

**Related Standards:**

**I. DEFINITIONS: For purposes of this policy the following definitions apply.**

*Agency head* means the principal official of an agency.

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

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

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

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

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

*Facility head* means the principal official of a facility.

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

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

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

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

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

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

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

*Pat-down search* means 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.

*PREA Screening* means an instrument used upon intake to any facility or program operated by LCJJC to determine a resident’s or participant’s propensity for sexual aggression or history of sexual victimization.

*Program participant* means any juvenile participating in, enrolled in, or referred to any program or service operated by LCJJC, or any other juvenile under the jurisdiction of the juvenile court.

*Resident* means any person confined or detained in a juvenile facility or in a community confinement facility.

*Secure juvenile facility* means 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.

*Security staff* means 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.

*Sexual abuse* means—

- (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.

*Sexual harassment* means—

- (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.

*Staff* means employees.

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

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

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

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

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

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

## **II. POLICY:**

### **Sexual Misconduct Zero Tolerance Policy 115.311**

It is the policy of the Lubbock County Juvenile Justice Center to take all prudent and reasonable precautions as required by TJJD standards to ensure the protection of all residents and program participants of the Lubbock County Juvenile Justice Center from sexual abuse and sexual harassment by other residents or program participants and employees, interns, and volunteers of the Lubbock County Juvenile Justice Center. The Lubbock County Juvenile Justice Center has zero tolerance for sexual abuse and sexual harassment in its facilities and programs. Sexual abuse and sexual harassment by any resident or program

participant or Lubbock County Juvenile Justice Center employee, intern, or volunteer against a resident or program participant is strictly prohibited. This policy shall be published on the Lubbock County website, be posted in the common area in each cluster, and be made available to the parents of juvenile residents in the form of a printed document. **(115.322)**

**A. Prevention 115.311**

- Upon intake to detention or the residential treatment program each resident shall complete a Victim/Aggressor Screening within 72 hours.
- Staff shall conduct same sex searches including but not limited to pat down and visual strip searches. Anatomical females shall be searched by female staff. Anatomical male residents shall be searched by male staff.
- Risk for sexually aggressive behavior and/or prior sexual victimization shall be considered when assigning residents to a cluster.
- Residents shall only be observed by staff of the same sex during showers, changing clothes, and/or using the restroom
- Each AFA on duty shall conduct one unannounced round during their shift excepting only for exigent circumstances.
- The Director, Facility Administrator, or PREA Coordinator may conduct one unannounced round per month excepting only for exigent circumstances.
- New residents or program participants shall be referred to the designated personnel for that program to complete a Victim/Aggressor Screening prior to receiving a housing assignment or starting any program. The results of the Victim/Aggressor Screening shall be considered when making housing assignments or evaluating a participant's suitability for program participation.

**B. Detection 115.311**

- A program participant who believes he/she has been a victim of or a witness to sexual abuse or sexual harassment has the right to make an outcry to staff, use Lubbock County Juvenile Justice center internal hotline or directly contact TJJD.

- A program participant who wishes to make an outcry shall be given access to the reporting method of their choice as soon as reasonably possible and at no cost to the program participant. No employee, intern, or volunteer of the Lubbock County Juvenile Justice Center shall obstruct or inhibit any program participant from accessing a reporting method except when the safety or security the program may become compromised.

Each AFA on duty shall conduct two (2) unannounced rounds during their shift excepting only for exigent circumstances.

The Director, Facility Administrator, and PREA Coordinator shall conduct one unannounced round per month excepting only for exigent circumstances.

All employees, interns, and volunteers of the Lubbock County Juvenile Justice Center are strictly prohibited from announcing or communicating in any way to one another that unannounced visits are being conducted. Any employee, intern, or volunteer found to have communicated or announced to others the unannounced visits shall be subject to administrative sanctions.

### **C. Response 115.311**

- Immediately upon receiving an allegation of sexual abuse or sexual harassment, the alleged victim and the alleged perpetrator shall be separated by housing or supervision in a manner favorable to the alleged victim. Separation shall continue until the completion of an internal investigation.
- All allegations of sexual abuse and sexual harassment shall be investigated promptly, thoroughly, and objectively by an internal investigator who has been trained in sexual abuse investigations based on Lubbock County Juvenile Justice Center policy and procedure, PREA standards, and TJJD standards.
- The alleged victim shall be offered mental health services by a member of the Behavioral Health Department or other provider at no cost to the victim until the completion of the internal investigation.

## **Sanctions for Participation in Sexual Abuse or Sexual Harassment 115.311**

Any employee, intern, or volunteer of the Lubbock County Juvenile Justice Center found to have committed sexual abuse against any resident or program participant shall be subject to termination and possible criminal prosecution. Any employee, intern, or volunteer of the Lubbock County Juvenile Justice Center found to have committed sexual harassment against any resident or program participant shall be subject to administrative sanctions and possible criminal prosecution.

### **Designation of PREA Coordinator 115.311**

The Director shall designate an upper-level, agency-wide PREA Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with PREA requirements and standards.

### **II. Contracting With Other Entities for the Confinement of Residents 115.312**

1. When contracting with other entities, whether public or private, for pre-adjudication detention post-adjudication residential, short-term acute care services, or other services directly related to the rehabilitation of residents, the Lubbock County Juvenile Justice Center shall require the contracted entity to adopt and comply with the PREA standards. Any entity currently contracted to provide pre-adjudication detention, post-adjudication residential, short-term acute care services, or other services directly related to the rehabilitation of residents with the Lubbock County Juvenile Justice Center shall be required to adopt and comply with the PREA standards prior to contract renewal.
2. Prior to accepting any contract for pre-adjudication detention, post-adjudication residential, short-term acute care services, or other services directly related to the rehabilitation of residents, the contracting entity shall provide documentation stating said entity does comply with the PREA standards or shall submit documentation of said entity's plan to comply with the PREA standards.
3. The contracting entity shall agree to monitoring by the Lubbock County Juvenile Justice Center or any other entity of the Lubbock County Juvenile Justice Center's choice for compliance with the PREA standards at the contracting entity's expense.
4. Failure to permit or allow reasonable monitoring for compliance with the PREA standards shall constitute a breach of contract with the Lubbock County Juvenile Justice Center.
5. In the case of a breach of contract the Lubbock County Juvenile Justice Center shall be entitled to all legal rights and remedies available under the laws of the United States, the State of Texas, and if applicable, the state in which the contracting entity is located.

### **Staff Ratios 115.313**

1. The Lubbock County Juvenile Justice Center shall maintain a staffing plan that provides for no less than:
  - A. One security staff to every 8 residents during waking hours.
  - B. One security staff to every 16 residents during resident sleeping hours.
2. Should a deviation from these ratios occur the limited and discrete exigent circumstances shall be fully documented.
3. This staffing ratio shall be implemented no later than October 1, 2017.

### **Supervision and Monitoring 115.313**

1. LCJJC shall ensure for each facility and program 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.
2. LCJJC shall comply with the staffing plan except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such circumstances.
3. LCJJC shall maintain security 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.
4. Each Assistant Facility Administrator on duty shall conduct two unannounced rounds each shift across all three shifts to each cluster and occupied area of the facility at the time of the visit to deter and detect sexual abuse and sexual harassment. The Director, Facility Administrator, or PREA Coordinator may conduct unannounced visits in the absence of or in addition to an Assistant Facility Administrator. Unannounced visits shall be documented by use of the PIPE System

All employees, interns, and volunteers of the Lubbock County Juvenile Justice Center are strictly prohibited from announcing or communicating in any way to one another that unannounced visits are being conducted. Any employee, intern, or volunteer found to have communicated or announced to others the unannounced visits shall be subject to administrative sanctions

### **Annual Staffing Plan Review 115.313**

1. An annual review of the staffing plan shall be conducted as soon as reasonable each calendar year by the Director, Facility Administrator, at least one Assistant Facility Administrator, and the PREA Coordinator in order to assess, determine, and document whether any adjustments are needed to:
  - a. The existing staffing schedule;
  - b. Prevailing staffing patterns;
  - c. Video monitoring systems or any other monitoring technologies;
  - d. The resources available to the Lubbock County Juvenile Justice Center to commit to adherence to the staffing schedule.
2. Video monitoring of all areas within or on property owned or operated by the Lubbock County Juvenile Justice Center which are accessible to program participants shall be conducted 24 hours per day. Video feed shall be monitored by the Control Officer, or other designated person and accessible in the offices of the Director, Facility Administrator, and PREA Coordinator. The Lubbock County Juvenile Justice Center shall identify blind spots not able to be monitored by video and document efforts to remedy the deficiency. Video monitoring will be used for but not limited to:
  - e. Ensuring the safety and security of the facility;
  - f. To serve as a deterrent of prohibited behavior by staff and residents;
  - g. To assist in the review of critical incidents occurring within the facility;
  - h. To preserve evidence of criminal acts, rule infractions, or evidence for use during internal investigations subsequent to allegations of abuse, neglect, exploitation, sexual assault and sexual harassment.

### **A. Limits to Cross Gender Viewing and Searches 115.315**

1. Upon entering any area where program participants of the opposite sex are likely to be showering, performing bodily functions, or changing clothes, any Lubbock County Juvenile Justice Center employee, intern or volunteer shall immediately announce their presence by audibly proclaiming “Male In” or “Female In”, whichever is applicable to the employee, intern, or volunteer.
2. No employee, intern or volunteer shall supervise, including by the use of a security camera, a program participant of the opposite sex when a reasonable likelihood exists, such as showering, performing bodily functions, or changing clothes, that the breasts, buttocks, or genitalia of the program participant will be exposed to the employee, intern or volunteer except in exigent circumstances or incidental to a routine room check. Program participants shall be strictly prohibited from showering, performing bodily functions, or changing clothes in common areas of a cluster or the facility except in exigent circumstances.
3. No Juvenile Supervision Officer or Juvenile Probation Officer shall conduct a cross-gender pat search, cross-gender visual strip search, or cross-gender visual body cavity search of a resident or probationer except in exigent circumstances. The sole exception to this rule is where the resident or probationer is of the same sex as the JSO or JPO. The search may constitute a cross-gender search and must therefore be documented. All cross-gender searches shall be documented to include the employee performing the cross-gender search and reason for the cross-gender search.
4. No resident may be searched or physically examined for the sole purpose of determining the juvenile resident’s genital status. If the resident’s genital status is in question it may be determined by:
  - a. Conversations with the resident,
  - b. By reviewing medical records,
  - c. As a by-product of a broader medical examination conducted in private by a medical practitioner,
  - d. As a by-product of a visual strip search necessary for the safety and security of the facility.
5. Transgender and inter-sex residents shall be allowed to state their preference for the gender of their searches and housing

assignments. In determining the gender of searches and housing assignments where the resident's gender and sexual anatomy contradict, where the resident is intersex, or where the resident has sexual anatomy of both a male and a female, the facility may consider:

- a. The resident's preference,
  - b. The resident's genital status,
  - c. The resident's gender,
  - d. The resident's vulnerability to sexual assault and sexual harassment,
  - e. The resident's potential to be sexually aggressive,
  - f. The resident's sexual preference,
  - g. The safety and security of the facility.
6. All Juvenile Supervision Officers and Juvenile Probation Officers shall be trained in how to conduct cross-gender pat searches and searches of transgender and intersex residents and probationers.

### **Expanding or Modifying Existing Facilities 115.318**

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities , the Lubbock County Juvenile Justice Center shall consider the effect of the design, acquisition, expansion, or modification upon the its ability to protect residents from sexual abuse.

### **Upgrades to Facilities and Technologies 115.318**

1. When installing or updating a video monitoring system, electronic surveillance, or other monitoring technology, the Lubbock County Juvenile Justice Center shall consider how such technology may enhance its ability to protect residents form sexual abuse.
2. Such considerations shall be documented through:
  - a. Planning meeting minutes,
  - b. Statements of work,
  - c. Design specifications, or
  - d. Contracting documents.

### **Hiring and Promotion Prohibitions and Requirements 115.317**

1. The Lubbock County Juvenile Justice Center shall not hire, or promote any person who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who:
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
  - b. 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
  - c. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (1)(b) of this section.

All applicants, employees, and volunteers shall be directly asked about previous misconduct described in subsections (a) thru (c) of this chapter, in written applications or interviews for hiring or promotions and in interviews or written evaluations conducted for employees. Employees and volunteers of the Lubbock County Juvenile Justice Center shall have the affirmative duty to disclose such misconduct as a condition of employment. Failure to disclose such misconduct, material omissions related to such misconduct, or the provision of false information related to such misconduct shall be grounds for termination.

2. The Lubbock County Juvenile Justice Center will make the best efforts to discover information regarding substantiated allegations of sexual abuse or any resignation related to such allegations when considering applicants for employment. Criminal background checks, state child abuse registries, and prior institutional employers shall be consulted. Unless prohibited by law, the Lubbock County Juvenile Justice Center will provide information to prospective employers regarding founded allegations of sexual abuse or sexual harassment against a former employee. The prospective employer must request such information in writing.
3. Background checks shall be conducted every two (2) years on all Lubbock County Juvenile Justice Center employees, volunteers, and interns having contact with residents.

**B. Reporting and Investigating ANE/PREA and Evidence Protocol  
115.321**

When a staff member has cause to believe that a juvenile has been sexually abused, physically abused, neglected, or exploited, they shall immediately report the matter to his/her immediate supervisor, and the appropriate authorities. At the earliest possible time the incident will be reported to the Chief Juvenile Probation Officer and the to the Internal Investigator/PREA coordinator.

- A. The staff member may not delegate or rely on another person to make the report.
  - B. Failure to report suspected or alleged sexual abuse, physical abuse, neglect, or exploitation, of a juvenile by any staff member shall be grounds for immediate administrative action up to and including termination.
2. The immediate supervisor and/or the Internal Investigator/PREA coordinator shall immediately report any allegations of sexual abuse, physical abuse, neglect, or exploitation, to the Chief Juvenile Probation Officer, and the Chief Juvenile Probation Officer of any contracting county (if applicable and if directed to do so).
  - A. An internal investigation of allegations of juvenile sexual abuse, physical abuse, neglect, or exploitation, shall occur when there is a report (either verbal or written) of such by a juvenile, parent, staff member or other interested party.
  - B. The immediate supervisor and/or the Internal Investigator/PREA coordinator shall ensure that reports are made to the Texas Juvenile Justice Department of any death, attempted suicide, serious injury, escape, sexual misconduct, or allegation of abuse, neglect, or exploitation, within 24 hours of discovery.
  - C. The immediate supervisor and/or the Internal Investigator/PREA coordinator shall ensure that reports are made to local law enforcement when applicable. All allegations of sexual abuse will follow investigative protocol outlined below.
3. Any staff member named in the complaint shall fully cooperate with any investigation of the alleged juvenile sexual abuse, physical abuse, neglect, or exploitation, in the facility, and any staff member so named in a complaint shall:
  - A. Be placed on administrative leave or reassigned to a position having no contact with juveniles in the facility until the conclusion of the internal investigation.

- B. Have no contact with the alleged victim or their family.
  - C. Failure to comply with this section shall be grounds for immediate administrative action up to and including termination.
4. The failure by any staff member to comply fully in any investigation of alleged juvenile sexual abuse, physical abuse, neglect, or exploitation, shall be grounds for immediate administrative action up to and including termination.
  5. At the conclusion of the internal investigation of juvenile sexual abuse, physical abuse, neglect, or exploitation, the Department shall take whatever measures necessary to provide for the safety of juveniles in the facility including but not limited to:
    - A. Requesting the Juvenile Board to revise the operation policy and procedure.
    - B. Reassignment of staff.
    - C. Termination of staff.
    - D. Transfer of the juvenile to another facility.
  6. The Chief Juvenile Probation Officer has the authority to call upon the Texas Rangers, Lubbock Police Department, Lubbock County Sheriff's Office, the Texas Juvenile Justice Department, the Department of Family and Protective Services (C.P.S.) to perform internal investigations within the department.
  7. Retaliation against any complainant or their family shall be grounds for immediate administrative action up to and including termination.
  8. The allegation of abuse, neglect, or exploitation, shall specify the actual incidence(s) including the event and the alleged actors in the alleged action.

## **SEXUAL ASSAULT INVESTIGATION AND EVIDENCE PRESERVATION PROTOCOL**

If a juvenile reports an allegation of sexual abuse by a staff member of the juvenile probation department the department will react immediately to preserve the integrity of the report by following the protocol detailed below:

### **IF THE ALLEGED INCIDENT OCCURRED WITHIN THE FACILITY:**

The first person of knowledge of the alleged sexual assault shall:

- 1) immediately notify their immediate supervisor;
- 2) immediately notify the Internal Investigator/PREA coordinator;
- 3) report to law enforcement the allegations;
- 4) secure the safety of the reporting juvenile/alleged victim by placing the juvenile into protective isolation and under the full constant observation of staff;
- 5) secure the location of the alleged sexual assault by posting staff to insure no forensic evidence is tampered with;

The immediate supervisor shall:

- 1) insure that the alleged victim is secure by placing the juvenile into protective isolation and under the full constant observation of staff;  
115.193
- 2) Confirm that law enforcement has been contacted;
- 3) Sequester the alleged perpetrator away from contact with anyone other than law enforcement if that person remains within the facility;
- 4) Contact the facility administrator, the Internal Investigator/PREA coordinator and chief juvenile probation officer;
- 5) Place all juveniles into their individual housing unit;
- 6)
- 7) secure the location of the alleged sexual assault by posting staff to insure no forensic evidence is tampered with;
- 8) preserve any forensic evidence that may have been removed from the incident area by prohibiting any contact with it by anyone other than law enforcement investigators;
- 9)

The Internal Investigator/PREA coordinator shall:

- 1) Insure that all internal investigative procedures are followed;
- 2) Notify appropriate agencies of the incident;
- 3) Document all aspects of the incident per 115:386-389

### **PROCEDURES FOLLOWING A CONFIRMED SEXUAL ASSAULT**

Once an alleged sexual assault has been confirmed:

- 1) The victim will be provided services including mental health counseling, information regarding advocacy from the victim rape advocacy group, medical treatment related to the sexual abuse, all at no cost to the victim.

1. LCJJC shall offer all residents who experience sexual abuse access to forensic medical examinations thru University Medical Center without

financial cost to the alleged victim. 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 shall be performed by other qualified medical practitioners. LCJJC shall document its efforts to provide SAFEs or SANEs.

2. LCJJC 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, LCJJC shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. LCJJC shall document efforts to secure services from rape crisis centers. LCJJC 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 upon confirming a sexual assault did indeed occur. The juvenile will be allowed unhindered access to the advocate from the organization within normal business hours. Extreme caution will be exercised during any counseling sessions with the confirmed victim to maintain a high level of confidentiality.

3. 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.

4. To the extent LCJJC itself is not responsible for investigating allegations of sexual abuse; the agency shall request that the investigating agency follow the requirements of paragraphs (1) through (7) of this section.

A. The PREA Coordinator/Internal Investigator shall ensure LCJJC fully cooperates with any law enforcement or TJJD investigations and endeavor to remain informed about the process of the investigation.

5. The requirements of paragraphs (1) through (7) of this section shall also apply to:

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

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

6. A qualified LCJJC 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.

### **C. Referring Allegations for Investigation 115.322**

1. When any employee, intern, or volunteer of LCJJC receives an outcry or allegation of sexual abuse or sexual harassment, he or she should hear out the outcry in its entirety. The employee, intern, or volunteer shall then immediately notify their AFA/supervisor and the PREA Coordinator.
2. The PREA Coordinator shall be responsible for any necessary reports to TJJD and local law enforcement.
3. All allegations or outcries of sexual abuse made by a resident shall be investigated administratively and referred to a local law enforcement agency. All allegations of sexual harassment made by a resident shall be investigated internally and, where the conduct of the alleged perpetrator may constitute criminal conduct, be referred to a local law enforcement agency. All allegations of sexual abuse and sexual harassment shall be documented and assigned a local case number.
4. When a law enforcement agency conducts a criminal investigation subsequent to a resident allegation of sexual abuse or sexual harassment the law enforcement agency shall be responsible for:
  - a. identifying relevant parties to the investigation,
  - b. conducting interviews,
  - c. gathering physical and forensic evidence,
  - d. submitting physical and forensic evidence for appropriate analysis,
  - e. compiling investigative findings into report form,
  - f. where applicable, presenting findings to the appropriate prosecutor,
  - g. where applicable, testifying to investigative steps taken and investigative findings in subsequent court hearings.
5. When the Lubbock County Juvenile Justice Center conducts and internal investigation it shall be responsible for:
  - a. notifying the parent of the alleged victim of the allegations and any subsequent investigations

- b. identifying relevant parties to the investigation,
  - c. conducting interviews,
  - d. securing physical and forensic evidence and notifying law enforcement when applicable,
  - e. compiling investigative findings into report form,
  - f. submitting final findings to the Director of the Lubbock County Juvenile Justice Center and the Texas Juvenile Justice Department,
  - g. where applicable, presenting findings law enforcement,
  - h. where applicable, testifying to investigative steps taken and investigative findings in subsequent court hearings.
6. This policy shall be published on the Lubbock County Juvenile Justice Center website or the Lubbock County website, be posted in the common area in each cluster, and be made available to the parents of juvenile residents in the form of a printed document.

#### **D. Employee Training 115.331**

1. All employees of the Lubbock County Juvenile Justice Center who may have contact with residents shall receive PREA training consisting of:
  - a. Zero tolerance policy for sexual abuse and sexual harassment,
  - b. How to fulfill their responsibilities as required by Lubbock County Juvenile Justice Center sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures,
  - c. Residents' rights to be free from sexual abuse and sexual harassment,
  - d. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment,
  - e. The dynamics of sexual abuse and sexual harassment in juvenile facilities,
  - f. The common reactions of juvenile victims of sexual abuse and sexual harassment,
  - g. 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,
  - h. How to avoid inappropriate relationships with residents,

- i. How to communicate effectively and professionally with residents, especially lesbian, gay, bisexual, transgender, intersex, or gender non-conforming residents, and
  - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities,
  - k. Relevant laws regarding the applicable age of consent.
2. Such training shall be tailored to the unique needs and attributes of the residents, both male and female, at the Lubbock County Juvenile Justice Center.
3. All current employees who were not PREA trained at the time of their hire shall be trained by August 20, 2015. The Lubbock County Juvenile Justice Center shall provide or arrange for PREA training reviews and updates on an annual basis to ensure that all employees know the current sexual abuse and sexual harassment policies and procedures at the Lubbock County Juvenile Justice Center.
4. PREA training shall be documented by signature or electronic verification to reflect the employee's, intern's, or volunteer's attendance and understanding of the subject matter.

#### **E. Intern, Volunteer, and Contractor Training 111.332**

1. All interns, volunteers, and contractors shall be trained on their responsibilities under Lubbock County Juvenile Justice Center policy and procedures regarding sexual abuse and sexual harassment prevention, detection, and response. This training shall consist of:
  - a. The zero-tolerance policy,
  - b. Preventing, detecting, and responding to sexual abuse and sexual harassment,
  - c. Reporting requirements,
  - d. Their potential role in an internal investigation
2. This training shall be documented by signature or electronic verification to reflect the intern's, volunteer's, or contractor's attendance and understanding of the subject matter.

#### **F. Resident Education 115.333**

1. During the intake process, residents shall receive information explaining, in an age appropriate fashion, the Lubbock County Juvenile Justice Center's zero tolerance policy against sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse and sexual harassment.
2. Within 10 days of intake, residents shall be provided with comprehensive, age appropriate PREA education 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 the policies and procedures of the Lubbock County Juvenile Justice Center for responding to such incidents.
3. Current residents who have not received PREA education shall be educated by August 20, 2015.
4. When a resident leaves the Lubbock County Juvenile Justice Center pre-adjudication secure detention facility or post-adjudication secure residential program, and enters a program administered by the Lubbock County Juvenile Justice Center, the resident shall receive comprehensive, age appropriate PREA education 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, to the extent that the new program's policies and procedures differ from those of the pre-adjudication secure detention facility or post-adjudication secure residential program. These other programs include:
  - a. S.T.A.R.
  - b. JJAEP
  - c. Probation
  - d. Any other not yet in existence
5. PREA education shall be provided in a format 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. These formats may include:
  - a. Forms,
  - b. Brochures,
  - c. Videos,
  - d. In-person verbal notification.

6. This PREA education shall be documented by signature or electronic verification to reflect the resident's participation in the education session.
7. The Lubbock County Juvenile Justice Center shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

**G. Specialized Training: Investigations 115.334**

1. In addition to the PREA training required by 115.331, the Lubbock County Juvenile Justice Center shall ensure that any employee assigned to conduct internal investigations into allegations of sexual abuse and sexual harassment have received training in conducting such investigations in a confinement setting. This specialized training shall include:
  - a. Techniques for interviewing juvenile sexual abuse victims,
  - b. Proper use of Miranda and Garrity warnings,
  - c. Sexual abuse evidence collection in confinement settings, and
  - d. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.
2. The Lubbock County Juvenile Justice Center shall maintain documentation of any employee who has completed the required specialized training in conducting sexual abuse investigations.

**H. Specialized Training: Medical and Mental Health Care 115.335**

1. Medical and mental health care practitioners who regularly work in the Lubbock County Juvenile Justice Center or any program administered by the Lubbock County Juvenile Justice Center shall receive PREA training as required by 115.331 or 115.332, depending on the practitioner's status with the Lubbock County Juvenile Justice Center.
2. All medical and mental health care practitioners who regularly work in the Lubbock County Juvenile Justice Center or any program administered by the Lubbock County Juvenile Justice Center shall receive specialized training in:

- a. How to detect and assess signs of sexual abuse and sexual harassment,
  - b. How to preserve physical evidence of sexual abuse,
  - c. How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment,
  - d. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
3. No medical care practitioner employed by the Lubbock County Juvenile Justice Center or any program administered by the Lubbock County Juvenile Justice Center shall conduct forensic examinations without first receiving appropriate training and providing documentation of such training to the Lubbock County Juvenile Justice Center.
4. The Lubbock County Juvenile Justice Center shall maintain documentation of any medical and mental health care practitioners who regularly work in the Lubbock County Juvenile Justice Center or any program administered by the Lubbock County Juvenile Justice Center who has completed the required specialized training referred to in subsections 1 and 2 of this chapter, whether that training was from the Lubbock County Juvenile Justice Center or elsewhere.

#### **I. Obtaining Information from Residents 115.341**

1. Within 72 hours of a resident's admission to the Lubbock County Juvenile Justice Center and periodically throughout a resident's confinement the Lubbock County Juvenile Justice Center 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. Such assessments shall be conducted using an objective screening instrument. The assessment shall attempt to ascertain information about but is not limited to:
  - a. Prior sexual victimization or abusiveness,
  - b. 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,
  - c. Current charges and offense history,
  - d. Age,

- e. Level of emotional and cognitive development,
  - f. Physical size and stature,
  - g. Mental illness or mental disabilities,
  - h. Intellectual or developmental disabilities,
  - i. Physical disabilities,
  - j. The resident's own perception of vulnerability, and
  - k. Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.
2. To the extent possible this information shall be ascertained during the intake process through conversations with the resident 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 detention file, if one exists.
  3. This assessment shall be conducted privately with the resident to the extent possible. At no time shall sensitive information, possibly detrimental to the resident, be entered into JCMS or the current electronic records keeping system. Information gleaned from this assessment shall be limited to those who discovered the information, Administrators, others responsible for cluster assignments, the PREA coordinator, and Behavioral Health staff. Only information related directly to facility safety and security shall be disseminated to other staff. In such cases, only information regarding potential risk shall be disseminated, omitting factors as to why the risk exists.

**J. Medical and Mental Health Screenings; History of Sexual Abuse  
115.381**

1. If the screening pursuant to Chapter 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.
2. If the screening pursuant to Chapter 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. 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 cluster, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

#### **K. Placement of Residents in Cluster, Bed, Program, Education, and Work Assignments 115.342**

1. The Lubbock County Juvenile Justice Center shall use all information obtained pursuant to Chapter 115.341 and subsequently to make cluster, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.
2. 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, the Lubbock County Juvenile Justice Center 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.
3. Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in a particular cluster, bed, or other assignments solely on the basis of such identification or status, nor shall the Lubbock County Juvenile Justice Center 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 a cluster for male or female residents, and in making other programming assignments, the Lubbock County Juvenile Justice Center 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. 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.
6. A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
7. Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
8. If a resident is isolated pursuant to subsection 2 of this chapter, the facility shall clearly document:
  - a. The basis for the Lubbock County Juvenile Justice Center's concern for the resident's safety; and
  - b. The reason why no alternative means of separation can be arranged.
9. Every 30 days, the Lubbock County Juvenile Justice Center shall afford each resident described in subsection 8 of this chapter a review to determine whether there is a continuing need for separation from the general population.

#### **L. Resident Reporting 115.351**

1. The Lubbock County Juvenile Justice Center provides multiple internal methods 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 include:
  - a. The resident grievance process,
  - b. The internal hotline,
  - c. In person in a confidential meeting with any employee or contract service provider.
2. The Lubbock County Juvenile Justice Center also provides information to residents to report abuse or harassment to a public or private entity or office that is not part of the Lubbock County Juvenile Justice Center and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to Lubbock County Juvenile Justice Center 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. These public or private entities include:

- a. The Texas Juvenile Justice Department,
  - b. The Lubbock County Sheriff's Office,
  - c. The Lubbock Police Department,
  - d. The Lubbock Rape Crisis Center,
  - e. CASA of the South Plains, or
  - f. Relevant consular officials when known.
3. The Lubbock County Juvenile Justice Center shall provide residents with access to tools necessary to make a written report.
  4. Employees, interns, and volunteers shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. The employee, intern, or volunteer shall immediately and without delay notify their supervisor of the report and turn over any relevant documentation of the report.
  5. Employees, interns, and volunteers shall be provided with a method to privately report sexual abuse and sexual harassment of residents. These methods include:
    - a. The internal hotline,
    - b. In person in a confidential meeting with an administrator or the PREA coordinator,
    - c. Email to an administrator or the PREA coordinator,
    - d. Directly reporting to the Texas Juvenile Justice Department,
    - e. Contacting the Lubbock County Sheriff's Office

#### **M. Exhaustion of Administrative Remedies 115.352**

1. There is no time limit on when a resident may submit a grievance or make an outcry regarding an allegation of sexual abuse, regardless of the resident's custody status.
2. No resident shall be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
3. Nothing in this section shall restrict the Lubbock County Juvenile Justice Center's ability to defend against a lawsuit filed

by a resident on the ground that the applicable statute of limitations has expired.

4. All residents shall be ensured that:
  - a. A resident who alleges sexual abuse may submit a grievance without submitting it to an employee, intern, or volunteer who is the subject of the complaint, and
  - b. Such grievance is not referred to an employee, intern, or volunteer who is the subject of the complaint.
5. The Lubbock County Juvenile Justice Center shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal. The Lubbock County Juvenile Justice Center 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 Lubbock County Juvenile Justice Center shall notify the resident in writing of any such extension and provide a date by which a decision will be made. 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.
6. 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. 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. If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.
7. 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.

8. 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.
9. 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.

**N. Resident Access to Outside Support and Legal Representation  
115.353**

1. The Lubbock County Juvenile Justice Center 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 Lubbock County Juvenile Justice Center shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.
2. The Lubbock County Juvenile Justice Center 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.
3. The Lubbock County Juvenile Justice Center 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 Lubbock County Juvenile Justice Center shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

4. The Lubbock County Juvenile Justice Center shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

**O. Third-Party Reporting 115.354**

1. The Lubbock County Juvenile Justice Center 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. These methods include but are not limited to:
  - a. Signage,
  - b. Brochures, and
  - c. The Lubbock County Juvenile Justice Center website,

**P. Staff and Agency Duty to Report 115.361**

1. Employees, volunteers, and interns shall immediately report any knowledge, suspicion, or information they receive regarding:
  - a. an incident of sexual abuse or sexual harassment that occurred within any program administered or operated by the Lubbock County Juvenile Justice Center,
  - b. retaliation against residents or employees who reported such incidents,
  - c. and any employee neglect or dereliction of duties that may have contributed to an incident or retaliation.
2. LCJJC shall also require all staff to comply with any applicable mandatory child abuse reporting laws.
3. Apart from reporting to AFA's/supervisors 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, Chief Juvenile Probation Officer (JPO), Facility Administrator, AFA's/ supervisors, and PREA Coordinator/Internal Investigator, to make treatment, investigation, and other security and management decisions.
4. Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (1) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws according to their licensing bodies.

5. Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.
6. Upon receiving any allegation of sexual abuse, the employee, intern or volunteer or his or her designee shall promptly report the allegation to the PREA Coordinator/Investigator, Chief JPO and to the alleged victim's parents or legal guardians, unless the LCJJC has official documentation showing the parents or legal guardians should not be notified.
7. If the alleged victim is under the guardianship of the TDFPS, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.
8. If a juvenile court retains jurisdiction over the alleged victim, the Chief JPO, or his/her designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.
9. LCJJC shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the PREA Coordinator/Investigator.

#### **Q. Agency Protection Duties 115.362**

1. Upon learning that a resident/program participant is subject to substantial risk of imminent sexual abuse, the Lubbock County Juvenile Justice Center shall ensure that protective measures are put in place to ensure the safety and well-being of the resident. Such measures may include, but are not limited to, re-assignment to a different cluster, protective assignment, isolation of the threatening resident, or employee re-assignment.

#### **R. Reporting to Other Facilities 115.363**

1. Upon receiving an allegation that a resident or program participant was sexually abused while confined at another facility, the Chief JPO of LCJJC shall be notified that the allegation was received. The Chief Juvenile Probation Officer or his designee shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred, law enforcement agency with jurisdiction, and any other appropriate investigating agency.
2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
3. LCJJC shall document that it has provided such notification.

4. The Chief JPO that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

5. The Chief JPO shall ensure that allegations of sexual abuse made by residents of another facility but alleged to have occurred at LCJJC are fully investigated in accordance with this policy.

### **S. Duties of First Responders 115.365**

Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report shall be required to request the assistance of an AFA/supervisor and:

A. Separate the alleged victim and the alleged perpetrator by housing or supervision in a manner favorable to the alleged victim. The alleged victim shall be under the full constant observation of staff. Separation shall continue until the completion of an internal investigation.

B. Place all juveniles into their individual housing unit if the alleged sexual assault took place in the cluster.

C. Secure the location of the alleged sexual assault by posting staff to insure no forensic evidence is tampered with.

D. Alleged Victim Care:

1. Assessment of the victim's acute medical needs – **Staff Nurse**

2. Ensure the safety of the victim – **First Responder**

3. Ensure privacy and confidentiality – **First Responder**

4. Request the alleged victim does not take any action that could destroy physical evidence such as showering, changing clothes, washing hands, urinating, defecating, brushing teeth, drinking or eating until consented to by law enforcement. – **First Responder**

5. Obtain a written statement if appropriate – **Internal Investigator**

In addition to Items 1-5 of this section, the PREA Coordinator shall ensure and document the following actions:

1. Inform the victim of his or her rights under federal or state law,
2. Explanation of the need for a forensic medical exam and offering the victim the option of undergoing one,
3. Offering the presence of a victim advocate or a qualified staff member to be present during the exam,
4. Provide crisis intervention counseling,
5. Interview the victim and any witnesses,
6. Collect evidence,

7. Provide for any needs the victim may have.

E. Alleged Perpetrator:

1. Ensure the alleged perpetrator does not take any actions that could destroy physical evidence such as showering, changing clothes, washing hands, urinating, defecating, brushing teeth, smoking, drinking or eating until consented to by law enforcement.
2. When appropriate, ensure suspension or re-assignment
3. Obtain a written statement

F. Evidence Collection:

1. Gather and preserve direct and circumstantial evidence, including any physical and DNA evidence and any available electronic monitoring data.
2. Photograph the scene
3. Photograph the alleged victim if appropriate
4. Document times, date, location, parties involved
5. Obtain written statements

2. If the first person on scene is not trained in first responder procedures, the staff member shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

**T. Protection From Retaliation 115.367**

1. Residents/Program participants, other complaining parties, employees, interns, and volunteers of LCJJC shall be protected against retaliation for reporting an incident of sexual abuse or sexual harassment or cooperating with an investigation of sexual abuse or sexual harassment. Protective measures may include but are not limited to:

- a. Cluster or assignment changes or transfers for program participant victims or alleged abusers, whichever is more favorable to the victim.
  - b. Removal of alleged program participant or employee, intern, or volunteer abusers from contact with victims,
  - c. Emotional support services.
2. Following a report of sexual abuse, the supervisors or administrators of the program in which the sexual abuse was reported and in which the victim of sexual abuse is participating shall monitor for any changes which may suggest possible retaliation by residents/program participants or

- employees, interns, or volunteers. Such monitoring shall continue for an indeterminate amount of time but no less than 90 days following the report of sexual abuse. Monitoring may include the following but is not limited to:
- a. Any program participant discipline reports,
  - b. Housing changes,
  - c. Program changes,
  - d. Periodic status checks,
  - e. Negative staff performance reviews, or
  - f. Staff reassignments.
3. Should any employee, intern, or volunteer at LCJJC detect any conduct that would suggest retaliation they shall immediately notify their AFA/supervisor. The AFA/supervisor shall coordinate with the Facility Administrator or Probation Supervisor, having sufficient authority to remedy any such retaliation, in developing a strategy to remedy such retaliation. Such retaliation shall be grounds for immediate administrative action up to and including termination. Such monitoring may terminate upon the determination that the allegation of sexual abuse is unfounded or after 90 days and no retaliation has been detected.
- 4 Upon learning that a resident/program participant is subject to substantial risk of imminent sexual abuse, the Lubbock County Juvenile Justice Center shall ensure that protective measures are put in place to ensure the safety and well-being of the resident.

#### **U. Use of Protective Segregated Housing 115.368**

The use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be the last resort when other less restrictive measures are found to be inadequate. During such times of protective segregated housing the resident shall be offered daily large muscle exercise, access to legally required educational programming and special education services, daily visits from a mental health and medical practitioner, and access to other services/programs and work opportunities to the extent possible.

#### **V. Internal Investigations 115.371 and 115.372**

A. Internal investigations shall not be terminated solely on the basis that the victim recanted the allegation.

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

2. 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.
3. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
4. LCJJC shall retain all written reports referenced in paragraphs (1) and (2) 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.
5. 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.
6. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
7. When outside agencies investigate sexual abuse, the FBCJPD shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

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

### **W. Victim's Right to Information 115.373**

Following an internal investigation into an allegation of sexual abuse, the victim shall be informed of the disposition of the investigation. An internal investigation which results in a finding of Founded or Inconclusive, the victim shall have the right to be informed whenever the following conditions exist:

1. The victim will no longer be under the supervision of the perpetrator,
2. The perpetrator is no longer employed by LCJJC,
3. LCJJC learns that the perpetrator has been indicted on a charge related to the sexual abuse allegation,
4. LCJJC learns that the perpetrator has been convicted on a charge related to the sexual abuse allegation,
5. In the instance the alleged perpetrator is another resident the victim shall be notified of an indictment and or conviction of a charge related to the

sexual abuse within the facility.

Notification of these rights or attempted notification of these rights shall be documented by the informing party.

Such rights to informed may terminate if the victim is no longer participating in any program operated by LCJJC.

## **X. Disciplinary Sanctions and Corrective Actions 115.378**

### **A. Disciplinary Sanctions for Staff**

1. Any employee of LCJJC found to have committed sexual abuse against any resident or program participant shall be subject to termination and possible criminal prosecution. Any employee of the LCJJC found to have committed sexual harassment against any resident or program participant shall be subject to administrative sanctions and possible criminal prosecution.
2. Disciplinary sanctions for violations of LCJJC 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.
3. 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.

### **B. Corrective action for Contractors, Interns and Volunteers**

1. Any contractor, intern, or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies and to relevant licensing bodies, unless the activity was clearly not criminal,
2. The Chief Juvenile Probation Officer shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of LCJJC sexual abuse or sexual harassment policies by a contractor or volunteer.

### **C. Disciplinary Action for Residents/Program Participants**

1. LCJJC residents 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 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, LCJJC 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 medical or mental health care practitioners. Residents shall also have access to other programs and work opportunities to the extent possible.
3. 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.
4. When appropriate the LCJJC shall offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse. LCJJC 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.
5. LCJJC may 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. LCJJC prohibits all sexual activity between residents and may discipline residents for such activity. LCJJC does not however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

## **X. Access to Emergency Medical and Mental Health Services 115.382**

1. 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.
2. 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 Chapter 115.362 and shall immediately notify the appropriate medical and mental health practitioners.

3. Resident victims of sexual abuse while detained or residing at the Lubbock County Juvenile Justice Center and their parents or guardians 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.
4. 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.

**Y. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Non-Emergency Abusers 115.383**

1. The Lubbock County Juvenile Justice Center 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.
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.
3. The Lubbock County Juvenile Justice Center shall provide such victims with medical and mental health services consistent with the community level of care.
4. Resident victims of sexually abusive vaginal penetration while detained or residing at the Lubbock County Juvenile Justice Center shall be offered pregnancy tests.
5. If pregnancy results from conduct specified in subsection 4 of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
6. Resident victims of sexual abuse while detained or residing at the Lubbock County Juvenile Justice Center shall be 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 Lubbock County Juvenile Justice Center shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 14 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

## **Z. Sexual Abuse Review Board (SARB) 115.386**

1. LCJJC 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.
2. Such review shall occur within 30 days of the conclusion of the investigation.
3. The SARB shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
4. The SARB shall:
  - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - d. Assess the adequacy of staffing levels in that area during different shifts;
  - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (4)(a)-(4)(e) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.
  - g. LCJJC shall implement the recommendations for improvement, or shall document its reasons for not doing so.

## **AA. Data Collection, Audits, and Records Retention 115.387 thru**

**115.405**

1. The Lubbock County Juvenile Justice Center shall refer to and comply with the requirements of PREA Standards 11.387 through 115.405.