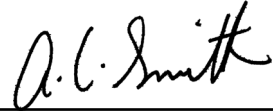




Department of
Rehabilitation & Correction

SUBJECT: Prison Sexual Misconduct Reporting, Response, Investigation, and Prevention of Retaliation	PAGE <u> 1 </u> OF <u> 16 </u>
	NUMBER: 79-ISA-02
RULE/CODE REFERENCE: ORC 5120.01	SUPERSEDES: 79-ISA-02 dated 7/24/2017
RELATED ACA STANDARDS: 5-ACI-3D-11, 3D-12, 3D-15, 6C-14M; 1-HC-3A-13, 3A-13-3, 3A-13-4, 3A-13-8	EFFECTIVE DATE: November 15, 2021
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to provide procedural guidelines for the reporting, response, and investigation of allegations of sexual misconduct, and to prevent retaliation against persons who have reported sexual abuse.

III. APPLICABILITY

This policy applies to all incarcerated individuals, persons employed by the Ohio Department of Rehabilitation and Correction (ODRC), volunteers, and contractors assigned to an institution.

IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the policies page on the ODRC Intranet at the following:

[Definitions Link](#)

- **Abuser**
- **Agency PREA Coordinator**
- **Extended Restrictive Housing (ERH)**
- **Indecent Exposure**
- **LGBTI**
- **Limited Privilege Housing (LPH)**
- **PREA Accommodation Strategy (PAS)**
- **PREA Accommodation Strategy Team (PAST)**
- **PREA Classifications**
- **PREA Risk Assessment System**
- **Recent Sexual Abuse**
- **Restrictive Housing (RH)**

- **Serious Misconduct Panel (SMP)**
- **Sexual Abuse**
- **Sexual Conduct**
- **Sexual Contact**
- **Sexual Harassment**
- **Sexual Misconduct**
- **Substantiated Allegation**
- **Transitional Program Unit (TPU)**
- **Unfounded Allegation**
- **Unsubstantiated Allegation**
- **Victim**
- **Victim Support Person**
- **Voyeurism**

V. POLICY

It is the policy of the ODRC to provide a safe, humane, and appropriately secure environment, free from the threat of sexual misconduct for all incarcerated individuals by maintaining clear procedures for reporting, detecting, responding, and investigating sexual misconduct. Sexual misconduct among incarcerated individuals and by staff, volunteers and independent contractors towards incarcerated individuals is strictly prohibited. Retaliation against persons who report sexual misconduct is also strictly prohibited. All allegations of sexual misconduct and/or retaliation shall be administratively and/or criminally investigated.

VI. PROCEDURES

A. Reporting of Sexual Misconduct and Retaliation

1. Reporting by Incarcerated Individuals, Third Parties and Outside Entities
 - a. An incarcerated individual may report allegations of sexual misconduct or retaliation by other incarcerated individuals or staff verbally or in writing. In addition, incarcerated individuals may report staff neglect or violations of responsibilities that may have contributed to incidents of sexual misconduct. Allegations may be reported to any staff member, volunteer, or contractor.
 - b. Incarcerated individuals may also report allegations to an outside entity that is not part of the ODRC by using the phone number and/or address provided. This outside entity shall then report the allegations to the agency PREA coordinator/designee. Incarcerated individuals shall be given the opportunity to remain anonymous upon request to the outside entity.
 - c. The agency PREA coordinator/designee shall establish an e-mail link on the ODRC's official internet site that allows for third-party reports of sexual misconduct on behalf of an incarcerated individual. Notification of the purpose and use of this e-mail account shall be posted in the incarcerated individual visiting areas and entry buildings.

- d. There shall be no time limit on when an incarcerated individual may report sexual misconduct.
- e. Incarcerated Individual Grievance Procedure
 - i. An incarcerated individual is not required to file a grievance concerning an alleged incident of sexual abuse or sexual harassment to satisfy the Prison Litigation Reform Act (PLRA) exhaustion requirement before bringing a lawsuit regarding an allegation of sexual abuse or sexual harassment if the matter was reported as set forth by this policy. For purposes of PREA standards and the exhaustion requirement, any allegation concerning an incident of sexual abuse or sexual harassment shall be deemed exhausted if official documentation confirms the following:
 - a) An incarcerated individual who alleges being the victim of sexual abuse or sexual harassment reported the incident to facility staff in writing to Operation Support Center (OSC) staff; to any outside agency ODRC has identified as having agreed to receive and immediately forward the incarcerated individual reports of sexual abuse and sexual harassment to ODRC officials; or to the Chief Inspector's Office; or
 - b) A third party reported an incarcerated individual is the victim of sexual abuse or sexual harassment and the alleged victim confirmed the allegation upon investigation.
 - ii. Any incarcerated individual grievance (i.e., informal complaint resolution, notification of grievance, related appeal forms, etc.) filed regarding a complaint of sexual abuse or sexual harassment shall be immediately reported to the institution investigator for proper handling in accordance with this policy. The complaint shall be deemed exhausted upon filing for PLRA purposes. If the grievance does not set forth any additional matters requiring a response, the grievance shall be closed.
 - iii. There shall be no time limit on when an incarcerated individual may report sexual misconduct. A sexual abuse or sexual harassment complaint may be submitted at any time; however, a timely complaint is essential to providing services and proper investigation. Acceptance of a late complaint does not waive the applicable statute of limitations with respect to any related lawsuit.

2. Staff Reporting

- a. Pursuant to ODRC Policy 01-COM-08, Incident Reporting and Notification, staff shall report immediately any knowledge, suspicion, or information regarding an incident of sexual misconduct that occurred in an institution, whether it is part of the ODRC. Staff shall also report retaliation against incarcerated individuals or staff who report such incidents, and any staff neglect or violation of responsibilities that may be contributed to an incident or retaliation. Unless otherwise precluded by federal, state, or local law, medical and behavioral health practitioners shall be required to report

sexual abuse pursuant to this section and to inform incarcerated individuals of the practitioner's duty to report and the limitations of confidentiality at the initiation of services.

- b. Staff may privately report sexual misconduct by completing an Incident Report (DRC1000) marked confidential and submitting it directly to the operational compliance manager (OCM) or agency PREA coordinator. The OCM and/or the agency PREA coordinator shall ensure the allegation is investigated in accordance with this policy while maintaining the anonymity of the reporting staff. The OCM or agency PREA coordinator shall maintain a confidential file of the privately reported allegations either in the managing officer's office at the institutions or the agency PREA coordinator's office at the OSC.
- c. Any staff member that observes incidents or behaviors that cause a reasonable concern that an incarcerated individual may be at significant risk of sexual victimization shall document this incident or observation on an Incident Report (DRC1000), marked confidential, consistent with ODRC Policy 01-COM-08, Incident Reporting and Notification. A copy of this report shall immediately be forwarded to the institution investigator, shift supervisor, unit management chief (UMC), and the PREA coordinator.

3. Routing of Reports

- a. All reports of allegations of sexual misconduct and retaliation, including third-party and anonymous reports, shall be reported to the institution investigator.
- b. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and behavioral health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as required by law. Staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary.
- c. Any employee that receives a verbal or written report from an incarcerated individual, an anonymous source, or a third party of sexual misconduct or retaliation shall immediately notify the shift supervisor and complete an Incident Report (DRC1000), marked confidential, with a copy to the OCM and institution investigator. If it is a report of sexual abuse, staff shall request the alleged victim not take any actions that could destroy physical evidence. Professionals are further obligated to report any communications indicating a danger to any other person or the person making the communication, regardless of any established professional privilege.
- d. Upon receiving an allegation that an incarcerated individual was sexually abused while confined at another institution/facility, the managing officer of the institution that received the allegation shall notify the managing officer of the institution/facility or appropriate office of the agency where the alleged abuse occurred.

- i. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. The notification shall be documented on an Incident Report (DRC1000).
- ii. The managing officer or agency office that receives such notification shall ensure the allegation is investigated in accordance with applicable provisions of this policy.

B. Initial Response and Protection

1. First Responders

The Sexual Abuse First Responder Checklist (DRC5097) shall be used upon report of an allegation of incarcerated individual sexual abuse. The first initial actions of security and non-security staff members are noted below:

The first security supervisor to respond to the report shall be required to:

- a. Separate the alleged victim and abuser,
- b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence pursuant to ODRC Policy 310-SEC-13, Protection of a Crime Scene, and Appendix A of this policy,
- c. Request the alleged victim not take any actions that could destroy physical evidence,
- d. Ensure the alleged abuser does not take any actions that could destroy physical evidence.

The first non-security or the first line security staff member to respond to the report shall be required to:

- a. Separate the alleged victim and abuser,
- b. Request the alleged victim not take any actions that could destroy physical evidence and then notify the security shift supervisor.

If it is learned that an incarcerated individual is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the incarcerated individual at risk of victimization.

2. Medical Services Responsibilities

In cases of alleged completed sexual abuses, medical services shall follow OCHC Protocol B-11, Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse, which includes instructions for assuring appropriate examination, documentation, transport to the local emergency department, testing for sexually transmitted diseases, counseling, prophylactic treatment, follow-up, and referral for mental health evaluation. Specific responsibilities of the institution's medical services and services provided by the local emergency department, when utilized, are detailed in the protocol.

3. Behavioral Health Responsibilities

Incarcerated individuals referred to behavioral health by medical services following an allegation of sexual abuse shall be seen by a behavioral health professional who shall complete further screenings or assessments consistent with ODRC Policy 67-MNH-02, Mental Health Screening and Mental Health Classification.

4. Victim Support Person Responsibilities

Upon notification of an allegation of abuse, the institution victim support person shall meet with the victim. At the request of the victim: 1) The victim support person shall sit in on administrative interviews of the incarcerated individual but may not obstruct or interfere during the investigation; 2) The victim support person shall accompany the victim to the hospital, accompany and support the victim through the forensic medical examination process; 3) The victim support person shall provide emotional support, crisis intervention, information, and referrals. The Victim Support Person Activity Report (DRC1178) shall be used to document the activities of the victim support person. After the form has been completed by the victim support person, the original shall be forwarded to the institution investigator. A copy shall be forwarded to the OCM.

If the designated Local Rape Crisis Center was contacted, the next available institution victim support person shall contact the Local Rape Crisis Center to determine what services were provided to the victim. The institution victim support person shall follow-up with the victim to determine if any additional services are requested. The institution victim support person shall document the activities of the Local Rape Crisis Center and the institution Victim Support Person on the Victim Support Person Activity Report (DRC1178). After the form has been completed, the original shall be forwarded to the institution investigator. A copy shall be forwarded to the OCM.

5. The shift supervisor shall ensure the victim and aggressor are physically separated. The victim shall be housed in an environment that shall, to the extent possible, permit the victim the same level of privileges the victim was permitted immediately prior to the sexual abuse. Any involuntary use of Transitional Program Unit (TPU) housing to protect an incarcerated individual who is alleged to have suffered sexual abuse shall be subject to the following requirements and documented on the PREA Involuntary Restrictive Housing/Limited Privilege Housing form (DRC1184):

- a. Involuntary TPU shall not be utilized unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If an assessment cannot be made immediately, the incarcerated individual may be held in involuntary TPU for less than twenty-four (24) hours while completing the assessment.
- b. If an involuntary TPU assignment is made pursuant to this section, staff shall clearly document the basis for the concern for the incarcerated individual's safety and the reason why no alternative means could be arranged.
- c. Incarcerated individuals placed in RH for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If access is

restricted, staff shall document opportunities that have been limited and the duration and reason for such limitations.

- d. Involuntary TPU assignments shall only be until alternative means of separation from likely abusers can be arranged and shall not ordinarily exceed thirty (30) calendar days.
 - e. Every thirty (30) calendar days, staff shall afford each incarcerated individual a review to determine whether there is a continuing need for separation from general population.
6. If the alleged abuser is an employee, immediate efforts shall be made to eliminate contact between the incarcerated individual and the staff member. The managing officer shall determine if the employee should be placed on administrative leave consistent with ORC 124.388, Administrative Leave with Pay, during the investigation.
 7. Pursuant to ODRC Policy 79-ISA-04, PREA Risk Assessment and Accommodation Strategies, unit management shall complete a special assessment of both the alleged victim and abuser involved in a sexual abuse incident within seven (7) calendar days of the report to document any changes in an incarcerated individual's PREA Classification. Unit management shall also complete a special assessment on the alleged victim and abuser within seventy-two (72) hours of the completion of the final investigation.
 8. In accordance with OCHC Protocol B-11, Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse, and ODRC Policy 67-MNH-02, Mental Health Screening and Mental Health Classification, all incarcerated individuals who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility shall be offered medical and mental health evaluations, and treatment as appropriate.
 9. All victims of sexual abuse shall have access to forensic medical examinations at an outside facility without financial cost where evidentiary or medically appropriate. The services shall be provided to the alleged victim regardless of whether the victim names the alleged abuser or cooperates with any investigation arising out of the incident. 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 may be performed by other qualified medical practitioners. The institution shall document its efforts to provide SAFEs or SANEs. ODRC is responsible for ensuring these services are provided to the incarcerated individual. This is not the responsibility of the Ohio State Highway Patrol (OSHP).
 10. The OCM shall develop a written institution plan in accordance with Appendix B utilizing the documents in Appendices C and D to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and behavioral health staff, institution investigators, and institutional leadership.

C. Investigations

1. All reports of sexual harassment, sexual abuse and retaliation shall be forwarded to the institution investigator. The institution investigator shall forward sexual harassment reports to the OCM for investigation only after reviewing the evidence and determining the case is a sexual harassment case.
2. All reports of sexual harassment shall be investigated by the Institution OCM and initiated in the electronic PREA incident reporting system within seven (7) calendar days of the incident being reported. The investigation narrative shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The OCM shall also conduct the monitoring of retaliation for these cases. At Lake Erie Correctional Institution (LAECI), all investigations of sexual harassment cases shall be conducted by a qualified, trained designee as assigned by the managing officer.

All reports of sexual abuse and retaliation shall be investigated by the institution investigator and initiated in the electronic PREA incident reporting system within seven (7) calendar days of the incident being reported. The investigation narrative shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The institution investigator shall conduct the monitoring of retaliation for these cases.

Documentation related to sexual harassment, sexual abuse and retaliation cases shall be uploaded as an addendum to the electronic PREA incident reporting system. Examples of investigative documentation include but are not limited to:

- a. Mental health referral,
- b. Written notification to OSHP,
- c. Incarcerated individual medical examination at prison,
- d. Video surveillance and/or still photographs,
- e. Written or audio interviews of alleged victim,
- f. Written or audio Interviews of alleged abuser,
- g. Written or audio interviews of witnesses, if any,
- h. Victim Support Person Activity Report (DRC1178),
- i. Incident Reports (DRC1000)/Special Incident Reports,
- j. Sexual Abuse- First Responder Checklist (DRC5097),
- k. Incarcerated individual Medical Examination at Outside Medical Facility,
- l. OSHP decision as to whether they will or will not take the case,
- m. Documentation of receipt of victim advocacy services, if received,
- n. Checklist for Attempted or Completed Recent (less than 96 hours) Sexual Abuse,
- o. Checklist for Attempted or Completed Not Recent (greater than 96 hours) Sexual Abuse,

All allegations of sexual abuse shall be administratively investigated by the institution investigator. Consensual sexual contact and imminent risk of sexual abuse (as referenced in section VI.F of this policy) shall be investigated by an employee assigned by the managing officer.

All allegations of sexual misconduct shall be referred for investigation to the OSHP unless the allegation does not involve potentially criminal behavior. The agency PREA coordinator/designee shall maintain a document that describes the responsibilities of the ODRC and the OSHP for criminal investigations. If the OSHP is responsible for investigating allegations of sexual abuse, the ODRC shall request that they follow the investigator protocols as listed in Appendix A and that any OSHP investigator conducting such investigations has received training in conducting investigations in confinement settings.

3. The designated victim support person shall consult with the institution investigator on abuse cases and offer assistance as is appropriate based on their training.

4. Procedures and Investigation of Recent Sexual Abuse

If the alleged sexual abuse is recent, as defined by this policy, the requirements of Appendix A, unless directed otherwise by the OSHP, shall be followed. In addition, the institution investigator, if present, or the shift commander if the institution investigator is not present, shall place the alleged incarcerated individual abuser in RH under investigation until the investigation is complete unless other circumstances require the transfer or other placement of the alleged abuser. If the alleged abuser is an employee, the managing officer shall determine whether the employee should be placed on administrative leave with pay. During the investigation, the victim and the alleged aggressor shall remain separated.

5. Procedures and Investigation of Sexual Abuse that are Not Recent

- a. If the alleged sexual abuse is not reported or discovered within a time frame to consider it recent, as defined by this policy, the requirements of Appendix A shall be followed unless directed otherwise by the OSHP. The institution investigator, if present, or the shift supervisor if the institution investigator is not present, shall secure the alleged crime scene if feasible. The alleged aggressor, if known, shall be placed in RH under investigation. Consistent with OCHC Protocol B-11, Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse, medical services shall conduct an examination for the presence or absence of physical trauma and perform follow-up testing for sexually transmitted diseases and pregnancy testing, as appropriate. Medical services shall also refer the incarcerated individual to behavioral health services for evaluation and counseling and offer the incarcerated individual appropriate prophylactic treatment for sexually transmitted diseases.
- b. Priority medical/forensic treatment and provision of care to the adult sexual abuse patients should always be given regardless of when the sexual abuse occurred. If it is within ninety-six (96) hours (four full days) after an attack, evidence should always be collected. Research and evidence analysis indicate that some evidence may be available beyond ninety-six (96) hours after the assault. Decisions about whether to collect evidence should be made on a case-by-case basis, guided by the knowledge that outside time limits vary due to factors such as the location of the evidence and type of sample collected. Cases in which evidence should be collected beyond ninety-six (96) hours occur where an exam may corroborate chronic injury, excessive force, or significant trauma.

6. Completion of an Investigation

- a. A final decision on all allegations of sexual abuse shall be issued by the institution investigator within ninety (90) calendar days of the initial filing.
- b. If ninety (90) calendar days is not sufficient to make an appropriate decision, the institution investigator may extend the decision up to seventy (70) calendar days. The incarcerated individual shall be notified in writing of such extension and be provided a date by which a decision will be made.
- c. Following an investigation into an incarcerated individual's allegation that they suffered sexual abuse in an institution, the institution investigator shall inform the incarcerated individual as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- d. If the ODRC did not conduct the investigation, it shall request the relevant information from the OSHP to inform the incarcerated individual.
- e. Upon completion of an incarcerated individual sexual abuse allegation against a staff member (unless unfounded), the institution investigator shall inform the incarcerated individual of the following:
 - i. The staff member is no longer posted within the incarcerated individual's unit,
 - ii. The staff member is no longer employed at the facility,
 - iii. The institution learns that the staff member has been indicted on a charge related to sexual abuse within the institution,
 - iv. The institution learns that the staff member has been convicted on a charge related to sexual abuse within the institution.
- f. Upon completion of an incarcerated individual sexual abuse allegation against another incarcerated individual (unless unfounded), the institution investigator shall inform the incarcerated individual victim of the following:
 - i. The institution learns that the alleged abuser has been indicted on a charge related to the sexual abuse within the institution,
 - ii. The institution learns that the alleged abuser has been convicted on a charge related to sexual abuse within the institution.
- g. All such incarcerated individual notifications or attempted notifications shall be issued in writing and documented. All incarcerated individual notifications noted in section VI.C.6 of this policy shall be signed by the incarcerated individual and uploaded into the PREA Incident Reporting System.
 - i. The Lake Erie Correctional Institution shall use form 14-2E, Inmate Allegation Status Notification, to document the notifications. The incarcerated individual shall sign the form, verifying that such notification has been received. The signed form shall be filed in the incarcerated individual's institution file.

- h. An institution's obligation to report shall terminate if the incarcerated individual is released from the ODRC's custody.
 - i. Behavioral health services shall attempt to conduct an evaluation on all known abusers within sixty (60) calendar days of learning of such history and offer treatment when deemed appropriate. Behavioral health services shall be notified whenever an incarcerated individual is designated as an abuser in the PREA Risk Assessment System. Within sixty (60) calendar days of that notification, behavioral health services shall consult with sex offender services to determine if placement in a sex offender specific program or other sex offender specific service is appropriate. This consultation shall be documented in the offender's mental health case file.
 - j. A final decision on all allegations of sexual harassment and retaliation shall be issued by the OCM and institution investigator, respectively within ninety (90) calendar days of the initial filing.
 - k. All substantiated cases of sexual abuse, sexual harassment or retaliation shall be reported to the agency PREA coordinator by the OCM via email within seventy-two (72) hours of the conclusion of the case.
7. Investigation General Provisions
- a. When the institution conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations including third-party and anonymous reports. No investigation shall be terminated due to the fact the incarcerated individual denies an allegation by a third party or the incarcerated individual retracts an allegation. Investigations shall be completed with consideration of all evidence to determine an outcome of substantiated, unsubstantiated, or unfounded.
 - b. Institution investigators and, where appropriate, OCMs shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving suspected perpetrator.
 - c. When the quality of evidence appears to support criminal prosecution, the ODRC shall conduct compelled interviews only after consulting with OSHP as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
 - d. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as incarcerated individual or staff. No institution shall require an incarcerated individual who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

- e. Administrative 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 reason behind credibility assessments, and investigative facts and findings.
- f. All criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence. Copies of documentary evidence shall be attached when feasible.
- g. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
- h. The departure of the alleged abuser or victim from the employment or control of the institution or ODRC shall not provide a basis for terminating an investigation.
- i. The ODRC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual misconduct are substantiated.
- j. 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.

D. Retaliation

- 1. The institution shall protect all incarcerated individuals and staff who report sexual misconduct or cooperate with sexual misconduct investigations from retaliation by other incarcerated individuals or staff. The institution investigator shall monitor retaliation resulting from cases of sexual abuse. The OCM shall monitor retaliation resulting from cases of sexual harassment. At Lake Erie Correctional Institution (LAECI), all retaliation monitoring shall be conducted by a qualified, trained designee as assigned by the managing officer.
- 2. For at least ninety (90) calendar days following the report of sexual misconduct, there shall be monitoring of the conduct and treatment of incarcerated individuals or staff who reported the sexual misconduct and of incarcerated individuals who were reported to have suffered sexual misconduct to see if there are changes that may suggest possible retaliation by incarcerated individuals or staff and acts promptly to remedy any such retaliation.

Periodic Status checks shall occur at least every thirty (30) calendar days during the monitoring period and shall include:

- a. Reviewing incarcerated individual discipline (RIB1 in DOTS/Unit Staff),
- b. Housing changes (DOTS/Count Office),
- c. Program changes (DOTS/Unit Staff),
- d. Job changes (DOTS/Unit Staff),
- e. Negative performance reviews (DOTS/Unit Staff/Work Supervisor),
- f. Reassignment of staff (Supervisor/Shift Roster/Personnel Office).

Monitoring shall continue beyond ninety (90) calendar days if the initial monitoring indicates a continuing need. All monitoring of retaliation shall be documented in the electronic PREA incident reporting system. The incarcerated individual and/or employee being monitored shall be interviewed during the periodic status check. The incarcerated individual and institution investigator shall sign and date the monitoring of retaliation document in the electronic PREA Incident Reporting System.

3. The institution shall employ multiple protection measures, such as housing changes or transfers for incarcerated individual victims or abusers, removal of alleged staff or incarcerated individual abusers from contact with victims, and emotional support services for incarcerated individuals or staff who fear retaliation for reporting sexual misconduct or for cooperating with investigations.
4. If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual against retaliation to include, but not limited to, the measures listed in section VI.D.3 above.
5. An institution's obligation to monitor retaliation shall terminate if the institution investigator or Institution OCM determines one (1) of the following:
 - a. The allegation is unfounded,
 - b. The incarcerated individual victim or witness is transferred to another institution, or
 - c. The incarcerated individual victim or witness is released from custody.

E. Administrative and Criminal Sanctions

1. Any incarcerated individual found guilty by the Rules Infraction Board (RIB) of sexual abuse shall be considered for disciplinary control and any or all the following administrative actions:
 - a. Referral to the Serious Misconduct Panel (SMP) for placement into ERH,
 - b. Special security review which considers the sexual abuse behavior. At a minimum, the incarcerated individual should be considered for an increase of one (1) security level,
 - c. Institution separations shall be placed on the aggressor and the victim consistent with ODRC Policy 53-CLS-05, Incarcerated Individual Separations,
 - d. The RIB/SMP may order the aggressor to pay reasonable restitution to the ODRC for the costs incurred by the ODRC because of the sexual abuse.
2. All incarcerated individuals found guilty by the RIB/SMP of sexual abuse shall be given appropriate programming and interventions if determined to be necessary by behavioral health services in consultation with sex offender services.
3. The ODRC may discipline an incarcerated individual for sexual contact and/or sexual conduct with staff only upon a finding that the staff member did not consent to such contact or conduct. Incarcerated individual rules of conduct number 13 of Administrative Rule 5120-9-06 (Consensual physical contact for the purpose of sexually arousing or gratifying either person) is an incarcerated individual on incarcerated individual disciplinary violation and does not apply to this section.

4. Any employee determined to have engaged in sexual misconduct, retaliation, or conversations or correspondence which suggests a romantic or sexual relationship with an incarcerated individual shall be subject to discipline consistent with the employee standards of conduct, which may include termination of employment. The employee may also be subject to criminal prosecution.
5. The institution investigator, OCM, and OSHP shall work together with the local county prosecutor's office to ensure appropriate criminal prosecution of sexual misconduct cases.
6. Disciplinary action may be taken when it is determined that an incarcerated individual made a false report of sexual misconduct. If the RIB finds an incarcerated individual guilty of making a false report, restitution may be ordered for the costs incurred by the ODRC in response to the false report. However, no incarcerated individual reporting sexual misconduct shall be issued a conduct report for lying based solely on the fact their allegations could not be substantiated or that the incarcerated individual later recanted his allegation. Each case shall be carefully evaluated on its merits, considering all evidence and circumstances and whether there is any possibility that the alleged incident could have occurred.

F. Reports of a Substantial Risk of Imminent Sexual Abuse

1. All reports of substantial risk of imminent sexual abuse shall immediately be forwarded to the institution investigator, OCM, UMC, and shift supervisor. Upon receipt of a report, security staff shall take immediate action to employ protection measures to ensure the incarcerated individual's safety.
2. When considering the protection of staff or incarcerated individuals, staff shall consider:
 - a. Housing changes,
 - b. Transfers of incarcerated individual victims or abusers,
 - c. Removal of alleged staff or abusers from contact with victims.
3. Reports of substantial risk of imminent sexual abuse shall be investigated by the institution investigator and documented within the electronic PREA Incident Reporting System.
4. Incarcerated individuals at high risk for victimization shall not be placed in involuntary RH or LPH unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If an Imminent Risk of Sexual Abuse (DRC1187) assessment cannot be completed immediately, the incarcerated individual may be held in involuntary RH or LPH for less than twenty-four (24) hours while completing the assessment.
5. The PREA Involuntary Placement in RH/LPH (DRC1184) shall be completed if an involuntary TPU assignment is made pursuant to this section. Staff shall clearly document the basis for the concern for the incarcerated individual's safety and the reason why no alternative means could be arranged.

- a. Incarcerated individuals placed in RH for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted, staff shall document:
 - i. Opportunities that have been limited,
 - ii. Duration of limitations,
 - iii. Reasons for such limitations.
 - b. Involuntary TPU assignments shall only be until alternative means of separation from likely abusers can be arranged and shall not ordinarily exceed thirty (30) calendar days.
 - c. Every thirty (30) calendar days, unit management shall afford each incarcerated individual a review to determine whether there is a continuing need for separation from general population.
6. The managing officer's designee shall provide a documented initial response on the Imminent Risk of Sexual Abuse (DRC1187) assessment within forty-eight (48) hours of the receipt of the report. The report shall document the institution's determination whether the incarcerated individual is in substantial risk of imminent sexual abuse and the action taken. The incarcerated individual shall also be notified of the initial response within forty-eight (48) hours of the receipt of the report.
 7. A documented final decision shall be made within five (5) calendar days of the initial report and shall be documented by the managing officer's designee on the Imminent Risk of Sexual Abuse (DRC1187) and a copy sent to the institution investigator. The report shall document the institution's determination whether the incarcerated individual is in substantial risk of imminent sexual abuse and the action taken. The incarcerated individual shall also be notified of the final decision within five (5) calendar days of the initial report.
 8. If it is determined the incarcerated individual is in substantial risk of imminent of abuse, the managing officer's designee shall provide a copy of the Imminent Risk of Sexual Abuse (DRC1187) to unit management for the purpose of completing a special screening in the PREA Risk Assessment System.

Attachments:

Investigator Protocol	Appendix A
Institution Sexual Abuse Coordinated Response Plan	Appendix B
Allegation of Sexual Abuse - First Responder Flow Chart	Appendix C

Referenced OCHC Protocols:

B-11 Medical Care Guidelines for Sexual Conduct or Recent Sexual Abuse

Referenced ODRC Policies:

01-COM-08	Incident Reporting and Notification
67-MNH-02	Mental Health Screening and Mental Health Classification
79-ISA-04	PREA Risk Assessment and Accommodation Strategies
310-SEC-13	Protection of a Crime Scene

Referenced Forms:

Incident Report	DRC1000
Victim Support Person Activity Report	DRC1178
PREA Involuntary Placement in RH/LPH	DRC1184
Imminent Risk of Sexual Abuse	DRC1187
Sexual Abuse First Responder Checklist	DRC5097

Related Lake Erie Correctional Institution Forms:

Inmate Allegation Status Notification	14-2E
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Appendix A Investigator Protocol

The evidence is collected in accordance with the Ohio State Highway Patrol Sexual Evidence and Collection and Analysis Protocol and the Ohio Department of Health Sexual Assault Evidence Collection Kit Protocol (revised, February 2011) and a National Protocol for Sexual Assault Medical Forensic Examinations Adult/Adolescents (Second Addition – April 2013).

Evidence integrity starts with properly collecting, preserving, and maintaining the chain of custody of evidence and is critical to its subsequent use in administrative/criminal proceedings.

1. In cases where completed sexual abuse has allegedly occurred anally or vaginally within the previous ninety-six (96) hours, the victim shall be advised by the employee receiving the report or the shift supervisor to not shower or otherwise clean themselves, change clothes, urinate, or defecate. If the assault was oral within the previous twenty-four (24) hours, the victim shall be advised to not smoke, eat, drink or brush their teeth, or otherwise take any action that could damage or destroy evidence. Arrangements shall be promptly made to have the victim examined by medical services.
2. Before transporting the incarcerated individual to the hospital's emergency room, the individual shall be instructed to remove one (1) item of clothing at a time, over two (2) paper sheets designated for this purpose, to collect any potential forensic evidence that may be on their clothes or that falls from their person. Each individual item of clothing and the paper sheet shall be placed in a separate paper bag. Any additional clothing worn during or immediately following the sexual conduct shall also be collected and an appropriate chain of evidence form attached.
3. The alleged abuser's clothing shall be removed and preserved as described above. A determination shall be made, based upon the amount of time that has passed since the alleged incident and the possibility of evidence still existing, as to whether the alleged abuser should be placed in a dry cell as defined by ODRC Policy 310-SEC-06, Dry Cell Separation, to preserve forensic evidence. If an incarcerated individual is placed in a dry cell for purposes of preserving forensic evidence, they shall be strip searched and all possessions taken from them and a paper gown issued. No incarcerated individual placed in a dry cell per this policy shall remain in such status longer than sixteen (16) hours. Additional evidence collection may occur consistent with the circumstances and the direction of OSHP.
4. The crime scene shall be secured. Access to the crime scene shall be limited to the OSHP investigator, the institution investigator, and or medical staff, as needed. A log shall be maintained of anyone entering the crime scene and at what time they entered. The area shall remain secured as a crime scene until OSHP releases it.
5. The checklist on the following page shall be completed for all allegations of attempted or completed sexual conduct.

Checklist for Attempted or Completed Recent (less than 96 hours) Sexual Abuse:

- _____ Notified appropriate supervisor and OSHP.
- _____ Victim evidence collected and placed in paper bags with appropriate chain of evidence form.
- _____ Victim medically examined at the hospital's emergency room.
- _____ Abuser's evidence collected and preserved in a dry cell and placed in paper bags with appropriate chain of evidence form.
- _____ Crime scene secured and log maintained until released by OSHP.
- _____ Abuser placed in Restrictive Housing unless the behavior requires a transfer.
- _____ Victim and alleged abuser separated.

Checklist for Attempted or Completed Not Recent (greater than 96 hours) Sexual Abuse:

- _____ Notified appropriate supervisor and OSHP.
- _____ Secured crime scene, if feasible.
- _____ Alleged abuser, if known placed in Restrictive Housing.
- _____ Victim taken to medical to conduct examination.

Signature

Date

APPENDIX B
Institution Sexual Abuse Coordinated Response Plan

INSERT LOCAL POLICY HEADER

I. Authority

This policy is issued in compliance with Ohio Revised Code 5120.38 which delegates to the managing officer the authority to manage all aspects of the institution.

II. Purpose

The purpose of this policy is to establish the facility's coordinated actions taken in response to an incident of sexual abuse among staff first responders, medical and behavioral health staff, investigators, and institutional leadership. This plan shall be used as a supplement to ODRC Policy 79-ISA-02, Prison Sexual Misconduct Reporting, Response, Investigation, and Prevention of Retaliation.

III. Applicability

This policy applies to all incarcerated individuals housed at this facility and to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction (ODRC) located at or working in this facility.

IV. Definitions

(Insert any necessary definitions used within the local policy)

V. Policy

It is the policy of the *(Insert Facility Name)* to ensure coordinated actions taken in response to an incident of sexual abuse among staff first responders, medical and behavioral health staff, investigators, and institutional leadership.

VI. Initial Response

A. First Responders

1. *This section should include language that identifies how incarcerated individuals can report abuse to any employee in writing or verbally and how staff can also report incidents that may lead to the possibility of sexual abuse*
2. *This section should reiterate that any employee that receives a verbal or written report from an incarcerated individual, an anonymous source, or a third party of sexual misconduct or retaliation shall immediately notify the shift commander*

and complete an Incident Report (DRC1000) with a copy to PREA compliance manager and investigator.

3. *This section should reiterate that the first security staff member to respond to report shall separate the alleged victim and abuser, and that the crime scene must be preserved and protected until appropriate steps taken to collect any evidence.*
4. *Instruction should be provided for first responders to use the First Responder Checklist and the First Responder Flowchart as outlined in Appendix C..*

B. Medical Responsibilities

This section should detail the specific responsibilities of your medical staff to comply with the medical responsibility section of ODRC Policy 79-ISA-02, Prison Misconduct Reporting, Response, Investigation and Prevention of Retaliation. Do not cut and paste the language from the ODRC Policy but be specific as to what steps your facility staff will take to comply. Be specific and detailed in your local policy and refer to ODRC Policy 79-ISA-02.

C. Behavioral Health Responsibilities

This section should detail the specific responsibilities of how your staff will ensure a referral to behavioral health is completed and what screenings and/or assessments will be done by the behavioral health staff. Be specific and detailed in your local policy and refer to ODRC Policy 79-ISA-02.

D. Investigators

This section should detail the specific responsibilities of the how your investigators respond to reports of sexual abuse, sexual harassment, and retaliation. It shall also specify which allegations of sexual abuse and/or sexual harassment are referred to the Ohio State Highway Patrol. Be specific and detailed in your local policy and refer to ODRC Policy 79-ISA-02 to explain the steps required to comply.

E. Institutional Leadership

This section should detail the specific responsibilities of how the institutional leadership will ensure all employees, contractors and volunteers under their supervision comply with all PREA requirements. Be specific regarding the monitoring of all sexual abuse, sexual harassment and retaliation reports and incident, first responder actions, medical and behavioral health services provided to incarcerated individuals, victim support actions, investigative actions, inmate discipline and administrative and criminal sanctions.

Appendix C

Allegation of Sexual Abuse - First Responders Flow Chart

