PREA Coverage

A. The Ray D. Anderson CRTC has a zero tolerance policy relating to any sexual misconduct between staff, volunteers, contractors, and residents or their family members. Moreover, all forms of forced, coercive, or consensual sexual misconduct occurring among residents will be fully investigated, sanctioned (if authority to do so exists), and referred for prosecution if the prohibited conduct violates state criminal laws.

B. The Prison Rape Elimination Act (PREA) covers incidents involving staff, residents, volunteers, and collateral contacts.
   a. Sexual abuse of a resident by another resident, staff member, contractor, or volunteer includes any of the following acts with or without consent: without consent includes if a resident is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse.
   b. Sexual abuse is defined by the following:
      (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
      (b) Contact between the mouth and the penis, vulva, or anus;
      (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
      (d) 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.

C. Sexual abuse of a resident by a staff member, volunteer, visitor or contractor. Sexual abuse of a resident by a staff member, volunteer, visitor or contractor, includes any of the following acts, with or without consent of the resident:
   a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
   b. Contact between the mouth and the penis, vulva, or anus;
   c. 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;
   d. 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, volunteer, visitor or contractor has the intent to abuse, arouse, or gratify sexual desire;
   e. 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, volunteer, visitor or contractor has the intent to abuse, arouse, or gratify sexual desire;
   f. Any attempt, threat, or request by a staff member, volunteer, visitor or contractor to engage in the activities described in paragraphs (a)-(e) of this section;
   g. Any display by a staff member, volunteer, visitor or contractor of his or her uncovered genitalia, buttocks, or breast in the presence of a resident; and
   h. Voyeurism by a staff member, volunteer, visitor or contractor.

D. Resident on Resident Sexual Abuse: Sexual contact between residents without the resident's consent, or in which the resident is unable to consent or refuse.
    a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
    b. Contact between the mouth and the penis, vulva, or anus;
    c. Contact between the mouth and any body part where the resident has the intent to abuse, arouse, or gratify sexual desire;
    d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that has the intent to abuse, arouse, or gratify sexual desire;
    e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that has the intent to abuse, arouse, or gratify sexual desire;
    f. Any attempt, threat, or request by a resident to engage in the activities described in paragraphs (a)-(e) of this section;
    g. Any display by a resident of his or her uncovered genitalia, buttocks, or breast in the presence of a resident; and
    h. Voyeurism by a resident.

E. Staff Sexual Misconduct: Any behavior or act of a sexual nature whether it be consensual or non-consensual directed toward a resident by an employee, volunteer, contractor, visitor or other CRTC representative.

Staff Responsibilities

A. The Director or designee will act as the PREA Coordinator and is responsible for the oversight of all PREA related activities including but not limited to Administrative Investigations.

B. The Brownfield Police Department will act as the PREA Investigator and will conduct investigations of all incidents of sexual misconduct.

Resident Orientation & Education

A. During the intake/orientation process, all residents shall receive information in a manner that is understandable regardless of individual limitations explaining:
    a. the CRTC's zero-tolerance policy regarding sexual abuse and sexual harassment;
    b. how to report incidents or suspicions of sexual misconduct;
    c. their rights to be free from sexual misconduct and retaliation for reporting such incident;
    d. CRTC policies and procedures for responding to such incidents; and
    e. Consequences of false allegations.
B. Staff will document verification of resident orientation and education on PREA by completing the Prison Rape Elimination Act (PREA) Orientation Acknowledgement with the Employment CSR Coordinator. The Sexual Victimization/Abusiveness Screening Form and PREA Acknowledgment Form are completed with the RCSO maintained in the resident's probation file, maintained by the Residential Community Supervision Officer.
C. The CRTC will ensure that key information is continuously and readily available to residents through posters, resident handbooks, brochures or other written formats.

Screening for Risk of Victimization & Abusiveness

A. Within 72 hours of a resident's arrival at the CRTC, the assigned Residential Community Supervision Officer will administer the Sexual Victimization-Abusiveness Screening Form and PREA Acknowledgement Form with the resident to assess the resident's risk of victimization or abusiveness.

B. The intake screening addresses the following information:
   1. Whether the resident has a mental, physical, or developmental disability;
   2. The age of the resident;
   3. The physical build of the resident;
   4. Whether the resident has previously been incarcerated;
   5. Whether the resident's criminal history is exclusively nonviolent;
   6. Whether the resident has prior convictions for sex offenses against an adult or child;
   7. Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
   8. Whether the resident has previously experienced sexual victimization; and
   9. The resident's own perception of vulnerability.

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

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

E. Residents refusing to answer or for not disclosing complete information to the following questions will not be disciplined:
   1. Whether or not they have a mental. Physical, or developmental disability;
   2. Whether or not they are or are perceived to be gay, lesbian, bisexual, transgender, intersex or gender non-conforming;
   3. Whether or not they have previously experienced sexual victimization; and
   4. Their own perception of vulnerability.

F. Within 15 to 30 days of arrival residents will complete a Sexual Victimization/Abusiveness Screening form with their primary counselor to reassess the resident's risk of victimization or abusiveness. The reassessment is to gather additional relevant information received from resident that has come to light since his arrival at the Facility.

G. The CRTC shall use information from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. Any misuse of the information discovered in either the pre-screening or the reassessment with be grounds for disciplinary action.

H. The Residential Monitor Supervisor has access to the RCSO's initial screening and can make bed assignments and in-house CSR assignments to ensure high risk victims are kept away from sexually abusive residents. The monitor also uses this information to determine the above mentioned for transgender or intersex resident while considering the resident's concern for their safety.

Reporting Sexual Misconduct

A. Residents who are victims of or have knowledge of sexual abuse and/or sexual harassment should immediately report the incident to a staff member or residents may utilize the formal grievance procedure to report sexual misconduct. However, residents are not required to go through the informal resolution step to report allegations of sexual misconduct. Grievances will be given high priority in accordance with established facility policy.

B. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall document any verbal reports immediately and contact their supervisor and CRTC Director.

C. Residents are not required to file written reports; however, staff members who receive verbal reports from residents are required to immediately file written incident reports, notify their supervisor, and the PREA Coordinator.

D. Residents may report abuse or harassment to the Brownfield Police Department or private entity or office that is not part of the CRTC and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to the CRTC director, allowing the resident to remain anonymous upon request.

E. Disciplinary sanctions may be given to a resident for filing a report related to alleged sexual abuse only where the CRTC demonstrates that the resident filed the report falsely or in bad faith.

F. Disciplinary sanctions will not be given to a resident that reports sexual abuse made in good faith based on a reasonable belief that the alleged conduct occurred, even if an investigation does not establish sufficient evidence to substantiate the allegation.

First Responder Duties

A. Staff members who receive an initial report of sexual misconduct will ensure that the victim is safe and kept separate from the alleged aggressor.

B. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.

C. If the abuse occurred in a time frame that still allows for the collection of physical evidence, request that the alleged victim and alleged abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. If the first responder is not a 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 the appropriate CRTC staff.

D. Ask the resident and document the questions listed below.
    a. What type of alleged sexual misconduct occurred?
    b. Who was involved in the misconduct?
    c. When did the misconduct occur?
    d. Where did the misconduct occur?

E. The CRTC 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 § 115.264, or the investigation of the resident's allegations.

F. The first responder will immediately notify the PREA Coordinator who will immediately notify the Brownfield Police Department by calling 911. An ambulance will be dispatched and the resident is then transported to UMC.

G. The investigating authority is recommended to follow the National Protocol for Sexual Assault Medical Forensic Examinations (www.ncjrs.gov/pdffiles1/ovw/206554.pdf).

H. The PREA coordinator will act as an ongoing liaison between the facility and the investigating authority.

Sexual Misconduct Grievance Process

A. The following is the administrative procedure dealing with grievance specifically regarding PREA.

B. A resident may submit a grievance regarding an allegation of sexual misconduct at any time, regardless of when the incident occurred.

C. No formal grievance process is required nor is the resident required to attempt to resolve the incident with staff regarding an allegation of sexual misconduct.

D. Nothing in this policy shall restrict the CRTC's ability to defend against a lawsuit filed by a resident on the grounds that the application statute of limitations has expired.

E. The CRTC shall ensure:
    a. a resident who alleges sexual misconduct may submit a grievance without submitting it to a staff member who is the subject of the complaint;
    b. such grievance is not referred to a staff member who is the subject of the complaint;
    c. the CRTC shall issue a final decision on the merits of any portion of a grievance alleging sexual misconduct within 90 days of the initial filing of the grievance;
    d. computation of the 90-day time period shall not include time consumed by the residents in preparing any appeal;
    e. The CRTC 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 CRTC shall notify the resident in writing of any such extension and provide a date by which a decision will be made;
    f. at any level of the grievance process, including any properly noticed extension, the resident may consider the absence of a response to be a denial at any level;
    g. third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for a grievance relating to allegations of sexual misconduct, and shall also be permitted to file such requests on behalf of residents;
    h. if a third-party file 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 grievance process; and if the resident declines to have the request processed on his or her behalf, the CRTC shall document the resident's decision.

F. Emergency Grievances
    a. The CRTC has the following procedures in place for the filing emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.
    b. The CRTC staff receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a the director for immediate corrective action to be taken and the director shall provide an initial response within 48 hours, and shall issue a final CRTC decision within 5 calendar days.
    c. The initial response and final decision shall document the CRTC's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
    d. Disciplinary sanctions may be given to a resident for filing a grievance related to alleged sexual abuse only where the CRTC demonstrates that the resident filed the grievance in bad faith.
    e. Disciplinary sanctions will not be given to a resident that reports sexual abuse made in good faith based on a reasonable belief that the alleged conduct occurred, even if an investigation does not establish sufficient evidence to substantiate the allegation.

Evidence Protocol & Forensic Exams

A. The CRTC is responsible for investigating allegations of sexual abuse on an Administrative basis only. The CRTC follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

B. The CRTC shall offer all victims of sexual abuse access to forensic medical examinations at University Medical Center (UMC) in Lubbock, without financial cost, where evidentiary or medically appropriate.
C. The examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) at UMC.

D. The CRTC shall make available to the victim a victim advocate from Voice of Hope – Rape Crisis Center in Lubbock. The Voice of Hope operates both a crisis line and has advocates available twenty-four hours a day.

E. If a resident requests, the victim advocate, CRTC 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.

Confidential Support Services

A. Residents have access to Voice of Hope – Rape Crisis Center in Lubbock victim advocates for emotional support services related to sexual abuse. Voice of Hope (806) 763-7273 or P.O. Box 2000 Lubbock, TX 79457. This information is also available on PREA Posters, brochures and in the Resident Handbook. Residents may speak to a victim advocate on the phone, preferably, away from the duty station to allow the resident privacy. Residents are made aware before they call Voice of Hope the extent to which calling them will be monitored and the extent to which reports of abuse will be forwarded to the Director or Brownfield Police Department in accordance with mandatory reporting laws. Residents are made aware before they call Voice of Hope of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse

made to outside victim advocates, including any limits to confidentiality under relevant federal, state or local law.

B. The evaluation and treatment of all residents who have been victimized by sexual abuse in any prison, jail, or lockup 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 will refer victims to medical and mental health services in Lubbock consistent with the community level of care.

D. Resident victims of sexual abuse while incarcerated will be tested at UMC, as part of the hospital's protocol, for sexually transmitted infections as medically appropriate.

E. 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.

F. The facility shall refer residents for a mental health evaluation of all known resident-on-resident abusers immediately learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Administrative Investigations

A. As soon as the director arrives at the facility all actions of first responders shall be followed.

B. The director attempts to determine whether staff actions or failures to act contributed to the abuse; and documents in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

C. The CRTC shall keep all written reports of this section for as long as the alleged abuser is incarcerated or employed by the CRTC, plus five years.

D. The departure of the alleged abuser or victim from the employment or control of the facility or CRTC shall not provide a basis for terminating an investigation.

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

F. 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.

Reporting Investigation Findings

A. Following an administrative investigation into a resident's allegation of sexual misconduct suffered the CRTC, the CRTC shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

B. The CRTC Director shall request the relevant information from the Brownfield Police Department in order to inform the resident.

C. Following a resident's allegation that a staff member has committed sexual misconduct against the resident, the CRTC shall subsequently inform the resident (unless the CRTC has determined that the allegation is unfounded) whenever:
    a. the staff member is no longer posted within the resident's area;
    b. the staff member is no longer employed at the facility; and/or
    c. The CRTC learns that the staff member has been indicted of a charge related to sexual misconduct within the CRTC.

D. Following a resident's allegation that he or she has been involved in an incident of sexual misconduct by another resident, the CRTC shall subsequently inform the alleged victim whenever the CRTC learns that the alleged abuser has been convicted on a charge related to sexual misconduct within the facility.

E. All such notifications or attempted notifications shall be documented.

F. The CRTC's obligation to report under this standard shall terminate if the resident is released from the CRTC's custody.

Disciplinary Sanctions

A. Residents shall be subject to disciplinary sanctions 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.
    a. 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.
    b. 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.

B. If the resident is not unsuccessfully discharged from the program referrals to specialized counseling will be made to address and correct underlying reasons or motivations for abuse.

C. The CRTC may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
    a. 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.
    b. The CRTC prohibits all sexual activity between residents and may discipline residents for such activity. The CRTC may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Retaliation

A. Retaliation against residents, employees, or other parties for reporting sexual misconduct will not be tolerated. Those who retaliate may face disciplinary action up to and including unsuccessful discharge for residents and dismissal for employees. Failure to report retaliation and/or information that may have contributed retaliation will bring disciplinary action up to and including unsuccessful discharge for residents and dismissal for employees.

B. Protection measures by the CRTC include but are not limited to the following: room or POD 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 investigation.

C. For or at least 90 days following a report of sexual abuse, the CRTC staff predominately residential monitors, counselors, RCSO and the director shall monitor the conduct and 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.

D. Items the CRTC should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The CRTC shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need or terminated if the allegation is determined to be unfounded.

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

Data Collection & Review

A. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the director that received the allegation will notify the director of the facility or appropriate office of the CRTC within seventy-two hours where the alleged abuse occurred; all correspondence must be documented, including the directive to investigate using PREA standards.