC PCM will assure that all facility staff (including volunteers and contractors) who may have contact with youth in the HCJC have received staff training on PREA-compliant practices for residents with disabilities and/or who are limited English proficient.
3. The HCJC PCM will assure that all staff (including volunteers and contractors) who may have contact with a youth in HCJC jurisdiction document, through employee signature or through electronic verification, that employees attended (including dates, times, duration) and understood the training received.
4. The HCJC PCM shall ensure that their facility does not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under § 115.364, or the investigation of the resident’s allegations. The Shift Supervisor shall document the use of any resident interpreters, resident readers, or other types of resident assistants via and Information Report and submit this completed report to the HCJC PCM by the end of the shift of the occurrence.
5. At least once per working day (i.e., 24 hours) the HCJC PCM will collect and review all the Information Reportspertaining to this standard. The HCJC PCM shall review and investigate each Report with emphasis on confirming and certifying that the causative circumstance(s) qualified as a “limited” circumstance.
6. Once per month the HCJC’s PCM will aggregate the Information Report forms for their facility and create a monthly Facility Resident Interpreters, Resident Readers, or Resident Assistant Deviation Report. This Report will document the dates, times and the limited circumstances (i.e., compromise resident safety; negatively impact performance of first-response duties; and/or negatively impacted the investigation of the resident’s allegations) that resulted in the use of resident interpreters, resident readers, or other types of resident assistance. This Report will be forwarded to the HCJC PC by the 20th of each month.

**115.317 Hiring and promotion decisions.**

(a) The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor, who may have contact with residents, who:

(1) 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);

(2) 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

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

(b) The agency 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 residents.

(c) Before hiring new employees who may have contact with residents, the agency shall:

(1) Perform a criminal background records check;

(2) Consult any child abuse registry maintained by the State or locality in which the employee would work; and

(3) 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.

(d) The agency shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents.

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

(f) The agency shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of 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 agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

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

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

**HIRING AND PROMOTION DECISIONS POLICY**: The HCJC shall ensure that the facility does not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor, or volunteer, who may have contact with residents, who has: (1) engaged in sexual abuse, as defined in this policy, or (2) attempted to engage in sexual activity that was 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.

**Goals of the HAYS COUNTY JUVENILE CENTER’s Hiring and Promotion Decision Policy:**

* + - 1. Ensure all hiring and promotion decisions are made only after a thorough and complete review of the candidate’s prior criminal history utilizing the Fingerprint Application Services of Texas (FAST); after careful review of any allegations of sexual abuse and/or sexual harassment and the results of the Texas Department of Family and Protective Services (DFPS) central registry of reported cases of child abuse and neglect.

**HIRING AND PROMOTION DECISIONS** – The HCJC Facility Administrator will assure that all prospective candidates for hiring and/or for promotion opportunities are subjected to HCJC Policy and Procedures 344 and 343.386 and a thorough and complete review of the following: (1) criminal history check utilizing the Fingerprint Application Services of Texas (FAST) that includes a background check of the candidate’s prior sexual abuse history; (2) prior allegations of sexual harassment; (3) the results of the Texas Department of Family and Protective Services (DFPS) central registry of reported cases of child abuse and neglect and (4) contact with 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.

**PROCEDURES:**

1. The HCJC Facility Administrator shall assure that the facility does not hire or promote anyone, nor enlist the services of any contractor or volunteer, who may have contact with HCJC residents, who has:
2. 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);
3. 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
4. Been civilly or administratively adjudicated to have engaged in the activity described in paragraph (A)(2) of this section.
5. The HCJC Facility Administrator shall consider all incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor or volunteer, who may have contact with residents.
6. Before hiring new employees who may have contact with residents, the HCJC Facility Administrator shall assure that the facility will:
7. Perform a criminal background records check;
8. Consult the Texas Department of Family and Protective Services Centralized Background Check Unit (CBCU) registry maintained by the State or by the locality in which the employee would work;
9. Make their best, and concentrated, effort to consult the child abuse registry in any State or locality that the potential employee has lived (List of State registries can be found at: <http://www.dfps.state.tx.us/Child_Care/Other_Child_care_Information/abuse_registry.asp>); and
10. Consistent with Federal, State, and local law, make their best and concentrated efforts to contact allprior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
11. The HCJC Facility Administrator will assure that the facility will also perform criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with HCJC residents.
12. Any applicant for employment (to include contractors and volunteers) shall be required to submit fingerprints via the Texas Department of Public Safety’s Fingerprint Applicant Services of Texas (FAST) system.
13. Applicants’ processed through the FAST system will automatically become enrolled in the Fingerprint-based Applicant Clearinghouse of Texas (FACT) system. The FACT Clearinghouse is a repository of the Texas Department of Public Safety (DPS) and the FBI fingerprint-based criminal history results. The FACT Clearinghouse allows an authorized entity access to a consolidated response of the DPS and FBI criminal history fingerprint result, including an electronic subscription and notification service for new arrest activity on subscribed persons.
14. Using the FACT system, the HCJC Facility Administrator will receive continuous criminal record check updates of all HCJC staff members (including contractors and volunteers) who may have contact with HCJC residents. Employees, contractors or volunteers who are “flagged” by the FACT database will be disciplined according to HCJC Policies and Procedures.
15. The HCJC Facility Administrator shall assure that all HCJC staff conducting interviews directly ask all applicants and employees (to include staff members, contractors and volunteers), who may have contact with HCJC residents, about previous misconduct, as described in paragraph (A) of 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.
16. It is the HCJC’s policy that all HCJC staff members, contractors, and volunteers have a continuing affirmative duty to immediately disclose any such misconduct, as described in paragraph (A) of this section, to their respective supervisors.
17. Staff members (including contractors or volunteers) with material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
18. The HCJC Facility Administrator will ensure that the files of HCJC staff members (to include contractors and volunteers) hired or promoted contain all necessary documentation to verify the following:
	1. Proper criminal record background checks have been conducted,

* 1. Questions regarding past conduct were asked *and* answered; and
	2. That all allegations, if any, of sexual harassment against the staff member (including contractors) hired or promoted were considered prior to the decision to hire or promote the staff member or contractor.
1. Unless prohibited by law, the HCJC Facility Administrator will assure that the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee, contractor or volunteer upon receiving a request from any employer for whom such employee, contractor or volunteer has applied to work.

**115.318 Upgrades to facilities and technologies.**

(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency’s ability to protect residents from sexual abuse.

(b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency’s ability to protect residents from sexual abuse.

**UPGRADE TO FACILITIES AND TECHNOLOGY POLICY**: The HCJC will assure that all confinement facility modifications (to include remodeling, acquisition of new facilities, and/or acquisition of new or updated video monitoring systems) will take into account the impact of the modification or acquisition’s impact on the HCJC’s ability to protect residents from sexual abuse.

**Goals of the HAYS COUNTY JUVENILE CENTER’s Upgrade to Facilities and Technology Policy:**

1. Ensure that when designing, acquiring, or modifying the HCJC that the agency will consider the effect of the design, acquisition or modification upon the agency’s ability to protect residents from sexual abuse.
2. Ensure that when installing or upgrading a video monitoring system, electronic surveillance system, or other monitoring technology, the agency will consider how such technology may enhance the agency’s ability to protect residents from sexual abuse.

**UPGRADE TO FACILITIES AND TECHNOLOGY** – The HCJC Facility Administrator will assure that any modifications, acquisitions, and/or upgrades to the HCJC is always predicated on how the modification, acquisition, and/or upgrades impact the facility’s ability to protect residents from sexual abuse.

**PROCEDURES:**

1. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the HCJC PCM will consider the effect of the design, acquisition, expansion, or modification upon the agency’s ability to protect residents from sexual abuse. The HCJC PCM’s considerations will be detailed via the Facility Construction or Modification Report that will be submitted to the HCJC PC within 30-days of the decision to design or acquire any new facility or 30-days of the decision to initiate any substantial expansion or modification of the existing facility.
2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the HCJC PCM will consider how such technology may enhance the facility’s ability to protect residents from sexual abuse. The HCJC PCM’s considerations will be detailed, via the Facility Technology Upgrade Report, that will be submitted to the HCJC PC within 30-days of the decision to install or upgrade the technology.
3. The HCJC PC will review the reports (i.e., Facility Construction or Modification Report and/or Facility Technology Upgrade Report). The HCJC PC, working in cooperation with the HCJC PCM, shall create a Resident Safety Impact Report that details how the facility physical upgrade modifications or technology modifications will impact resident safety. On the “Conclusions Page” of this Report, both the HCJC PC and the HCJC PCM shall stipulate that the proposed changes either “improve the facility’s ability to protect residents from sexual abuse” or that the proposed changes “do not improve the facility’s ability to protect residents from sexual abuse” or that the proposed changes “will not degrade or improve the facility’s ability to protect residents from sexual abuse.” The HCJC PC shall submit this completed Resident Safety Impact Report to the Hays County Juvenile Board within 14 days of receiving the Facility Construction or Modification Report and/or the Facility Technology Upgrade Report.

**Responsive Planning**

**115.321 Evidence protocol and forensic medical examinations.**

(a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) The protocol shall be developmentally appropriate for youth 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 authoritative protocols developed after 2011.

 (c) The agency shall offer all residents who experience sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental 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.

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

(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:

(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in juvenile facilities; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities.

(h) For the purposes of this standard, a qualified agency staff member or a qualified community-based staff member shall be 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.

**EVIDENCE PROTOCOL AND FORENSIC MEDICAL EXAMINATIONS POLICY –** When the HCJC is responsible for investigating allegations of sexual abuse the agency will follow its evidence protocol to ensure all usable physical evidence is preserved for administrative or criminal proceedings.

**Goals of the HAYS COUNTY JUVENILE CENTER’s Evidence Protocol and Forensic Medical Examination Policy:**

1. To follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative and criminal prosecutions.
2. To utilize Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE), where possible, to perform exams on residents reporting being a victim of sexual abuse.
3. All investigators, including those ‘outside of the HCJC’ (e.g., outside law enforcement takes jurisdiction, etc.) will be asked to follow the relevant investigatory requirements set out in PREA standard 115.321 or utilize appropriate internal departmental policy when conducting an investigation.

**EVIDENCE PROTOCOL AND FORENSIC MEDICAL EXAMINATIONS –** The Hays County Juvenile Board has adopted and authorized an evidence protocol for the facility that ensures that all usable physical evidence is preserved for administrative and criminal proceedings, but facility personnel will not collect physical evidence and the facility will only conduct internal investigations into allegations according to TJJD policy. This evidence protocol is based on the Department of Justice’s Office of Violence Against Women publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents” (i.e., SAFE Protocol), or similarly comprehensive and authoritative protocols published after 2011. For investigations conducted by outside agencies (i.e., the San Marcos Police Department or the Hays County Sheriff’s Department) the **HCJC** facility administrator will request that the investigating entity either follow the relevant investigatory requirements set out in PREA standard **PREA** §115.321 or appropriate internal departmental policy.

**PROCEDURES:**

1. The HCJC PCM will ensure that all allegations of sexual abuse at the facility will be investigated by local law enforcement, specifically the San Marcos Police Department or Hays County Sheriff’s Office.
2. To the extent possible, the HCJC PCM will request that the San Marcos Police Department or Hays County Sheriff’s Office utilize a protocol that is developmentally appropriate for youth 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 authoritative protocols developed after 2011 or utilize appropriate internal departmental policy when conducting investigations.
3. To the extent that the HCJC is responsible for investigating allegations of sexual abuse, the HCJC PCM will ensure that the investigation is conducted using a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
4. The HCJC PCM will assure that all residents who report sexual abuse have access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Where possible, such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) at the discretion of the investigating agency (SMPD or HCSO).
5. If SAFEs or SANEs cannot be made available, the examination will be performed by other qualified medical practitioners designated by the local law enforcement entity (SMPD or HCSO) conducting the investigation. In this event, the Shift Supervisor shall document the facility’s efforts to provide SAFEs or SANEs via the Serious Incident Report. The Shift Supervisor will submit the completed report to the HCJC PCM by the end of the shift of the occurrence of the allegation of sexual assault.
6. At least once per working day (i.e., 24 hours) the HCJC PCM will collect and review all the Serious Incident Reportspertaining to this standard. The HCJC PCM shall review and investigate each Report with emphasis on confirming and certifying that the causative circumstance(s) qualified as an exigent circumstance.
7. Once per month the HCJC PCM will aggregate the Serious Incident Report forms for their facility and create a monthly Facility SANEs and SAFES Deviation Report. This report will document the dates, times and the exigent circumstances that resulted in the use of non-SAFE or SANE examiners. This Report will be forwarded to the HCJC PC by the 20th of each month.
8. The HCJC Shift Supervisor shall attempt to make available to the victim a victim advocate from the Hays-Caldwell Women’s Center, a rape crisis center at (512) 396-HELP (4357). If a rape crisis center is not available to provide victim advocate services, the HCJC Shift Supervisor shall make available a qualified staff member from a community-based organization or a qualified agency staff member (HCJC LPC), to provide these services until a rape crisis advocate can be contacted.
9. If the Shift Supervisor is unable to secure the services from the Hays-Caldwell Women’s Center, a rape crisis center, the Shift Supervisor shall document this deviation via the Serious Incident Report. The Shift Supervisor will submit the completed report to the HCJC PCM by the end of the shift of the occurrence of the allegation of sexual assault.
10. Once per month the HCJC PCM will aggregate Serious Incident Report Forms pertaining to his/her facility and create a monthly Facility Rape Crisis Center Deviation Report. This Report will document the dates, times and the limited circumstances that resulted in the use of non-Rape Crisis Center staff. This Report will be forwarded to the HCJC PC by the 20th of each month.
11. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization a HCJC approved staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.
12. In the event that the HCJC is not responsible for investigating the allegations of sexual abuse, the HCJC shall request that the investigating agency follow the requirements of paragraphs (A) through (K) of this section.
13. The requirements of paragraphs (A) through (H) of this section shall also apply to:
14. Any State entity outside of the HCJC that is responsible for investigating allegations of sexual abuse in juvenile facilities; and
15. Any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities.
16. For the purposes of this standard, a qualified HCJC staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role by the HCJC PC andhas received education concerning sexual assault and forensic examination issues, in general.
17. The HCJC PC shall maintain a list of all qualified HCJC staff members and qualified community-based staff members who have been screened for appropriateness to serve in this role. The list will be made available to each HCJC PCM, HCJC Facility Administrator, and Shift Supervisor. The HCJC will only use the Hays-Caldwell Women’s Center, a rape crisis center, or HCJC LPC’s if the Hays-Caldwell Women’s Center is unavailable.

**115.322 Policies to ensure referrals of allegations for investigations.**

(a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

(b) The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

(c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

(d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations.

(e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations.

**POLICIES TO ENSURE REFERRALS OF ALLEGATIONS FOR INVESTIGATIONS POLICY –** theHCJC will ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

**Goals of the HAYS COUNTY JUVENILE CENTER’s Policies to Ensure Referrals of Allegations for Investigation:**

1. To ensure all allegations of sexual abuse or sexual harassment are referred to and investigated by the San Marcos Police Department, Hays County Sheriff’s Office or Texas Juvenile Justice Department (TJJD).
2. To ensure that all allegations of sexual harassment are investigated by the HCJC and referred to the San Marcos Police Department, Hays County Sheriff’s Office or TJJD if the allegations involve criminal sexual harassment.
3. To ensure all allegations of retaliation are investigated by the HCJC and referred to the San Marcos Police Department, Hays County Sheriff’s Office or TJJD if the allegation involves any criminal element (e.g., force was use, coercion was use, etc.).
4. To have this policy posted on the HCJC website.

**POLICIES TO ENSURE REFERRALS OF ALLEGATIONS FOR INVESTIGATIONS *–***The HCJC Facility Administrator will assure that all allegations of sexual abuse or sexual harassment are investigated for administrative or criminal charges and according to HCJC Policy and Procedures 358. Further, the **HCJC** Facility Administrator will assure that every **HCJC** staff member (to include contractors and volunteers) fully cooperates in any investigation.

**PROCEDURES:**

1. The HCJC understands that every HCJC staff member, contractor, or volunteer shares in the responsibility to protect HCJC residents from harm. Every staff member, contractor, or volunteer has a duty to report any suspected case of child abuse or neglect.
2. It is the policy of the HCJC to ensure that all allegations of sexual abuse or sexual harassment are referred for investigation to the San Marcos Police Department, Hays County Sheriff’s Office or TJJD as these agencies have the legal authority to conduct criminal investigations of sexual abuse or criminal sexual harassment in juvenile facilities.
3. Every staff member, contractor, or volunteer is required by State of Texas law to report any and all cases of sexual abuse to the TJJD at 1 (877) STOP-ANE or 1-877-786-7263 or to local law enforcement.
4. The HCJC Facility Administrator shall assure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
5. The HCJC PCM is responsible for ensuring that all allegations of sexual abuse, occurring at his/her facility, are reported to the San Marcos Police Department, Hays County Sheriff’s Office or TJJD immediately, but no later than 1 hour from the time there was reason to believe a resident had been abused. In the absence of the HCJC PCM, the HCJC Facility Administrator will act on behalf of the HCJC PCM in receiving and reporting allegations of sexual abuse.
6. Reasonable cause of abuse is established when, upon a review of the totality of the circumstances and the evidence (such as Youth Injury Reports, video evidence, witness statements, etc.), an ordinary and prudent person would conclude that the child has been abused.
7. The HCJC PCM, or in his/her absence their assigned designee, shall report all allegations of child abuse of youth under the age of 18 that occurred on HCJC property regardless of injury to the San Marcos Police Department, Hays County Sheriff’s Department or TJJD as these agencies have the legal authority to conduct criminal investigations.
8. The HCJC PCM, or in his/her absence their assigned designee, will document all contacts with the San Marcos Police Department, Hays County Sheriff’s Office or TJJD on HCJC’s TJJD Incident Report Form.
9. The Sexual Abuse, Sexual Harassment, or Incident of Retaliation Referral form will be completed by the HCJC PCM, or in the event of his/her absence, their assigned designee, within 1 hour of contacting the San Marcos Police Department, Hays County Sheriff’s Office and/or TJJD. A copy of the completed form will be submitted to the HCJC PC by the end of the shift.
10. If the allegation does not involve potentially criminal behavior the HCJC PCM shall ensure that a thorough and comprehensive internal investigation is conducted according to the HCJC Policies and Procedures Manual to determine if any administrative action is required. All referrals for investigation will be documented on the HCJC’s TJJD Incident Report Form.
11. All administrative investigations will be handled by the HCJC PCM unless the allegation involves the HCJC PCM. In the event the allegation involves the HCJC PCM, the HCJC PC will be responsible for conducting and completing the investigation.
12. The HCJC PC shall ensure that a complete copy of this Policy is published on the HCJC website.
13. When a report of sexual abuse or sexual harassment is made the following will occur:

San Marcos Police Department, Hays County Sheriff’s Office or TJJD Responsibilities:

* San Marcos Police Department, Hays County Sheriff’s Office or TJJD staff will take the lead in all criminal investigations;
* San Marcos Police Department, Hays County Sheriff’s Office or TJJD staff will have access to all records and files as legally permissible; and
* The San Marcos Police Department, Hays County Sheriff’s Office or TJJD will be responsible for completing the criminal investigation consistent with their policies governing the conduct of such investigations and for referring any individual or individuals for criminal prosecution.

HAYS COUNTY JUVENILE CENTER Responsibilities:

* Providing access to all legal permissible records and files, to include video records;
* Providing space for the San Marcos Police Department, Hays County Sheriff’s Office or TJJD staff to conduct interviews and/or to review records and files; and
* Ensuring that all HCJC staff, contractors, and volunteers fully cooperate in the investigation.
1. The HCJC Facility Administrator may request from any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities a copy of the agency’s policy governing the conduct of such investigations (TJJD’s policy can be found at: [http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac\_view=4&ti=37&pt=11&ch=350&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=4&ti=37&pt=11&ch=350&rl=Y)). Documentation of this request by the HCJC Facility Administrator to the State entity responsible for conducting administrative or criminal investigations of sexual abuse and sexual harassment in juvenile facilities will be maintained in the HCJC Facility Administrators office.
2. The HCJC Facility Administrator may request from any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities a copy of the agency’s policy governing the conduct of such investigations. Documentation of this request by the HCJC Facility Administrator to the Department of Justice will be maintained by the HCJC Facility Administrator.

**Training and Education**

**115.331 Employee training.**

(a) The agency shall train all employees who may have contact with residents on:

(1) Its zero-tolerance policy for sexual abuse and sexual harassment;

(2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;

(3) Residents’ right to be free from sexual abuse and sexual harassment;

(4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;

(5) The dynamics of sexual abuse and sexual harassment in juvenile facilities;

(6) The common reactions of juvenile victims of sexual abuse and sexual harassment;

(7) How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents;

(8) How to avoid inappropriate relationships with residents;

(9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and

(10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;

(11) Relevant laws regarding the applicable age of consent.

(b) Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities and to the gender of the residents at the employee’s facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.

(c) 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 agency shall provide each employee with refresher training every two years to ensure that all employees know the agency’s current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

(d) The agency shall document, through employee signature or electronic verification that employees understand the training they have received.

**EMPLOYEE TRAINING POLICY –** the HCJC will ensure that all employees who may have contact with residents are properly trained concerning sexual abuse and sexual harassment in facilities.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Employee Training Policy:**

1. All HCJC employees that may have contact with residents are thoroughly trained on issues concerning sexual abuse and sexual harassment in facilities and each employee acknowledges that they received and understood the training.
2. All employees will receive annual refresher information.
3. At least every other year all employees will receive annual refresher training related to sexual abuse and sexual harassment in facilities.

**EMPLOYEE TRAINING –**The HCJC PC will ensure that all HCJC employees receive training on sexual abuse and sexual harassment in facilities and according to HCJC Policies and Procedures 344. Further, once an employee receives his/her initial training, the HCJC PC will ensure that all HCJC employees are provided annual refresher information and that at least every other year that all employees are provided with refresher training. The **HCJC** PC will ensure that the employee’s training file contains documentation that each employee attended and understood the training they received.

**PROCEDURES:**

* 1. Employee Training:
1. Current Employees (those employed on or before August 19, 2013)*.* The HCJC PC will ensure that all HCJC employees employed on or before August 19, 2013, are provided with training that is tailored to the unique needs and attributes (e.g., gender, disabilities, ESL, deaf, etc.) of the residents at the facility. Further, the training will cover the need for all employees to report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment. All employees will be trained on or before August 19, 2014. The training will include, but not be limited to, the following:
	* 1. The PREA policy and the HCJC’s zero-tolerance rule for sexual abuse and sexual harassment;
		2. How employees can fulfill their responsibilities under the HCJC’s sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
		3. Youths’ right to be free from sexual abuse and sexual harassment;
		4. The right of youths and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
		5. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
		6. The common reactions of juvenile victims of sexual abuse and sexual harassment;
		7. How to detect and respond to signs of threatened and actual sexual abuse;
		8. How to avoid inappropriate relationships with youth;
		9. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming;
		10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
		11. How employees can privately report sexual abuse and sexual harassment of youth;
		12. How employees can report incidents of retaliation; and
		13. Relevant laws regarding the applicable age of consent.
2. Training of New Employees (Those hired on or after August 20, 2013)*.* The HCJC PC will ensure that all HCJC employees employed on or after August 20, 2013, are provided with training that is tailored to the unique needs and attributes (e.g., gender, disabilities, ESL, deaf, etc.) of the residents at the facility prior to the employee interacting with any HCJC youth. Further, the training will cover the need for all employees to report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment prior to their first interaction with any youth under HCJC jurisdiction. The training will include, but not be limited to, the following:
3. The PREA policy and the HCJC’s zero-tolerance rule for sexual abuse and sexual harassment;
4. How employees can fulfill their responsibilities under HCJC’s sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
5. Youths’ right to be free from sexual abuse and sexual harassment;
6. The right of youths and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
7. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
8. The common reactions of juvenile victims of sexual abuse and sexual harassment;
9. How to detect and respond to signs of threatened and actual sexual abuse;
10. How to avoid inappropriate relationships with youth;
11. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming;
12. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
13. How employees can privately report sexual abuse and sexual harassment of youth;
14. How employees can report incidents of retaliation; and
15. Relevant laws regarding the applicable age of consent.

### **“Refresher” Training for all Employees**. The HCJC PC will ensure that all employees receive “refresher” training every two years, starting from the date of their initial training, to ensure that all employees are fully informed as to HCJC’s current sexual abuse and sexual harassment policies, rules, and procedures. The training will include, but not be limited to, the following:

1. Its zero-tolerance policy for sexual abuse and sexual harassment;
2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
3. Youths’ right to be free from sexual abuse and sexual harassment;
4. The right of youths and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
5. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
6. The common reactions of juvenile victims of sexual abuse and sexual harassment;
7. How to detect and respond to signs of threatened and actual sexual abuse;
8. How to avoid inappropriate relationships with youth;
9. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming youths;
10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
11. How employees can privately report sexual abuse and sexual harassment of youth;
12. How employees can report incidents of retaliation; and
13. Relevant laws regarding the applicable age of consent.

### **“Refresher” Information for all Employees**. The HCJC PC will ensure that all employees receive “refresher” information in years in which an employee does not receive refresher training. Refresher information is designed to ensure that all employees are reminded of HCJC’s current sexual abuse and sexual harassment policies, rules, and procedures. The information will include, but not be limited to, the following:

1. Its zero-tolerance policy for sexual abuse and sexual harassment;
2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
3. Residents’ right to be free from sexual abuse and sexual harassment;
4. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
5. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
6. How employees can privately report sexual abuse and sexual harassment of youth;
7. How employees can report incidents of retaliation; and
8. Relevant laws regarding the applicable age of consent.

#### Employees who are Re-assigned from Facilities Housing the Opposite Gender.

* + - 1. Employees who are reassigned from a facility housing the opposite gender will be considered a “new employee” for purposes of training. **The HCJC currently does not have another housing facility.**;
			2. The HCJC PCM at the facility the employee is reassigned to will ensure that all reassigned employees are provided with training that is specific to the gender of his/her facility (i.e., “gender specific training”);
			3. Reassigned employees will receive this “gender specific” training prior to the reassigned employee having any contact with youth at the facility; and
			4. The HCJC PCM will ensure that all reassigned employees document that they attended the gender specific training, through employee signature or electronic verification, and that they understood the training received. This document will be maintained in the employees training file.

#### Documentation Required For All Trainings.

The HCJC PC will ensure that all employees document, through employee signature or through electronic verification, that they attended (including dates, times, duration) and understood the training received.

**115.332 Volunteer and contractor training.**

(a) The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

(b) 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 residents, but all volunteers and contractors who have contact with residents shall be notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

(c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

**VOLUNTEER AND CONTRACTOR TRAINING POLICY –** theHCJC will ensure that all volunteers or contractors who may have contact with residents are properly trained concerning sexual abuse and sexual harassment in facilities.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Volunteer and Contractor Training Policy:**

1. All HCJC volunteers or contractors that may have contact with residents are thoroughly trained on issues concerning sexual abuse and sexual harassment in facilities and each employee acknowledges that they received and understood the training.
2. All volunteers or contractors will receive annual refresher information.

**VOLUNTEER AND CONTRACTOR TRAINING –**The HCJC PCM will ensure that HCJC volunteers or contractors receive training on sexual abuse and sexual harassment according to HCJC Policy and Procedure 343.386, 343.493 and 343.675. Further*,* the HCJC PCM will ensure that the volunteer or contractor’s training file contains documentation that each volunteer or contractor attended and understood the training they received.

**PROCEDURES:**

* + 1. Volunteer or contractor Training.
	1. Current Volunteers or contractors (those employed on or before August 19, 2013)*.* The HCJC PC will ensure that all HCJC volunteers or contractors employed on or before August 19, 2013, are provided with training that is tailored to the unique needs and attributes (e.g., gender, disabilities, ESL, deaf, etc.) of the residents at the facility AND to the level of contact the volunteer or contractor will have with residents. At a minimum, the training will cover the need for all volunteers or contractors to report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment. All volunteers or contractors will be trained on or before August 19, 2014. The training will include, but not be limited to, the following:
		1. The PREA policy and the HCJC’s zero-tolerance rule for sexual abuse and sexual harassment;
		2. How volunteers or contractors can fulfill their responsibilities under HCJC’s sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
		3. Youths’ right to be free from sexual abuse and sexual harassment;
		4. The right of youths and volunteers or contractors to be free from retaliation for reporting sexual abuse and sexual harassment;
		5. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
		6. The common reactions of juvenile victims of sexual abuse and sexual harassment;
		7. How to detect and respond to signs of threatened and actual sexual abuse;
		8. How to avoid inappropriate relationships with youth;
		9. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming;
		10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
		11. How volunteers or contractors can privately report sexual abuse and sexual harassment of youth;
		12. How volunteers or contractors can report incidents of retaliation; and
		13. Relevant laws regarding the applicable age of consent.
	2. Training of New Volunteers or Contractors (Those hired on or after August 20, 2013)*.*  The HCJC PC will ensure that all HCJC volunteers or contractors starting services on or after August 20, 2013, are provided with training that is tailored to the unique needs and attributes (e.g., gender, disabilities, ESL, deaf, etc.) of the residents at the facility prior to the volunteer or contractor interacting with any HCJC youth. Further, the training will cover the need for all volunteers or contractors to report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment prior to their first interaction with any youth under HCJC jurisdiction. The training will include, but not be limited to, the following:
		1. The PREA policy and the HCJC’s zero-tolerance rule for sexual abuse and sexual harassment;
		2. How volunteers or contractors can fulfill their responsibilities under HCJC’s sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
		3. Youths’ right to be free from sexual abuse and sexual harassment;
		4. The right of youths and volunteers or contractors to be free from retaliation for reporting sexual abuse and sexual harassment;
		5. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
		6. The common reactions of juvenile victims of sexual abuse and sexual harassment;
		7. How to detect and respond to signs of threatened and actual sexual abuse;
		8. How to avoid inappropriate relationships with youth;
		9. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming;
		10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
		11. How volunteers or contractors can privately report sexual abuse and sexual harassment of youth;
		12. How volunteers or contractors can report incidents of retaliation; and
		13. Relevant laws regarding the applicable age of consent.

### **“Refresher” Training for all Volunteers or Contractors**. The HCJC PC will ensure that all volunteers or contractors receive “refresher” training at least every two years, starting from the date of their initial training, to ensure that all volunteers or contractors are fully informed as to HCJC’s current sexual abuse and sexual harassment policies, rules, and procedures. The training will include, but not be limited to, the following:

* + 1. Its zero-tolerance policy for sexual abuse and sexual harassment;
		2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
		3. Youths’ right to be free from sexual abuse and sexual harassment;
		4. The right of youths and volunteers or contractors to be free from retaliation for reporting sexual abuse and sexual harassment;
		5. How volunteers or contractors can privately report sexual abuse and sexual harassment of youth; and
		6. How volunteers or contractors can report incidents of retaliation.

### **“Refresher” Information for all Volunteers or Contractors**. The HCJC Facility Administrator will ensure that all volunteers or contractors receive “refresher” information in years in which a volunteer or contractor member does not receive refresher training. Refresher information is designed to ensure that all volunteers or contractors are reminded of HCJC’s current sexual abuse and sexual harassment policies, rules, and procedures. The information will include, but not be limited to, the following:

1. Its zero-tolerance policy for sexual abuse and sexual harassment;
2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
3. Youths’ right to be free from sexual abuse and sexual harassment;
4. The right of youths and volunteers or contractors to be free from retaliation for reporting sexual abuse and sexual harassment;
5. How volunteers or contractors can privately report sexual abuse and sexual harassment of youth; and
6. How volunteers or contractors can report incidents of retaliation.

#### Documentation Required For All Trainings. The HCJC PC will ensure that all volunteers or contractors document, through volunteer or contractor signature or through electronic verification, that volunteers or contractors attended (including dates, times, duration) and understood the training received.

**115.333 Resident education.**

(a) During the intake process, residents shall receive information explaining, in an age appropriate fashion, the agency’s zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

(b) Within 10 days of intake, the agency shall provide comprehensive age-appropriate education to residents either in person or through video regarding 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.

(c) Current residents who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the resident’s new facility differ from those of the previous facility.

(d) The agency shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.

(e) The agency shall maintain documentation of resident participation in these education sessions.

(f) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

**RESIDENT EDUCATION POLICY –** the HCJC will ensure that all residents are provided information about combating sexual abuse.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Resident Education Policy:**

1. All HCJC residents, upon intake, will be provided information, in an age appropriate fashion, about combating sexual abuse.
2. All HCJC residents, within 10 days of intake, will be provided comprehensive education, in an age appropriate fashion.
3. HCJC residents will have access to continuous and readily available materials to include, but not be limited to, posters, resident handbooks, or other materials on the facility’s zero tolerance policy.

**RESIDENT EDUCATION TRAINING –**The HCJC PC will ensure that all HCJC residents receive information and education on the facility’s zero tolerance policy and on how to report incidents or suspicions of sexual abuse, sexual harassment and/or retaliation according to HCJC Policy and Procedure 343.412 and 343.606.

**PROCEDURES:**

1. The HCJC PC will ensure that all residents, during the intake process, receive information explaining, in age appropriate fashion, the following:
	* 1. The HCJC’s zero tolerance policy regarding sexual abuse, sexual harassment, and retaliation; and
		2. How to report incidents or suspicions of sexual abuse, sexual harassment and/or retaliation.
2. The HCJC PC will ensure that within 10 days of intake each resident is provided with comprehensive, age-appropriate education. This education will be provided to residents either in person or through video regarding the following:
	* 1. Their rights to be free from sexual abuse and sexual harassment;

* + 1. Their rights to be free from retaliation for reporting such incidents; and
		2. HCJC’s policies and procedures for responding to such incidents.
1. The HCJC PC will ensure that current residents, those whose intake date was on or before August 19, 2013, who have not received such education shall receive such education by August 19, 2014.
2. The HCJC PC will ensure that youth transferring in from any other facility shall receive this same education (as noted in Procedures A and B of this section).
3. The HCJC PC shall ensure that his/her facility provides resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills. Specifically, the following will be provided:
	* 1. For residents with limited English proficiency the facility will either utilize staff that speak the same language or provide for an interpreter at no cost to the resident necessary by contacting James or Sophia Leon at (512) 560-4634.
		2. For residents who are deaf the facility shall either utilize staff that are competent in sign language or provide for an interpreter at no cost to the resident by contacting the San Marcos Interpreting Services at (512) 754-8047.
		3. For residents who are visually impaired the facility shall make accommodations according to the disability.
		4. For disabled residents the facility shall make accommodations according to the disability.
4. The facility shall maintain written documentation, including the signature of the resident, of his/her participation in these education sessions and this information will be retained in the Resident’s File on the Intake Form.
5. In addition to providing such education, the HCJC Facility Administrator shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, computer “scrolling” messages, or other written formats.

**115.334 Specialized training: Investigations.**

(a) In addition to the general training provided to all employees pursuant to § 115.331, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

(b) Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

(c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

(d) Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations.

**SPECIALIZED TRAINING - INVESTIGATIONS POLICY –** the HCJC will ensure that when the HCJC conducts its own sexual abuse internal investigations that the HCJC investigator(s) are provided with specialized training in conducting such investigations in confinement settings.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Specialized Training - Investigations Policy:**

1. All HCJC internal investigator(s) are provided with specialized training in conducting sexual abuse investigations in confinement settings prior to conducting any investigations.
2. The HCJC will assure, to the extent possible, that any outside entity investigating sexual abuse allegations have similar training.

**SPECIALIZED TRAINING - INVESTIGATIONS –**The HCJC Facility Administrator will assure that all HCJC sexual abuse internal investigator(s) are provided with specialized training on how to conduct sexual abuse investigations in a confinement setting according to HCJC Policy and Procedure 358. Further, the **HCJC** Facility Administrator will work to ensure that State of Texas entities and/or Department of Justice investigators have also received the same or substantially equivalent training.

**PROCEDURES:**

1. The HCJC does not conduct any sexual abuse investigations. All sexual abuse investigations will be handled by the San Marcos Police Department, Hays County Sheriff’s Office or TJJD.
2. If the HCJC does, at some point in the future begin investigating sexual abuse allegations, the HCJC Facility Administrator will assure that all HCJC investigator(s) are provided training, in addition to the general training provided to all HCJC employees [See PREA §115.331], on how to conduct sexual abuse investigations in a confinement setting.
3. Specialized training will include, but not be limited to, the following:
4. Techniques for interviewing juvenile sexual abuse victims;
5. Proper use of the Miranda warnings;
6. Proper use of the Garrity warnings;
7. Sexual abuse evidence collection in confinement settings; and
8. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.
9. The HCJC Facility Administrator will ensure that all HCJC internal investigator(s) document, through employee signature or through electronic verification, that investigators attended (including dates, times, duration) and understood the training received.
10. The HCJC Facility Administrator will work with the San Marcos Police Department, Hays County Sheriff’s Office and TJJD to ensure that their agents and investigator(s) are properly trained to investigate sexual abuse allegations in juvenile confinement settings. The HCJC Facility Administrator will report his/her findings via the HAYS COUNTY JUVENILE CENTER Investigator Training Request Form which will be stored in the HCJC Facility Administrator’s Office Files.
11. The HCJC Facility Administrator will also work with the Department of Justice to ensure that their agents and investigators are properly trained to investigate sexual abuse allegations in juvenile confinement settings. The HCJC Facility Administrator will report his/her findings via the HAYS COUNTY JUVENILE CENTER Investigator Training Request Form which will be stored in the HAYS COUNTY CJPO’s Office Files.

**115.335 Specialized training: Medical and mental health care.**

(a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

(1) How to detect and assess signs of sexual abuse and sexual harassment;

(2) How to preserve physical evidence of sexual abuse;

(3) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and

(4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

(d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.331 or for contractors and volunteers under § 115.332, depending upon the practitioner’s status at the agency.

**SPECIALIZED TRAINING – MEDICAL AND MENTAL HEALTH CARE POLICY –** the HCJC will ensure that all medical and mental health care personnel receive specialized training on how to detect, respond to, and report allegations of sexual abuse and sexual harassment.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Specialized Training – Medical and Mental Health Care Policy:**

1. All HCJC medical and mental health care staff who have contact with HCJC residents will receive specialized training in addition to the training provided to all HCJC employees.
2. The HCJC will assure that documentation noting employee attendance and understanding of the specialized training is maintained in the employees training file.

**SPECIALIZED TRAINING – MEDICAL AND MENTAL HEALTH CARE –**The HCJC PC will ensure that all HCJC medical and mental health care staff are provided with specialized training related to detecting, responding and reporting sexual abuse and sexual harassment in confinement settings.

**PROCEDURES:**

1. The HCJC PC will ensure that all full- and part-time medical and mental health care practitioners who work in his/her facility have been trained in:
2. How to detect and assess signs of sexual abuse and sexual harassment;
3. How to preserve physical evidence of sexual abuse;
4. How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
5. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
6. If any medical staff employed at the facility is authorized to conduct forensic examinations, the HCJC Facility Administrator shall ensure that the staff receives the appropriate training to conduct such examinations. Completion of staff training will be verified by the HCJC Facility Administrator and a copy of the verification and training logs will be maintained in the staff training file. **No staff at the HCJC will conduct forensic exams.**
7. The HCJC Facility Administrator shall maintain documentation that all medical and mental health practitioners have received the required training referenced in paragraph 1 of this section either from training provided by HCJC or elsewhere.
8. Medical and mental health care practitioners shall also receive the training mandated for employees under §115.331 or for contractors and volunteers under §115.332, depending upon the practitioner’s status at the agency.

**Screening for Risk of Sexual Victimization and Abusiveness**

**115.341 Obtaining information from residents.**

(a) Within 72 hours of the resident’s arrival at the facility and periodically throughout a resident’s confinement, the agency shall obtain and use information about each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident.

(b) Such assessments shall be conducted using an objective screening instrument.

(c) At a minimum, the agency shall attempt to ascertain information about:

(1) Prior sexual victimization or abusiveness;

(2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;

(3) Current charges and offense history;

(4) Age;

(5) Level of emotional and cognitive development;

(6) Physical size and stature;

(7) Mental illness or mental disabilities;

(8) Intellectual or developmental disabilities;

(9) Physical disabilities;

(10) The resident’s own perception of vulnerability; and

(11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

 (d) This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident’s files.

(e) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident’s detriment by staff or other residents.

**SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS POLICY –** the HCJC will screen each resident to obtain and use information about each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Screening for Risk of Sexual Victimization and Abusiveness Policies:**

1. To conduct screenings for risk of sexual victimization or abusiveness within 72 hours of intake.
2. Periodically reassess each resident to further reduce the risks of sexual victimization or sexual abusiveness.
3. Separate residents who are at-risk of sexual victimization from residents who are at risk of being sexually abusive.

**SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS –**To ensure that the potential risk of sexual victimization and abusiveness are identified, each resident will be screened to reduce the risks of sexual abuse by or upon a resident according to HCJC Policy and Procedure 343.414, 343.416 and 343.608. Information obtained during the screening process will be utilized to make housing, bed, work, education, and program assignments with the goal of keeping residents determined to be “at-risk” of sexual victimization separate from residents “at-risk” of being sexual abusive.

**PROCEDURES:**

1. The HCJC Intake Officer will ensure that within 72 hours of the resident’s admission into the HCJC, either through intake or through transfer from another facility, the facility’s staff obtain and utilize information about each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident.
2. The HCJC will utilize a ‘cross-disciplinary team’ approach to objectively assess each resident which may consist of the HCJC Facility Administrator, Assistant Facility Administrator, Counselor(s), Shift Supervisor, Nurse, etc.
3. The HCJC’s PCM will assure that the HCJC’s Intake Officer and its ‘cross disciplinary team’ has ascertained or, at a minimum, has attempted to ascertain, all of the following information about each of their facility’s residents:
4. Prior sexual victimization or abusiveness;
5. Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
6. Current charges and offense history;
7. Age;
8. Level of emotional and cognitive development;
9. Physical size and stature;
10. Mental illness or mental disabilities;
11. Intellectual or developmental disabilities;
12. Physical disabilities;
13. The resident’s own perception of vulnerability; and
14. Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.
15. The HCJC Intake Officer, as part of the objective screening process, will assure that the HCJC’s objective screening instruments include, but are not limited to, the following:
	* 1. Intake Screening by Intake Officer: Collects the following data – Current charges and offense history; Age; Physical size and stature; Physical disabilities; the youth’s own perception of vulnerability; Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents*.*
		2. Medical screenings: Collects the following data – Prior Sexual Victimization or Abusiveness; Sexual Orientation and/or Gender Identity; Current Charges and Any History of Sexual Offenses; the Resident’s Own Perception of Vulnerability; and medical examinations*.*
		3. Mental health screenings: Collects the following data – Mental illness or mental disabilities; Level of emotional and cognitive development; Intellectual or developmental disabilities; Prior sexual victimization; the youth’s own perception of vulnerability; any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents*.*
		4. Case management orientation: Collects the following data – The youth’s own perception of vulnerability; any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents*.*
16. The HCJC PCM will assure that their facility’s staff will periodically, at least once every 90 days, throughout a resident’s confinement, conduct reassessments of each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident.
17. During all subsequent reassessments the information utilized includes, but is not limited to, all of the earlier assessments and/or objective screening instruments and the following additional information:
18. Updated medical screening information;
19. Updated mental health screenings;
20. Updated court records;
21. Case file information pertaining to the resident;
22. Counselor input from monthly progress reports;
23. Facility behavioral records; and
24. Other relevant documentation from the resident’s files.
25. To ensure confidentiality of resident information the HCJC utilizes a confidential format for responses to questions pertaining to sensitive information. This confidential format helps to ensure that sensitive information is not exploited. In addition, sensitive information is secured in locked file cabinets. Further, all information collected by staff members (to include contractors and volunteers) pertaining to sensitive information is understood to be confidential. The personnel policies and procedures prohibit unauthorized disclosure of confidential information and authorizes a penalty up to and including termination.

**115.342 Placement of residents in housing, bed, program, education, and work assignments.**

(a) The agency shall use all information obtained pursuant to § 115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.

(b) Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, agencies shall not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

(c) Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.

(d) In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the resident’s health and safety, and whether the placement would present management or security problems.

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

(f) A transgender or intersex resident’s own views with respect to his or her own safety shall be given serious consideration.

(g) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

(h) If a resident is isolated pursuant to paragraph (b) of this section, the facility shall clearly document:

(1) The basis for the facility’s concern for the resident’s safety; and

(2) The reason why no alternative means of separation can be arranged.

(i) Every 30 days, the facility shall afford each resident described in paragraph (h) of this section a review to determine whether there is a continuing need for separation from the general population.

**PLACEMENT OF RESIDENTS IN HOUSING, BED, PROGRAM, EDUCATION AND WORK ASSIGNMENTS POLICY –** the HCJC Facility Administrator will utilize the results of the HCJC’s risk screening process to make housing, bed, program, education, and work assignments.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Placement of Residents in Housing, Bed, Program, Education, and Work Assignment Policy:**

1. Keeping residents safe and free from sexual abuse.

**PLACEMENT OF RESIDENTS IN HOUSING, BED, PROGRAM, EDUCATION AND WORK ASSIGNMENTS –**The on-duty HCJC Shift Supervisor will utilize the results of the HCJC’s risk screening process to make informed decisions regarding placement of residents in housing, bed, program, education, and work assignments and according to HCJC Policy and Procedure 343.290.

**PROCEDURES:**

1. To ensure a safe environment and secure operations, the HCJC shall objectively classify and house youth according to standard criteria of risk, age, size, conduct, offense history and from the information obtained through the use of HAYS COUNTY JUVENILE CENTER Policy §115.341 to make housing, bed, program, education, and work assignments for residents with the goal of keeping resident safe and free from sexual abuse.
2. The HCJC Facility Administrator understands that residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe and free from sexual abuse, and then only until an alternative means of keeping all residents safe and free from sexual abuse can be arranged. During any period of isolation, the HCJC Facility Administrator shall ensure that the resident continues to receive daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation will receive daily visits from a medical or mental health care practitioner. Residents in isolation will also have access to other facility programs and work opportunities to the extent possible.
3. The HCJC Facility Administrator will assure that lesbian, gay, bisexual, transgender, or intersex residents, if admitted into post-adjudication placement, shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall the HCJC consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.
4. In deciding whether to assign a transgender or intersex resident to the facility for male or female residents, and in making other housing and programming assignments, the HCJC Facility Administrator shall consider, on a case-by-case basis, whether a placement would ensure the resident’s health and safety, and whether the placement would present management or security problems.
5. The HCJC PC will ensure that placement and programming assignments for each transgender or intersex resident will be reassessed at least twice each year to review any threats to safety experienced by the resident.
6. The HCJC PC will ensure that a transgender or intersex resident’s own views with respect to his or her own safety shall be given serious consideration.
7. The HCJC Facility Administrator will assure that transgender and intersex residents are given the opportunity to shower separately from other residents.
8. If a resident is isolated pursuant to paragraph (B) of this section, the HCJC Facility Administrator will clearly document on the HAYS COUNTY JUVENILE CENTER Protective Isolation Report form the following information:
9. The basis for the facility’s concern for the resident’s safety; and
10. The reason why no alternative means of separation can be arranged.
11. Every 30 days, the HCJC Facility Administrator will afford each resident involved in paragraph (H) of this section a review to determine whether there is a continuing need for separation from the general population.

**115.343 Reserved.**

**Reporting**

**115.351 Resident reporting.**

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

(b) The agency shall also provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request. Residents detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.

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

(d) The facility shall provide residents with access to tools necessary to make a written report.

(e) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.

**RESIDENT REPORTING POLICY –** HCJC residents will be able to make reports of abuse or sexual harassment to at least one public or private entity or office that is not part of the HCJC, and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to HCJC PC.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Resident Reporting Policy:**

1. Residents will have access to at least one way to anonymously report abuse or sexual harassment to a public or private entity or office that is not part of the HCJC.

**RESIDENT REPORTING –**The HCJC PC will ensure that all residents have access to at least one way to report sexual abuse and sexual harassment to a public or private entity or office that is not part of the HCJC and that is able to receive and immediately forward resident reports of sexual abuse or sexual harassment to the HCJC PC according to HCJC Policy and Procedure 358 and 343.376.

**PROCEDURES:**

1. The HCJC shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. These internal ways include, but are not limited to:
	* 1. Completing a Request Form;
		2. Using the grievance process;
		3. Dropping a note in the Facility Administrator’s box;
		4. Telling a counselor, medical or mental health staff member, HCJC Facility Administrator, HCJC PCM, or juvenile probation officer.
2. As noted above, all youth can access the facility’s grievance process. The HCJC facility’s grievance process is as follows:
	* 1. The facility will have locked box for the collection of grievances at designated sites easily accessible by youth without staff assistance.
		2. Youth shall not receive any form of reprisal for exercising their right to file a grievance.
		3. Grievances will be considered confidential. Only those staff necessary to resolve a grievance will be made aware of its contents.
		4. Grievance Forms shall be available on each living unit and common areas accessible to youth without staff assistance.
		5. HCJC Facility Administrator’s Box:
3. If a youth has an issue that he/she wants to bring to the direct attention of the Facility Administrator, he/she may write to the HCJC Facility Administrator and place the letter in the grievance box that is accessible to youth without staff intervention, or in a box labeled for the HCJC Facility Administrator.
4. The letter should be addressed to the HCJC Facility Administrator. The HCJC Facility Administrator will retrieve items from the HCJC Facility Administrator’s box each working day. (The HCJC Facility Administrator’s designee will retrieve items from the HCJC Facility Administrator’s box on working days when the HCJC Facility Administrator is not on duty at the facility.)
5. The HCJC Facility Administrator will then take the appropriate action to resolve the issue, which may include initiating the grievance process.
6. The HCJC PCM at the facility shall ensure that there is at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the HCJC and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to HCJC officials, allowing the resident to remain anonymous upon request. Currently, the HCJC provides access to a resident hotline where youth can submit allegations of sexual abuse and sexual assault.
7. **The HCJC does not contract with the Department of Homeland Security to house immigration only residents**.
8. HCJC staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly (within 4-hours) document any verbal reports on the HCJC Serious Incident Report.
9. The HCJC shall provide residents with access to pens, paper, dictionary, translation services and other tools necessary to make a written report.
10. All HCJC staff shall be provided with information to online reporting applications and URL’s for the purpose of privately reporting sexual abuse and sexual harassment of residents.

**115.352 Exhaustion of administrative remedies.**

(a) An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.

(b) (1) The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

(2) The agency may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

(3) The agency shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict the agency’s ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

(c) The agency shall ensure that:

(1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

(d) (1) The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(2) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.

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

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

(e) (1) Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.

(2) If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(3) If the resident declines to have the request processed on his or her behalf, the agency shall document the resident’s decision.

(4) A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

(f) (1) The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.

(2) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency’s determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(g) The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES POLICY –** the HCJC treats all grievances of sexual abuse as a criminal matter. Administrative procedures to address grievances in regards to sexual assault shall follow the procedures outlined in: HCJC Policy and Procedure 343.376 – Resident Grievance Process (Section C, Filing a Formal Grievance).

**Goals for the HAYS COUNTY JUVENILE CENTER’s Exhaustion of Administrative Remedies Policies:**

1. Any and all grievances of sexual abuse will be treated as a criminal matter and immediately reported to the appropriate oversight agency (e.g., TJJD) and/or law enforcement.
2. Any and all grievances of sexual abuse will be handled administratively according the Formal Grievance process outlined in HCJC Policy and Procedure 343.376 – Resident Grievance Process (Section C, Filing a Formal Grievance).
3. Any and all grievance of sexual abuse will be investigated internally according to the procedures outlined in HCJC Policy and Procedure 358.400 – Internal Investigation.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES –**The HCJC PC shall assure that any and all grievances regarding sexual abuse will be promptly reported to the appropriate oversight agency and/or to law enforcement according to HCJC Policy and Procedure 358.300 –Identifying and Reporting Abuse, Neglect, Exploitation and Death and investigated internally according to HCJC Policy and Procedure 358.400 – Internal Investigation.

**PROCEDURES:**

* + - 1. The HCJC PC will assure that any and all grievances regarding sexual abuse are promptly reported to TJJD and/or law enforcement according the HCJC Policy and Procedure 358.300 - Identifying and Reporting Abuse, Neglect, Exploitation and Death.
			2. The HCJC PCM will investigate internally any grievance regarding sexual abuse according to HCJC Policy and Procedure 358.400 – Internal Investigation.
			3. The HCJC Grievance Officer will handle any grievance regarding sexual abuse according to HCJC Policy and Procedure 343.376 – Resident Grievance Process (Section C, Filing a Formal Grievance).

**115.353 Resident access to outside support services and legal representation.**

(a) The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.

(b) The facility shall inform residents, 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.

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

(d) The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

**RESIDENT ACCESS TO OUTSIDE SUPPORT SERVICES AND LEGAL REPRESENTATION POLICY –** the HCJC will ensure that all residents have access to outside victim advocates for emotional support services related to sexual abuse.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Resident Access to Outside Support Services and Legal Representation Policy:**

1. All HCJC residents will be provided access to outside victim advocates for emotional support services related to sexual abuse.
2. The HCJC shall enter into memoranda of understanding with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse.
3. The HCJC will provide residents with reasonable and confidential access to their attorneys or other legal representation.
4. The HCJC will provide residents with reasonable access to parents or legal guardians.

**RESIDENT ACCESS TO OUTSIDE SUPPORT SERVICES AND LEGAL REPRESENTATION –**The HCJC PCM will ensure that: (1) HCJC residents are provided with access to outside victim advocates for emotional support services related to sexual abuse; (2) the HCJC will enter into memoranda of understanding with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse; (3) Residents are provided with reasonable and confidential access to their attorneys or other legal representation; and (4) Residents are provided with reasonable access to parents and legal guardians according to HCJC Policy and Procedure 343.352, 343,354 and 343.356.

**PROCEDURES:**

* + 1. The HCJC PCM will work cooperatively with the staff of shelter facilities, courts, local law enforcement agencies, and appropriate private agencies and organizations to assist in providing services for residents to the extent allowed by state and federal law.
		2. The HCJC PCM will ensure that their facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, or otherwise making accessible to the Hays-Caldwell Women’s Center, a rape crisis center:
1. Mailing addresses; and
2. Telephone numbers, including toll free hotline numbers where available, of local, State or national victim advocacy or rape crisis organizations.
	* 1. The HCJC PCM will enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible. However, prior to meeting with outside organizations and agencies, the HCJC PCM will ensure that each resident is informed, prior to giving access to outside organizations and agencies, of the extent to which:
3. Such communications will be monitored;
4. Reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws; and
5. Limits to confidentiality under relevant federal, state, or local law.
	* 1. The HCJC PCM will maintain copies of agreements or attempts to enter into memoranda of understanding (MOU) with community service providers that are able to provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, or local, State, or national victim advocacy or rapes crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies.
		2. The HCJC Shift Supervisor will ensure that all youth victims of sexual assault will receive the same level of care as if they were in a community setting. All victims will be immediately referred for outside medical testing and evaluation. Upon release from a secure facility the HCJC PCM will provide the youth with follow-up referrals for services in the community.
		3. The HCJC PCM will also ensure that residents are provided with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

**115.354 Third-party reporting.**

The agency shall establish a method 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 resident.

**THIRD PARTY REPORTING POLICY –** the HCJC will ensure that it can receive third-party reports of sexual abuse and sexual harassment.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Third-Party Reporting Policy:**

1. The HCJC will establish a method to receive third-party reports of sexual abuse and sexual harassment.
2. The HCJC will distribute, publicly, information on how to report sexual abuse and sexual harassment on behalf of a resident.

**THIRD PARTY REPORTING –**The HCJC PCM will ensure that his/her facility: (1) has a working method to receive third-party reports of sexual abuse and sexual harassment and (2) distributes, publicly, information on how to report sexual abuse and sexual harassment on behalf of a resident according to HCJC Policy and Procedure 358.

**PROCEDURES:**

1. Any and all reports of sexual abuse, including all third-party reports, will be promptly reported to the appropriate oversight agency and law enforcement. The HCJC PCM will ensure that this procedure is universally followed.
2. The HCJC PCM will be responsible for ensuring that all non-criminal sexual harassment or retaliation reports, including third-party reports, are thoroughly investigated, per HCJC Policies and Procedures.
3. The HCJC PCM will ensure that all HCJC staff, volunteers, and contractors are trained on how to report any suspicions or allegations of abuse and neglect, and exploitation involving a juvenile.
4. The HCJC PCM will assure that his/her facility has postings and brochures located throughout all public and housing areas of the facility that contains information on how to report any alleged abuse, neglect, exploitation, or sexual harassment.
5. Any member of the public can make a third party report by using any of the following methods: TJJD ANE link: abuseneglect@tjjd.texas.gov, Office of the Independent Ombudsman link: independent.ombudsman@tjjd.texas.gov , or directly to the Hays County Juvenile Center link: juveniledetetion@co.hays.tx.us . Clicking on any of these links will give the public access to a method for immediately reporting sexual abuse or sexual harassment or a means for youth or staff to seek relief against retaliation for reporting.

**Official Response Following a Resident Report**

**115.361 Staff and agency reporting duties.**

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

(b) The agency shall also require all staff to comply with any applicable mandatory child abuse reporting laws.

(c) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing 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.

(d) (1) Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.

(2) Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.

(e) (1) Upon receiving any allegation of sexual abuse, the facility head or his or her designee shall promptly report the allegation to the appropriate agency office and to the alleged victim’s parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.

(2) If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim’s caseworker instead of the parents or legal guardians.

(3) If a juvenile court retains jurisdiction over the alleged victim, the facility head or designee shall also report the allegation to the juvenile’s attorney or other legal representative of record within 14 days of receiving the allegation.

(f) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators.

**STAFF AND AGENCY REPORTING DUTIES POLICY –** The HCJC will ensure that all reported incidents of sexual abuse, sexual harassment, and/or retaliation are promptly and properly investigated.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Staff and Agency Reporting Duties Policy:**

1. To comply with all applicable mandatory child abuse reporting laws.
2. To have all reports of sexual abuse, sexual harassment, and/or retaliation promptly and properly investigated.
3. To have all reports of sexual abuse immediately (within 1-hour) referred to the Texas Juvenile Justice Department (TJJD) and/or law enforcement.
4. To have all reports of staff (to include contractor and volunteers) neglect or violation of responsibilities promptly and properly investigated.

**STAFF AND AGENCY REPORTING DUTIES** –The HCJC PCM will ensure that his/her facility requires: (1) prompt reporting of all allegations of sexual abuse, sexual harassment, and retaliation; and (2) that staff, including contractors and volunteers, follow the agency’s policies and procedures related to reporting, investigating and confidentiality according to HCJC Policy and Procedure 358.

**PROCEDURES:**

1. The HCJC requires that all its staff, including volunteers and contractors, report immediately (within 1-hour) any knowledge, suspicion, or information they receive regarding an incident, or allegation, of sexual abuse (including incidents of sexual abuse that occurred in a facility, whether or not the facility is part of the HCJC) to the Texas Juvenile Justice Department at 1 (877) STOP-ANE or 1-877-786-7263 **AND** to the HCJC Facility Administrator.
2. The HCJC requires that all its staff, including volunteers and contractors, report immediately (within 1-hour) any knowledge, suspicion, or information they receive regarding an incident, or allegation, of sexual harassment(including incidents of sexual harassment that occurred in a facility, whether or not the facility is part of the HCJC) to the HCJC PCM.
3. The HCJC requires that all its staff, including volunteers and contractors, report immediately (within 1-hour) any knowledge, suspicion, or information they receive regarding an incident, or allegation, of retaliationagainst residents or staff who reported sexual abuse or sexual harassment (including incidents of retaliation that occurred in a facility, whether or not the facility is part of the HCJC) to the HCJC PCM.
4. The HCJC requires that all its staff, including volunteers and contractors, report immediately (within 1-hour) any knowledge, suspicion, or information they receive regarding an incident, or allegation, of any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation (including incidents of staff neglect that occurred in a facility, whether or not the facility is part of the HCJC) to the HCJC PCM.
5. Staff members (including volunteers and contractors) who report any knowledge, suspicion, or information about an incident, or allegation, involving the issues identified in Procedures A, B, C, or D of this policy shall document on the HCJC Serious Incident Report form or Information Report to include: the name, the title, and the contact information of the person they contacted as well as the date, time, and name of staff member making the report and all relevant details related to the allegation.
6. All HCJC staff members, including contractors and volunteers, must comply with any applicable mandatory child abuse reporting laws.
7. Apart from reporting to the HCJC PCM and designated State agencies (i.e., TJJD), HCJC staff, including contractors and volunteers, are prohibited from revealing any information related to any HCJC Serious Incident Report or Information Report to anyone other than to the extent necessary, as specified in HCJC’s policies and procedures, to treat, investigate, or comply with other security and management decisions.
8. Per Texas child abuse reporting laws and HCJC policy, if a youth discloses prior sexual victimization or abusiveness, the staff (including contractors or volunteers) will follow procedures identified in items A through D of this section.
9. HCJC’s medical and mental health practitioners will:
10. Be required to report sexual abuse to the TJJD and the HCJC PCM pursuant to Procedures A, B, C, or D of this policy; and
11. Inform residents at the initiation of services (e.g., medical or mental health intake screening, assessments, reassessment visits, during the provision of medical and/or mental health care, etc.) of their duty to report and of the limitations of confidentiality. If a youth discloses prior sexual victimization or abusiveness to any medical or mental health care staff the staff member will report the abuse according to Procedures A, B, C, and D of this section.
12. Reporting:
13. Upon receiving any allegation of sexual abuse, the HCJC PCM or his or her designee, shall ensure that the allegations are promptly reported to the appropriate agency office (i.e., TJJD for sexual abuse and to the HCJC Facility Administrator for sexual harassment, retaliation, or staff neglect or violation of responsibilities that may have contributed to a sexual abuse or harassment incident or to an act of retaliation) and to the alleged victim’s parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
14. If the alleged victim is under the guardianship of the child welfare system, the reporting shall be made to the alleged victim’s caseworker instead of the parents or legal guardians.
15. If a juvenile court retains jurisdiction over the alleged victim, the HCJC Facility Administrator or designee shall also report the allegation to the juvenile’s attorney or other legal representative of record within 14 days of receiving the allegation.
16. HCJC staff shall report all allegations of sexual abuse and criminal sexual harassment, including third-party and anonymous reports, to the TJJD, law enforcement and the HCJC PCM pursuant to Procedures A through I, above.
17. HCJC staff shall report all allegations of non-criminal sexual harassment, retaliation and any staff neglect or violation of responsibilities that may have contributed to a sexual abuse incident or retaliation , including third-party and anonymous reports, to the HCJC PCM pursuant to Procedures A through I, above.

**115.362 Agency protection duties.**

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

**OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT POLICY –** The HCJC will act immediately to protect a resident whenever the HCJC learns that the resident faces a substantial risk of imminent sexual abuse.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Agency Protection Duties Policy:**

1. To protect all residents from sexual abuse, sexual harassment and/or retaliation.
2. To immediately act to protect a resident who faces a substantial risk of imminent sexual abuse.

**OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT –**The HCJC PCM will ensure that any resident who face substantial risk of imminent sexual abuse are protected from harm.

**PROCEDURES:**

1. When a HCJC staff member learns that a resident is subject to a substantial risk of imminent sexual abuse, the staff member will take the following immediate action(s) to protect the resident:
	1. Ensure the youth is safe and in a safe location, and
	2. Inform an immediate supervisor.
2. Once a HCJC Supervisor is informed, and working in consultation with the Facility Administrator or his/her designee, the HCJC Supervisor will take one or more of the following actions:
3. Make a housing or unit change,
4. Assign additional staff to monitor resident activities,
5. Initiate an investigation, and/or
6. Place a staff member on administrative leave until the investigation is complete.
7. All actions taken by the HCJC Supervisor to protect a resident who is believed to be at substantial risk of imminent sexual abuse will be documented on a Serious Incident Report*.* The Serious Incident Report will document the following:
	* + 1. Date, time and name of the person bringing the situation to the attention of the HCJC;
			2. Name of the HCJC staff who received the initial information;
			3. Date, time, and immediate actions taken by the staff member to protect the resident;
			4. Date, time and name of the HCJC Supervisor that the HCJC staff member contacted;
			5. Date, time and action taken by the Supervisor; and
			6. Any other information relevant to this situation.
8. The HCJC Supervisor will submit a complete copy of the Serious Incident Report to the HCJC PCM by the end of the shift of being notified that a resident was believed to be at substantial risk of imminent sexual abuse.
9. At least once per working day (i.e., 24 hours) the HCJC PCM will collect and review all the Serious IncidentReportspertaining to their facility in regards to this standard. The HCJC PCM shall review and investigate each Report with emphasis on confirming and certifying that all necessary precautions were taken to ensure the safety of the resident who was believed to be at substantial risk of imminent sexual abuse.
10. Once per month the HCJC’s PCM will aggregate the Imminent Harm Reports for their facility and create a monthly Facility Imminent Harm Report. This report will document the dates, times, circumstances, and responses taken after a HCJC staff member learns that a resident is subject to a substantial risk of imminent sexual abuse. This Report will be forwarded to the HCJC PC by the 20th of each month.

**115.363 Reporting to other confinement facilities.**

(a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.

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

(c) The agency shall document that it has provided such notification.

(d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

**REPORTING TO OTHER CONFINEMENT FACILITIES POLICY –** the HCJC will immediately, within 24 hours, report allegations that an HCJC resident was sexually abused at another facility to the Facility Head where the alleged sexual abuse occurred.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Reporting to Other Confinement Facilities Policy:**

1. To immediately report, within 24 hours, all allegations of sexual abuse at another facility to that facility’s Facility Head.
2. To monitor the investigation of the allegation of sexual abuse to inform the alleged victim of the progress and status of the allegation.

**REPORTING TO OTHER CONFINEMENT FACILITIES –**The HCJC Facility Administrator will ensure that if the HCJC receives an allegation that one of its confined youth was sexually abused at another facility that the HCJC Facility Administrator will immediately, within 24-hours of this report, inform the Facility Head at the other facility where the alleged abuse took place according to HCJC Policy and Procedure 358.

**PROCEDURES:**

HCJC staff, upon hearing of an allegation of prior sexual abuse of an HCJC youth while at another facility shall follow the reporting procedures outlined in the HCJC’s Official Response Following a Resident Report contained in § 115.361.

HCJC staff, after completing the requirements in §115.361, will immediately, within 1-hour, notify the **HCJC** Facility Administrator, or his/her designee, of the allegation of sexual abuse that occurred at another facility. The HCJC Facility Administrator, or his/her designee, shall notify the facility head (or an appropriate officer of the agency or entity operating the facility) where the abuse incident or allegation occurred within 24-hours of receipt of the information and shall confirm that the appropriate investigative agency (i.e., Texas Juvenile Justice Department or law enforcement) was notified.

The HCJC Facility Administrator receiving the allegation shall document that he/she has contacted the Facility Head of the facility where the abuse incident or allegation occurred and provide the required notification of an allegation of sexual abuse or sexual harassment and shall document, on the Serious Incident Report or Information Report, the name of the person he/she contacted, the title of the person they contacted, the contact information for the person they contacted, the date, time, and name of staff member making the report.

The HCJC Facility Administrator will assure that the department staff (to include contractors and volunteers) fully cooperate with any investigators and the HCJC PC shall endeavor to remain informed about the progress of the investigation.

If the Texas Juvenile Justice Department was not notified, the HCJC Facility Administrator will immediately notify (within one hour) the appropriate investigative agency (i.e., Texas Juvenile Justice Department or law enforcement), and will immediately launch (within one hour) an investigation into why the appropriate investigative agency was not immediately notified. The HCJC Facility Administrator shall document, in the Serious Incident Report, the name of the person contacted at TJJD, the date, and time.

If the HCJC receives an allegation from another facility or agency that an allegation of sexual abuse occurred at the HCJC, the HCJC Facility Administrator where the alleged abuse occurred will document the allegation and then immediately follow the policies and procedures contained in § 115.361.

**115.364 Staff first responder duties.**

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

(1) Separate the alleged victim and abuser;

(2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

(3) 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

(4) 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.

(b) If the first staff responder is not a security 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 security staff.

**STAFF FIRST RESPONDER DUTIES POLICY –** HCJC staff will assure that they adequately counsel victims of alleged abuse while maintaining security and control over the crime scene so that any physical evidence is preserved until an investigator arrives.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Staff First Responder Duties Policy:**

1. Separate the alleged abuser and victim.
2. Preserve and protect any crime scene.
3. Counsel victim not to take any actions that could destroy physical evidence.

**STAFF FIRST RESPONDER DUTIES –**The HCJC staff who are the first to respond to an incident of abuse will: (1) work to separate the abuser from the victim; (2) preserve and protect the crime scene until an investigator arrives (i.e., law enforcement); and (3) counsel the victim not take any actions that could destroy physical evidence according to HCJC Policy and Procedure 358.

**PROCEDURES:**

1. Recent Event - If abuse occurred within a time period that still allows for the collection of physical evidence:
	1. HCJC staff will immediately separate the alleged victim from abuser;
	2. HCJC staff will preserve and protect the crime scene until the police arrive to collect evidence;
	3. HCJC staff will 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;
	4. HCJC staff will 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;
	5. If the first HCJC staff member to respond is not a “security” staff member, the staff member (to include contractor or volunteer) is required to:
		* + 1. request that the alleged victim not take any actions that could destroy physical evidence; and
				2. then notify security staff.
	6. HCJC staff will immediately notify the appropriate medical and mental health practitioners;
	7. HCJC staff will immediately contact the San Marcos Police Department or Hays County Sheriff’s Office;
	8. The HCJC Facility Administrator shall ensure that all HCJC staff cooperate with the investigators and shall endeavor to remain informed about the progress of the investigation by requesting a copy of the formal written reports; and
	9. The HCJC Facility Administrator shall ensure that the policies and procedures related to Reporting and Investigating (PREA §115.361) is followed and that TJJD is notified within 1-hour.
2. Not A Recent Event *-* If abuse occurred within a time period that does not allow for the collection of physical evidence**:**
	* 1. HCJC staff will immediately notify the HCJC Facility Administrator or his/her designee;
		2. HCJC staff will immediately notify the appropriate medical and mental health practitioners, as necessary;
		3. HCJC staff will immediately contact Texas Juvenile Justice Department (TJJD) or the San Marcos Police Department, Hays County Sheriff’s Office as necessary;
		4. If the allegation of sexual abuse involves abuse at another confinement facility the HCJC PC will ensure that the policy and procedures outlined in §115.363 are followed;
		5. The HCJC Facility Administrator shall ensure that all HCJC staff cooperate with the investigators and shall endeavor to remain informed about the progress of the investigation by requesting a copy of the formal written reports; and
		6. The HCJC Facility Administrator shall ensure that the policies and procedures related to Reporting and Investigating (PREA §115.361) is followed and that TJJD is notified within 24-hours.

**115.365 Coordinated response.**

The facility 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, investigators, and facility leadership.

**COORDINATED RESPONSE POLICY –** the HCJC shall have a developed and written institutional plan to coordinate actions taken in response to an incident of sexual abuse.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Coordinated Response Policy:**

1. A Coordinated Response plan is written and approved.
2. A Coordinated Response plan is reviewed and revised annually.

**COORDINATED RESPONSE –**The HCJC PCM, working in cooperation with the HCJC staff, shall develop a written Coordinated Response Plan that is approved by the HCJC Facility Administrator in accordance with HCJC Policy and Procedure.

**PROCEDURES:**

1. The HCJC PCM will work to develop a written Coordinated Response Plan.
2. The HCJC PCM will assure that the plan includes how the agency will coordinate with the following:
3. Assessing the victim’s acute medical needs;
4. Informing the victim of his/her rights under relevant Federal or State law;
5. Explaining the need for a forensic medical exam and offering the victim the option of undergoing one;
6. Offering the presence of a victim advocate or a qualified staff member during the exam;
7. Providing crisis intervention counseling;
8. Interviewing the victim and any witnesses;
9. Collecting evidence;
10. Notifying the victim’s parents or legal guardians; and
11. Providing for any special needs the victim may have.
12. The HCJC PCM will submit the written plan to the HCJC Facility Administrator for approval.
13. After the Coordinated Response Plan is approved the HCJC PCM, will ensure that the Plan is reviewed and revised, as needed, on an annual basis.
14. The HCJC Facility Administrator will approve any and all revisions prior to the revision becoming effective. Documentation of the HCJC Facility Administrator’s review and approval of revision(s) will be maintained by the HCJC PCM.

**115.366 Preservation of ability to protect residents from contact with abusers.**

(a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency’s ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

(b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:

(1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.372 and 115.376; or

(2) 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 following a determination that the allegation of sexual abuse is not substantiated.

**PRESERVATION OF ABILITY TO PROTECT RESIDENTS FROM CONTACT WITH ABUSERS POLICY –** the HCJC shall not enter into or renew any collective bargaining agreements or other agreements that limit the HCJC’s ability to remove alleged staff abusers from contact with victims pending an investigation.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Preservation of Ability to Protect Residents from Contact with Abusers Policy:**

* 1. To ensure that residents do not have contact with staff members (including contractors and volunteers) who have been accused of sexual abuse pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

**PRESERVATION OF ABILITY TO PROTECT RESIDENTS FROM CONTACT WITH ABUSERS –**The HCJC Facility Administrator, working in coordination with the Hays County Juvenile Board, will ensure that this policy is enforced.

**PROCEDURES:**

1. The HCJC Facility Administrator will assure that neither the HCJC, nor any other governmental entity responsible for collective bargaining on the HCJC’s behalf, shall enter into or renew any collective bargaining agreement or other agreement that limits the HCJC’s ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
2. Nothing in this standard shall restrict the HCJC from entering into or renewing agreements that govern:
3. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §115.372 and §115.376; or
4. 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 following a determination that the allegation of sexual abuse is not substantiated.

**115.367 Agency protection against retaliation.**

(a) The agency shall establish a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.

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

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

(d) In the case of residents, such monitoring shall also include periodic status checks.

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

(f) An agency’s obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

**AGENCY PROTECTION AGAINST RETALIATION POLICY –** the HCJC will protect all residents and staff (including contractors and volunteers) from retaliation for reporting sexual abuse or sexual harassment or for cooperating with an abuse or harassment investigation.

**Goals for HAYS COUNTY JUVENILE CENTER’s Agency Protection Against Retaliation Policy:**

* 1. To properly monitor and protect HCJC residents and staff (including contractors and volunteers) who report incidents of sexual abuse or sexual harassment to ensure that there are no incidents of retaliation.

**AGENCY PROTECTION AGAINST RETALIATION –**The HCJC Facility Administrator will ensure that the provisions of this policy are uniformly enforced.

**PROCEDURES:**

1. The HCJC Facility Administrator shall establish a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff.
2. The HCJC Facility Administrator is the designated staff member charged with monitoring retaliation. As part of their duties the Facility Administrator is responsible for ensuring that all allegations of retaliation are promptly and properly investigated.
3. The HCJC Facility Administrator can utilize the following monitoring and protection strategies to ensure residents and staff are protected from retaliation:
4. Unit housing changes;
5. Transfers for resident victims or abusers;
6. Removal of alleged staff or resident abusers from contact with victims; and
7. Emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
8. For at least 90 days following a report (or allegation) of sexual abuse, the HCJC Facility Administrator shall monitor the conduct or treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. The HCJC Facility Administrator’s monitoring will include, but will not be limited to, reviewing the following items:
9. Any resident disciplinary reports,
10. Housing or program changes,
11. Negative performance reviews or reassignments of staff.
12. The HCJC Facility Administrator shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.
13. In the case of residents, the HCJC Facility Administrator will conduct periodic status checks, by talking with the resident, at least once every 14 days.
14. In addition to protecting residents and staff, if any other individual who cooperates with an investigation expresses a fear of retaliation, the HCJC Facility Administrator shall take appropriate measures to protect that individual against retaliation.
15. Any acts of retaliation will be immediately investigated as per the HCJC policies and procedures related to §115.361, Official Response Following a Report. Specifically, a resident or staff member reporting an act of retaliation will immediately (within 1-hour) complete a HAYS COUNTY JUVENILE CENTER Serious Incident Report*,* which will be submitted by the end of the shift to the HCJC Facility Administrator or his/her designee.
16. The HCJC Facility Administrator’s obligation to monitor shall terminate if the agency determines that a sexual abuse allegation is unfounded.

**115.368 Post-allegation protective custody.**

Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.342.

**POST-ALLEGATION PROTECTIVE CUSTODY POLICY –** the HCJC will assure that any decision to use segregated housing to protect a resident who is alleged to have suffered sexual abuse will be subjected to the requirements of the HCJC’s §115.342 policy (i.e., Screening for Risk of Sexual Victimization and Abusiveness).

**Goals for the HAYS COUNTY JUVENILE CENTER’s Post-Allegation Protective Custody Policy:**

1. All housing decisions will be made only after a resident has been screened for risk of sexual victimization and abusiveness.

**POST-ALLEGATION PROTECTIVE CUSTODY –**The HCJC Shift Supervisor will ensure that all youth are screened for risk of sexual victimization and abusiveness prior to any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse according to HCJC Policy and Procedure 343.290.

**PROCEDURES:**

1. The HCJC Shift Supervisor will ensure that any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.342.

**Investigations**

**115.371 Criminal and administrative agency investigations.**

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

(b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to § 115.334.

(c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

(d) The agency shall not terminate an investigation solely because the source of the allegation recants the allegation.

(e) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

(f) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

(g) Administrative investigations:

(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(2) Shall 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.

(h) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

(i) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

(j) The agency shall retain all written reports referenced in paragraphs (g) and (h) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.

(k) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

(l) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

(m) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

**CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS POLICY –** the HCJC will conduct any internal investigations, including into third-party and anonymous allegations, of sexual abuse in a prompt, thorough and objective manner.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Criminal and Administrative Agency Investigations Policy:**

1. All allegations of sexual abuse will be immediately referred to the Texas Juvenile Justice Department and/or law enforcement.
2. All internal investigations of sexual harassment, retaliation, or staff neglect or violation of responsibilities that may have contributed to sexual abuse, including all third-party and anonymous reports, conducted by the HCJC will be done promptly, thoroughly, and objectively.
3. The HCJC will investigate all allegations even in the event that the alleged abuser or victim is no longer employed or housed by the HCJC.
4. The HCJC Facility Administrator will send a letter to State entities and Department of Justice components that are responsible for sexual abuse investigations ensuring that these agencies are aware of the requirement to investigate even if the alleged abuser or victim is no longer in HCJC employment or control.

**CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS –**The HCJC PCM will ensure all internal investigations into sexual abuse are done promptly, thoroughly, and objectively even if the alleged abuser or victim is no longer employed or housed by the HCJC.

**PROCEDURES:**

1. All allegations for sexual abuse will be immediately referred to TJJD and/or law enforcement pursuant to §115.334 and §115.352.
2. The HCJC PCM will be responsible for conducting internal investigations into allegations of sexual harassment, retaliation, or staff neglect or violation of responsibilities that may have contributed to sexual abuse, the HCJC PCM will conduct the investigation promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports, even if the alleged abuser or victim is no longer employed or housed by the HCJC.
3. Where sexual abuse is alleged, the HCJC shall use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to §115.334.
4. The HCJC PCM shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
5. The HCJC PCM will assure that no internal investigation is terminated solely because the source of the allegation recants the allegation.
6. When the quality of evidence appears to support criminal prosecution, the HCJC PCM shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
7. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as resident or staff. The HCJC shall not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
8. When any authorized HCJC staff member (e.g., HCJC PCM) conducts an administrative internal investigation he/she:
9. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
10. Shall be documented in HAYS COUNTY JUVENILE CENTER Investigation Report Form that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
11. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attached copies of all documentary evidence where feasible. The HCJC PCM will request a copy of this report from TJJD and/or law enforcement.
12. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
13. The HCJC PCM shall retain all written reports referenced in paragraphs (8) and (9) of this section for as long as the alleged abuser is incarcerated or employed by the HCJC, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.
14. The HCJC assures that the departure of the alleged abuser or victim from the employment or control of the HCJC shall not provide a basis for terminating an investigation.
15. The HCJC Facility Administrator will send a letter to all State entities and/or Department of Justice components that conduct such investigations to ensure that they understand and shall conduct their investigation pursuant to the above requirements; and
16. The HCJC Facility Administrator will keep a copy of this letter in his/her files for auditing purposes.
17. When outside agencies investigate sexual abuse, all HCJC staff shall fully cooperate with outside investigators and the HCJC PCM will endeavor to remain informed about the progress of the investigation.

**115.372 Evidentiary standard for administrative investigations.**

The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**EVIDENTIARY STANDARD FOR ADMINISTRATIVE INVESTIGATIONS POLICY –** When the HCJC conducts administrative internal investigations it will not impose a standard higher than a preponderance of the evidence in determining whether allegations are substantiated.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Evidentiary Standard for Administrative Investigations Policy:**

1. The HCJC will use the “preponderance of evidence” standard in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**EVIDENTIARY STANDARD FOR ADMINISTRATIVE INVESTIGATIONS –**Any HCJC staff authorized (e.g., HCJC PCM) to conduct administrative internal investigations will use the preponderance of evidence standard in determining whether allegations are substantiated.

**PROCEDURES:**

* + - 1. The HCJC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**115.373 Reporting to residents.**

(a) Following an investigation into a resident’s allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.

(c) Following a resident’s allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:

(1) The staff member is no longer posted within the resident’s unit;

(2) The staff member is no longer employed at the facility;

(3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

(4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following a resident’s allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:

(1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

(e) All such notifications or attempted notifications shall be documented.

(f) An agency’s obligation to report under this standard shall terminate if the resident is released from the agency’s custody.

**REPORTING TO RESIDENTS POLICY –** the HCJC will assure that upon completion of an internal investigation into a resident’s allegation that he or she suffered sexual abuse in the HCJC, the HCJC will inform the resident whether the allegation was deemed substantiated, unsubstantiated, or unfounded.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Reporting to Residents Policy:**

1. The HCJC will ensure that upon completion of an internal investigation into a resident’s allegations that he or she suffered sexual abuse in the HCJC, the HCJC will inform the resident whether the allegations was deemed substantiated, unsubstantiated, or unfounded.
2. Documentation showing the HCJC’s effort to notify the resident will be maintained.

**REPORTING TO RESIDENTS –**The HCJC Facility Administrator will ensure that upon completion of an internal investigation into a resident’s allegation that he or she suffered sexual abuse in the HCJC; the HCJC will inform the resident whether the allegation was deemed substantiated, unsubstantiated, or unfounded. The HCJC Facility Administrator will maintain appropriate documentation showing their efforts to notify the resident and when, or if, the resident was actually notified.

**PROCEDURES:**

1. Following an internal investigation into a resident’s allegation of sexual abuse suffered in the HCJC, the HCJC Facility Administrator shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the HCJC did not conduct the internal investigation, the HCJC Facility Administrator shall request the relevant information from the investigative agency in order to inform the resident.
3. Following a resident’s allegation that a staff member has committed sexual abuse against the resident, the HCJC Facility Administrator shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:
4. The staff member is no longer posted within the resident’s unit;
5. The staff member is no longer employed at the facility;
6. The HCJC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
7. The HCJC learns that the staff member has been convicted on a charge related to the allegation of sexual abuse within the facility.
8. Following a resident’s allegation that he or she has been sexually abused by another resident, the HCJC Facility Administrator shall subsequently inform the alleged victim whenever:
9. The HCJC Facility Administrator learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
10. The HCJC Facility Administrator learns that the alleged abuser has been convicted on a charge related to the allegation of sexual abuse within the facility.
11. All such notifications or attempted notifications of the resident shall be documented on the HCJC Notification Form.
12. The HCJC’s obligation to report under this standard shall terminate if the resident is released from the agency’s custody.

**Discipline**

**115.376 Disciplinary sanctions for staff.**

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

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

(c) 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.

(d) 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 STAFF POLICY –** HCJC staff shall be subject to disciplinary sanctions up to and including termination for violating the HCJC sexual abuse or sexual harassment policies, and that termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Disciplinary Sanctions for Staff Policies:**

1. HCJC staff who engages in sexual abuse will be disciplined.

**DISCIPLINARY SANCTIONS FOR STAFF –**The HCJC Facility Administrator will assure that any HCJC staff violating the HCJC sexual abuse or sexual harassment policies will be subject to disciplinary sanctions and that termination will be the presumptive discipline for staff who engage in sexual abuse.

**PROCEDURES:**

1. All HCJC staff shall be subject to disciplinary sanctions up to and including termination for violating the HCJC’s sexual abuse or sexual harassment policies.
2. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
3. The HCJC Facility Administrator will ensure that all terminations for violations of the HCJC’s sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to the following entities:
	1. Law enforcement agencies, unless the activity was clearly not criminal; and
	2. Relevant licensing bodies.
4. The HCJC Facility Administrator will document his/her reports via the HCJCSubstantiated Sexual Abuse Report Form.
5. The HCJC Facility Administrator will ensure that disciplinary sanctions for violations of the HCJC’s 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.

**115.377 Corrective action for contractors and volunteers.**

(a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

 (b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

**CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS POLICY –** the HCJC will ensure that residents do not have any contact with HCJC contractors or volunteers who engage in sexual abuse and that any HCJC contractors and volunteers who engage in sexual abuse will be reported to law enforcement agencies and to relevant licensing bodies.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Corrective Action for Contractors and Volunteers Policy:**

1. Any HCJC contractor or volunteer who engages in sexual abuse will not be permitted access to any HCJC resident.
2. Any HCJC contractor or volunteer who engages in sexual abuse will be reported to law enforcement and to relevant licensing bodies.

**CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS –**The HCJC Facility Administrator will assure that any HCJC contractor or volunteer violating the HCJC sexual abuse or sexual harassment policies will not have access to HCJC residents. Further, the HCJC Facility Administrator will ensure that any HCJC contractor or volunteer found to have engaged in sexual abuse will be reported to law enforcement and to relevant licensing bodies.

**PROCEDURES:**

1. All HCJC contractors and volunteers will be subject to disciplinary sanctions up to and including termination for violating the HCJC’s sexual abuse or sexual harassment policies.
2. Termination will be the presumptive disciplinary sanction for contractors who engage in sexual abuse.
3. Dismissal from service will be the presumptive disciplinary sanction for volunteers who engage in sexual abuse.
4. The HCJC Facility Administrator will ensure that any contractor or volunteer who engages in sexual abuse will be prohibited from contact with residents and will be reported to the following entities:
	1. Law enforcement agencies, unless the activity was clearly not criminal; and
	2. Relevant licensing bodies.
5. The HCJC Facility Administrator will promptly notify all other HCJC personnel that the contractor or volunteer is not allowed contact with any HCJC resident, thus ensuring resident safety.
6. The HCJC Facility Administrator will ensure that they use the HCJCSubstantiated Sexual Abuse Report Form to document their reports to the entities identified in paragraph (D) and (E) of this section.
7. The HCJC Facility Administrator, working in collaboration with the HCJC PCM, will take appropriate remedial measures, and will consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse (other than actually engaging in sexual abuse) or sexual harassment policies by a contractor or volunteer.

**115.378 Interventions and disciplinary sanctions for residents.**

(a) A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.

(b) Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. In the event a disciplinary sanction results in the isolation of a resident, agencies shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.

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

(d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. The agency may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.

(e) The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

(f) 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.

(g) An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

**INTERVENTIONS AND DISCIPLINARY SANCTIONS FOR RESIDENTS POLICY –** the HCJC shall ensure that residents are subjected to disciplinary sanctions only pursuant to the formal disciplinary process outlined in §343.276 Formal Disciplinary Review for Major Rule Violations and §343.280 Formal Disciplinary Review Process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Interventions and Disciplinary Sanctions for Residents Policy:**

1. HCJC residents will be subjected to disciplinary sanctions only after an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
2. All disciplinary processes shall consider whether a resident’s mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

**PROCEDURES:**

1. A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
2. Any disciplinary sanctions approved by the HCJC Facility Administrator shall be commensurate with the nature and circumstances of the abuse committed, the resident’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. In the event a disciplinary sanction results in the isolation of a resident, the HCJC shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.
3. The HCJC Facility Administrator will ensure that the disciplinary process considers whether a resident’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 facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. The HCJC may require participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition of access to general programming or education.
5. The HCJC may only discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
6. 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.
7. The HCJC prohibits all sexual activity between residents and may discipline residents for such activity. **The HCJC will not, however, deem such activity to constitute sexual abuse, or be documented as sexual abuse, if it determines that the activity is not coerced**.

**Medical and Mental Care**

**115.381 Medical and mental health screenings; history of sexual abuse.**

(a) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

(b) If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

(c) 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, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

(d) Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

**MEDICAL AND MENTAL HEALTH SCREENINGS: HISTORY OF SEXUAL ABUSE POLICY –** the HCJC will ensure that residents are asked about any prior history of sexual victimization and abusiveness during intake or classification screenings.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Medical and Mental Health Screenings: History of Sexual Abuse Policy:**

1. HCJC residents will be asked about any prior history of sexual victimization during intake or classification screenings.
2. HCJC residents will be asked about any prior history of sexual abusiveness during intake or classification screenings.
3. Residents who report prior sexual victimization shall be offered follow-up meetings with a medical or mental health practitioner within 14-days.

**MEDICAL AND MENTAL HEALTH SCREENINGS: HISTORY OF SEXUAL ABUSE –**The HCJC PCM will ensure that all residents are asked about any prior history of sexual victimization and sexual abusiveness during intake or classification screenings according to HCJC Policy and Procedure 343.404, 343.406 and 343.604. Further, the HCJC PCM will ensure that residents reporting prior sexual victimization are offered follow-up meetings with a medical practitioner or mental health practitioner within 14 days.

**PROCEDURES:**

1. If the screening pursuant to §115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, the HCJC staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. The HCJC Intake Officer will document this referral via the HAYS COUNTY JUVENILE CENTER Medical or Mental Health Services Request Form.
2. If the screening pursuant to §115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
3. The HCJC Intake Officer will ensure that a copy of all HCJC Medical or Mental Health Services Request Forms are forwarded to the HCJC PCM for review and tracking.
4. The HCJC PCM will ensure that all residents requesting follow-up meetings with a medical or mental health care practitioner are provided this follow-up meeting within 14 days.
5. All HCJC staff will be trained to understand that any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to following:
	1. Medical practitioners;
	2. Mental health care practitioners;
	3. Other staff, as necessary, to:
		1. Inform treatment plans;
		2. Inform security decisions;
		3. Inform management decisions, including housing, bed, work, education, and program assignments; or
		4. As otherwise required by Federal, State, or local law.

**115.382 Access to emergency medical and mental health services.**

(a) Resident 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.

(b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to 115.362 and shall immediately notify the appropriate medical and mental health practitioners.

(c) Resident victims of sexual abuse while incarcerated 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.

(d) 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.

**ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH CARE SERVICES POLICY –** the HCJC will ensure that residents who are victims of sexual abuse while in confinement at the HCJC receive free access to emergency medical treatment and crisis intervention services.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Access to Emergency Medical and Mental Health Care Services Policy:**

1. All HCJC residents who are victims of sexual abuse while in confinement in the HCJC will be provided access to free emergency medical and mental health care services.

**ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH CARE SERVICES –**The HCJC Facility Administrator will ensure that all residents who are victims of sexual abuse while in confinement at the HCJC will receive access to free emergency medical and mental health care services according to HCJC Policy and Procedure 343.404, 343.406 and 343.604.

**PROCEDURES:**

1. The HCJC Facility Administrator will ensure that HCJC residents, who are victims of sexual abuse while in confinement at the HCJC, will 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.
2. HCJC medical and mental health practitioners will document the following in the Medical and Mental Health Services Log:
3. Date and time first referral for medical and/or mental health care was received;
4. Date and time medical and/or mental health care was initially provided;
5. Timeliness of emergency medical treatment and crisis intervention services that were provided;
6. Provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis; and
7. In the event that health care staff were not present at the time the incident was reported, a determination whether or not appropriate actions by non-health staff was taken.
8. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders will take preliminary steps to protect the victim pursuant to §115.362 and will immediately notify the appropriate medical and mental health practitioners and document their response on the HCJC Serious Incident Report Form. This report will document when the staff initially received the report of an incident and at what time the staff notified the appropriate medical and mental health practitioners.
9. The HCJC Facility Administrator will ensure that HCJC residents, who are victims of sexual abuse while in confinement at the HCJC, will 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. HCJC medical and mental health practitioners will document the following in the Medical and Mental Health Services Log:
10. Date and time first referral for medical and/or mental health care was received;
11. Date and time medical and/or mental health care was initially provided;
12. Timeliness of emergency medical treatment and crisis intervention services that were provided;
13. Provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis; and
14. In the event that health care staff were not present at the time the incident was reported, a determination whether or not appropriate actions by non-health staff was taken.
15. The HCJC Facility Administrator will ensure that treatment services will 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 HCJC PCM will ensure that residents are made aware of this information by verifying this information is part of the residents handbook.

**115.383 Ongoing medical and mental health care for sexual abuse victims and abusers.**

(a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

(b) 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.

(c) The facility shall provide such victims with medical and mental health services consistent with the community level of care.

(d) Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

(e) If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

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

(g) 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.

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

**ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS POLICY –** the HCJC will ensure that residents who are victims of sexual abuse AND abusers receive access to ongoing medical and mental health care.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers Policy:**

1. Residents who have been victimized by sexual abuse while in any prison, jail, lockup, or juvenile facility will be provided access to ongoing medical and mental health care.
2. Sexual abusers will also receive access to care as well.

**ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS –**The HCJC Facility Administrator will ensure that all residents who are victims of sexual abuse be provided access to ongoing medical and mental health care according to HCJC Policy and Procedure 343.330 and 343.332. Further, the HCJC Facility Administrator will ensure that sexual abusers are also provided access to care.

**PROCEDURES:**

1. The HCJC Facility Administrator will ensure his/her facility offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
2. 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 HCJC medical and mental health care practitioners will maintain documentation in the Medical and Mental Health Services Log the types of services each victim received:
	1. Follow-up services;
	2. Treatment plans; and
	3. Referrals for continued care following the residents transfer to, or placement in, other facilities, or their release from custody.
3. The HCJC Facility Administrator will ensure that his/her facility provides such victims with medical and mental health services consistent with the community level of care. The HCJC medical and mental health practitioners will maintain documentation in the Medical and Mental Health Services Log the type’s services each victim received.
4. The HCJC Facility Administrator will ensure that resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. The HCJC medical and mental health care practitioners will maintain documentation in the Medical and Mental Health Services Log that female victims of vaginal penetration were offered pregnancy tests.
5. The HCJC Facility Administrator will ensure that if pregnancy results from conduct specified in paragraph (D) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. The HCJC medical and mental health care practitioners will maintain documentation in the Medical and Mental Health Services Log that female victims of vaginal penetration received timely and comprehensive information about the timely access to all lawful pregnancy-related medical services.
6. Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. The HCJC medical and mental health care practitioners will maintain documentation in the Medical and Mental Health Services Log that sexual abuse victims were offered tests for sexually transmitted infections, as medically appropriate.
7. 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.
8. The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners. The HCJC medical and mental health care practitioners will maintain documentation in the Medical and Mental Health Services Log that all known resident-on-resident abusers have a mental health evaluation conducted, within 60-days of the facility learning of such abuse history, and the services offered to the abusers.

**Data Collection and Review**

**115.386 Sexual abuse incident reviews.**

(a) The facility 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.

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

(c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

(d) The review team shall:

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

(2) 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;

(3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

(4) Assess the adequacy of staffing levels in that area during different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

(6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

(e) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

**SEXUAL ABUSE INCIDENT REVIEWS POLICY –** the HCJC will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Sexual Abuse Incident Review Policy:**

1. A sexual abuse incident review will be conducted at the conclusion of every sexual abuse investigation.
2. Sexual abuse incident reviews will be conducted within 30-days of the conclusion of an investigation.

**SEXUAL ABUSE INCIDENT REVIEWS –**The HCJC PCM will ensure that a sexual abuse incident review is conducted within 30-days of the conclusion of a sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

**PROCEDURES:**

1. The HCJC PCM will 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. The results of this review will be documented on the HAYS COUNTY JUVENILE CENTER Sexual Abuse Incident Review Form.
2. These reviews will be conducted within 30 days of the conclusion of the investigation.
3. The HCJC PCM will ensure that the Review Team includes upper-level management officials, with input from line supervisors, investigators, medical or mental health practitioners, and community advocacy officials, as necessary.
4. The HCJC PCM will ensure that the Review Team:
5. Considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
6. Considers 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;
7. Examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
8. Assesses the adequacy of staffing levels in that area during different shifts;
9. Assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
10. Prepares a report of its findings, including but not necessarily limited to, determinations made pursuant to paragraphs (D)(1)-(D)(5) of this section, and any recommendations for improvement and submits such report to the HCJC Facility Administrator and HCJC PCM.
11. The HCJC PCM will ensure that the facility implements the recommendations for improvement, or shall document its reasons for not doing so on the HAYS COUNTY JUVENILE CENTER Sexual Abuse Incident Review Form.

**115.387 Data collection.**

(a) The agency 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.

(b) The agency shall aggregate the incident-based sexual abuse data at least annually.

(c) 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.

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

(e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.

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

**DATA COLLECTION POLICY –** the HCJC will collect and analyze incident-based sexual abuse data to detect possible patterns and to help prevent future incidents.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Data Collection Policy:**

1. Collect accurate and uniform incident-based data for every allegation of sexual abuse at the HCJC.
2. Analyze this data, at least annually.

**DATA COLLECTION REVIEWS –**The HCJC PCM will ensure his/her facility collects incident-based data for every allegation of sexual abuse at the HCJC and that this data is analyzed at least annually.

**PROCEDURES:**

1. The HCJC PCM will collect accurate, uniform data for every allegation of sexual abuse at his/her facility using a standardized instrument and a set of definitions.
	1. Definitions are identified and defined in §115.311 of **HCJC**’s policies and procedures.
	2. Uniform data collected will include but not be limited to:
		1. Date on which the incident occurred;
		2. Facility where incident occurred;
		3. Part of facility where incident occurred (e.g., victim’s room, outside the facility, etc.);
		4. Time the incident took place;
		5. Number of victims involved;
		6. Gender of victim(s);
		7. Age of victim(s);
		8. Race/ethnicity of victim(s);
		9. Physical injuries sustained, if any;
		10. Medical care received, if any:
		11. Person reporting the incident;
		12. Services provided to the victim(s) after the incident was reported;
		13. Action taken on behalf of the facility toward the victim(s) after incident was reported (e.g., placed in segregation, placed in medical unit, confined to own room, etc.);
		14. Type of sexual violence involved in the incident;
		15. Number of perpetrators involved;
		16. Gender of perpetrator(s);
		17. Age of perpetrator(s);
		18. Race/ethnic origin of the perpetrator(s);
		19. Nature of the incident (e.g., voluntary sexual contact between youths; unwanted touching for sexual gratification; etc.);
		20. Type of pressure or physical force used by the perpetrator(s);
		21. Sanctions imposed on the perpetrator(s);
		22. If staff sexual misconduct or sexual harassment was involved and if so:
			1. Nature of incident;
			2. Number of staff involved;
			3. Gender of the staff;
			4. Age of the staff;
			5. Race/ethnic origin of the staff;
			6. If a staff member as the abuser, was the abuser an employee, contractor, or volunteer;
			7. Primary position held by the staff involved (e.g., Administrator, clerical, etc.); and
			8. Sanctions imposed on the staff.
2. The HCJC PCM will aggregate and analyze the incident-based sexual abuse data and compile his/her analysis into a HAYS COUNTY JUVENILE CENTER Facility Incident-Based Report on an annual basis, if not more often.
3. The incident-based data collected will 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.
4. The HCJC PCM will maintain, review, and collect data, as needed, from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
5. A copy of the completed HCJC Facility Incident-Based Report will be submitted to the HCJC PC on or before September 1 of each year.
6. The HCJC PC will compile all the HCJC Facility Incident-Based Reports into an aggregated agency-wide report that will be submitted to the HAYS COUNTY JUVENILE BOARD by October 1 of each year.
7. Upon request, the agency will provide all such data from the previous calendar year to the Department of Justice, no later than June 30.

**115.388 Data review for corrective action.**

(a) The agency shall review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

(1) Identifying problem areas;

(2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

(b) 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 agency’s progress in addressing sexual abuse.

(c) The agency’s report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

(d) The agency 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 REVIEW FOR CORRECTIVE ACTION POLICY –** the HCJC will review the incident-based data in order to assess and improve the effectiveness of the HCJC’s sexual abuse prevention, detection, and response policies, practices and training.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Data Review for Corrective Action Policy:**

1. Improve the HCJC’s sexual abuse prevention, detection, and response policies, practices, and training.
2. Prepare and publish an annual report.
3. Publish the report on the HCJC website or, if it does not have one, request through TJJD.

**DATA REVIEW FOR CORRECTIVE ACTION –**The HCJC PC will review the incident-based data pertaining to the HCJC in order to assess and improve the effectiveness of the HCJC’s sexual abuse prevention, detection, and response policies, practices and training. The HCJC PC will then create and submit a written report to the HAYS COUNTY JUVENILE BOARD for review and approval.

**PROCEDURES:**

1. The HCJC PC shall review data collected and aggregated pursuant to §115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
2. Identifying problem areas;
3. Taking corrective action on an ongoing basis which will be documented by the HAYS COUNTY JUVENILE CENTER PC on the HAYS COUNTY JUVENILE CENTER Corrective Action Plan Review form; and
4. Preparing an annual report of its findings and corrective actions for the facility, as well as the agency as a whole.
5. The HCJC PC shall ensure that each annual report includes a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the HCJC’s progress in addressing sexual abuse.
6. The HCJC PC will submit a complete copy of the Annual Report to the HAYS COUNTY JUVENILE BOARD for review, editing and/or approval.
7. Once the HCJC Facility Administrator approves the Annual Report it will be made readily available to the public through HCJC’s website or, if it does not have one, request through TJJD.
8. The HCJC 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.

**115.389 Data storage, publication, and destruction.**

(a) The agency shall ensure that data collected pursuant to § 115.387 are securely retained.

(b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

(d) The agency shall maintain sexual abuse data collected pursuant to § 115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

**DATA STORAGE, PUBLICATION, AND DESTRUCTION POLICY –** the HCJC will assure that sexual abuse data is securely retained for at least ten years after the date of initial collection unless Federal, State, or local law requires otherwise.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Data Review for Corrective Action Policy:**

1. Securely retain sexual abuse data.
2. Dispose of sexual abuse data every 10 years unless Federal, State or local law requires otherwise.
3. Make de-identified, aggregated, sexual abuse data publically available.

**DATA REVIEW FOR CORRECTIVE ACTION –**The HCJC PC will assure that sexual abuse data is securely retained for at least ten years after the date of initial collection unless Federal, State, or local law requires otherwise and will ensure that de-identified and aggregated data is made publically available.

**PROCEDURES:**

1. The HCJC PC shall ensure that data collected pursuant to §115.387 are securely retained via encrypted data files and/or via locked file cabinets.
2. The HCJC PC shall make all aggregated sexual abuse data readily available to the public at least annually through its website or, if it does not have one, request through TJJD.
3. Before making aggregated sexual abuse data publicly available, the HCJC PC shall remove all personal identifiers.
4. The HCJC PC shall maintain sexual abuse data collected pursuant to §115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.
5. The HCJC PC will ensure that all data older than 10 years is shredded in a confidential manner as outlined in the HCJC’s Policies and Procedures.

**Audits**

**115.393 Audits of standards.**

The agency shall conduct audits pursuant to §§ 115.401–405.

**AUDITING AND CORRECTIVE ACTION POLICY –** the HCJC will conduct audits of PREA standards with regularity and thoroughness pursuant to all PREA requirements.

**Goals for the HAYS COUNTY JUVENILE CENTER’s Auditing and Corrective Action Policy:**

1. Ensure that the HCJC receives a PREA Audit every three years beginning on August 19, 2013.

**AUDITING AND CORRECTIVE ACTION –**The HCJC PC will ensure that the HCJC is audited at least once every three years.

**PROCEDURES:**

1. Prior to August 19, 2013, and during each three-year period thereafter, the HCJC PC will ensure that the facility is audited at least once.
2. The HCJC PC understands and acknowledges that the Department of Justice may send a recommendation to the HCJC for an expedited audit if the Department has reason to believe that the HCJC may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the HCJC with PREA-related issues.
3. The HCJC PC understands that the Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of, and contents of, the audit.
4. The HCJC PC understands that the HCJC will bear the burden of demonstrating compliance with the standards.
5. The HCJC PC will ensure that the auditor has access to all relevant HCJC -wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.
6. The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent 1 year period.
7. The HCJC PC will assure that the auditor has access to, and will observe, all areas of the audited facilities.
8. The HCJC PC will assure that the auditor is permitted to request and receive copies of any relevant documents (including electronically stored information).
9. The HCJC understands and acknowledges that the auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.
10. The HCJC understands and acknowledges that the auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.
11. The HCJC understands and acknowledges that the auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited.
12. The HCJC PC will assure that the auditor shall be permitted to conduct private interviews with residents and detainees.
13. The HCJC PC will assure that the residents in confinement facilities being audited shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
14. The HCJC PC understands that the auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.
15. The HAYS COUNTY CJPO, HAYS COUNTY JUVENILE BOARD and the HCJC PC understand that an audit shall be conducted by:
16. A member of a correctional monitoring body that is not part of, or under the authority of, the agency (but may be part of, or authorized by, the relevant State or local government);
17. A member of an auditing entity such as an inspector general’s or ombudsperson’s office that is external to the agency; or
18. Other outside individuals with relevant experience.
19. The HAYS COUNTY CJPO, HAYS COUNTY JUVENILE BOARD and HCJC PC understand that all auditors shall be certified by the Department of Justice. Further, HAYS COUNTY CJPO, HAYS COUNTY JUVENILE BOARD and HCJC PC understand that the Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.
20. The HCJC understands that no audit may be conducted by an auditor who has received financial compensation from the agency being audited (except for compensation received for conducting prior PREA audits) within the three years prior to the agency’s retention of the auditor.
21. The HCJC will not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the agency’s retention of the auditor, with the exception of contracting for subsequent PREA audits.
22. Each audit will include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the HCJC under review.
23. Audit reports will state whether the HCJC -wide policies and procedures comply with relevant PREA standards.
24. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: *Exceeds Standard* (substantially exceeds requirement of standard); *Meets Standard* (substantial compliance; complies in all material ways with the standard for the relevant review period); *Does Not Meet Standard* (requires corrective action). The audit summary will indicate, among other things, the number of provisions the facility has achieved at each grade level.
25. Audit reports will describe the methodology, sampling sizes, and basis for the auditor’s conclusions with regard to each standard provision for each audited facility, and will include recommendations for any required corrective action.
26. Auditors shall redact any personally identifiable resident or staff information from their reports, but shall provide such information to the HCJC upon request, and may provide such information to the Department of Justice.
27. The HCJC will ensure that the auditor’s final report is published on the HCJC’s website if it has one, or is otherwise made readily available to the public.
28. A finding of “Does Not Meet Standard” with one or more standards will trigger a 180-day corrective action period.
29. The auditor and the HCJC will jointly develop a corrective action plan to achieve compliance.
30. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
31. After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
32. If the HCJC does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that is has achieved compliance.
33. The HCJC may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor’s final determination.
34. If the Department determines that the HCJC has stated good cause for a re-evaluation, the agency may commission a re-audit by an auditor mutually agreed upon by the Department and the HCJC. The HCJC will bear the costs of this re-audit.
35. The findings of the re-audit will be considered final.