

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 1 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
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**§ 115.5 General definitions.**

For purposes of this policy, the term—

**Contractor** means a person who provides services on a recurring basis pursuant to a contractual agreement with Martin Hall Juvenile Detention.

**Detainee** means any person detained in a lockup, regardless of adjudication status.

**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 Martin Hall Juvenile Detention.

**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 expectation

**Inmate** means any person incarcerated or detained in a prison or jail.

**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.

**Jail** means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

**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.

**Law enforcement staff** means employees responsible for the supervision and control of detainees in lockups.

**Lockup** means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 2 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

**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.

**Prison** means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

**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 Fondling** means the touching of the private body parts of another person, including the genitalia, anus, groin, breast, inner thigh, or buttocks, for the purpose of sexual gratification

**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.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 3 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

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

**Youthful inmate** means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

**Youthful detainee** means any person under the age of 18 who is under adult court supervision and detained in a lockup.

### § 115.6 Definitions related to sexual abuse.

For purposes of this part, the term—

**Sexual abuse** includes

- (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

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

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

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

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer.

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

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 4 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

performing bodily functions.

Sexual harassment includes—

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

### **Prevention Planning**

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

- (a) Martin Hall Juvenile Detention shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining Martin Hall Juvenile Detention’s approach to preventing, detecting, and responding to such conduct.
- (b) CCCS Inc. shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.
  - (1) CCCS Inc. PREA coordinator is the Director of Community Correctional Programs
- (c) Martin Hall Juvenile Detention shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.
  - (1) The PREA Compliance Manager is responsible for oversight of all Prison Rape Elimination Act (PREA)-related activities. The PREA Compliance Manager will coordinate procedures to identify, monitor, and track sexual statistics in conjunction with the Program Administrator. The PREA Compliance Manager ensures Martin Hall is in compliance with the Prison Rape Elimination Act of 2003.
    - i. The Martin Hall Juvenile Detention PREA Compliance Manager is the Registered Nurse

#### **§ 115.313 Supervision and monitoring.**

- (a) Martin Hall Juvenile Detention shall ensure that the facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, Martin Hall Juvenile Detention shall take into consideration:
  - (1) Generally accepted juvenile detention and correctional/secure residential practices;
  - (2) Any judicial findings of inadequacy;
  - (3) Any findings of inadequacy from Federal investigative agencies;
  - (4) Any findings of inadequacy from internal or external oversight bodies;
  - (5) All components of the facility’s physical plant (including “blind spots” or areas where staff or residents may be isolated);
  - (6) The composition of the resident population
  - (7) The number and placement of supervisory staff;
  - (8) Institution programs occurring on a particular shift;
  - (9) Any applicable State or local laws, regulations, or standards;
  - (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
  - (11) Any other relevant factors.
- (b) Martin Hall Juvenile Detention shall comply with the staffing plan except during limited and discrete exigent

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 5 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

circumstances, and shall fully document deviations from the plan during such circumstances.

- (c) Martin Hall Juvenile Detention shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios.
- (d) Whenever necessary, but no less frequently than once each year, Martin Hall Juvenile Detention PREA Compliance Manager, in consultation with the Program Administrator, shall assess, determine, and document whether adjustments are needed to:
  - (1) The staffing plan established pursuant to paragraph (a) of this section;
  - (2) Prevailing staffing patterns;
  - (3) The facility's deployment of video monitoring systems and other monitoring technologies; and
  - (4) The resources the facility has available to commit to ensure adherence to the staffing plan.
- (e) Martin Hall Juvenile Detention shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Martin Hall Juvenile Detention will have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

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

- (a) Martin Hall Juvenile Detention shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- (b) Martin Hall Juvenile Detention shall not conduct cross-gender pat-down searches except in exigent circumstances.
- (c) Martin Hall Juvenile Detention shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.
- (d) Martin Hall Juvenile Detention shall implement policies and standard operating procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit.
- (e) Martin Hall Juvenile Detention shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- (f) Martin Hall Juvenile Detention shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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

- (a) Martin Hall Juvenile Detention shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the Martin Hall Juvenile Detention efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially,

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 6 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

both receptively and expressively, using any necessary specialized vocabulary. In addition, Martin Hall Juvenile Detention shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

- (b) Martin Hall Juvenile Detention shall take reasonable steps to ensure meaningful access to all aspects of Martin Hall Juvenile Detention’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- (1) Residents with low English proficiency may be provided interpretation by a staff member at Martin Hall or through the Court of the resident’s County. If the Court is unable to provide interpretation services, staff will contact the Martin Hall Juvenile Detention Administrator. The Administrator will make arrangements for interpretation service through Language Line Solutions (1-800-752-6096. www.LanguageLine.com) to assist staff. Designated staff will communicate the information verbally and in writing, in a manner that is clearly understood by residents. Information provided will include, but is not limited to:
- i. Presentation of this policy/procedure;
  - ii. CCCS, Inc. Martin Hall Juvenile Detention zero tolerance stance;
  - iii. Self-protection methods;
  - iv. Prevention and intervention;
  - v. Treatment and counseling;
  - vi. Reporting incidents;
  - vii. Protection against retaliation;
  - viii. Consequences of false allegations;
- (c) Martin Hall Juvenile Detention shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under § 115.364, or the investigation of the resident’s allegations.

**§ 115.317 Hiring and promotion decisions.**

- (a) Martin Hall Juvenile Detention shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, who—
- (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
  - (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.
- (b) Martin Hall Juvenile Detention shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.
- (c) Before hiring new employees who may have contact with residents, Martin Hall Juvenile Detention shall:
- (1) Perform a criminal background records check;
  - (2) Consult any child abuse registry maintained by the State or locality in which the employee would work; and
  - (3) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 7 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

pending investigation of an allegation of sexual abuse.

- (d) Martin Hall Juvenile Detention shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with residents.
- (e) Martin Hall Juvenile Detention shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.
- (f) Martin Hall Juvenile Detention shall also ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self- evaluations conducted as part of reviews of current employees. Martin Hall Juvenile Detention shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.
- (g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
- (h) Unless prohibited by law, Martin Hall Juvenile Detention shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

**§ 115.318 Upgrades to facilities and technologies.**

- (a) In planning any substantial expansion or modification of existing facilities, Martin Hall Juvenile Detention shall consider the effect of the design, acquisition, expansion, or modification upon Martin Hall Juvenile Detention’s ability to protect residents from sexual abuse.
- (b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, Martin Hall Juvenile Detention shall consider how such technology may enhance Martin Hall Juvenile Detention’s ability to protect residents from sexual abuse.

**Responsive Planning**

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

- (a) The Spokane County Sheriff’s Department will be responsible for investigating all allegations of criminal sexual abuse in normal circumstances. The Spokane County Sheriff’s Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.
- (b) Martin Hall Juvenile Detention shall offer all residents who experience sexual abuse access to forensic medical examinations at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners.
- (c) Martin Hall Juvenile Detention 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, Martin Hall Juvenile Detention shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member.
- (d) As requested by the victim, the victim advocate, qualified Martin Hall Juvenile Detention 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.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 8 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised: 4/11/16</b> <b>Approved: 7/20/11</b> <b>Effective: 4/11/16</b>		

- (e) To the extent Martin Hall Juvenile Detention itself is not responsible for investigating allegations of sexual abuse, Martin Hall Juvenile Detention shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.
- (1) The Chief Juvenile Corrections Officer will coordinate administrative and criminal investigations of alleged incidents of sexual misconduct in cooperation with the PREA Compliance Manager and local law enforcement as needed.
- (f) The requirements of paragraphs (a) through (f) of this section shall also apply to:
- (1) Any State entity outside of Martin Hall Juvenile Detention that is responsible for investigating allegations of sexual abuse in juvenile facilities; and
  - (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in juvenile facilities.
- (g) For the purposes of this standard, a qualified Martin Hall Juvenile Detention 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.

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

- (a) Martin Hall Juvenile Detention shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
- (1) The Chief Juvenile Corrections Officer will coordinate administrative and criminal investigations of alleged incidents of sexual misconduct in cooperation with the PREA Compliance Manager and local law enforcement as needed.
- (b) Martin Hall Juvenile Detention shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. Martin Hall Juvenile Detention shall publish such policy on its website or, if it does not have one, make the policy available through other means. Martin Hall Juvenile Detention shall document all such referrals.
- (c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both Martin Hall Juvenile Detention and the investigating entity.
- (d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations.
- (e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in juvenile facilities shall have in place a policy governing the conduct of such investigations.

**Training and Education**

**§ 115.331 Employee training.**

- (a) Martin Hall Juvenile Detention shall train all employees who may have contact with residents on:
- (1) Its zero-tolerance policy for sexual abuse and sexual harassment;
  - (2) How to fulfill their responsibilities under Martin Hall Juvenile Detention sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
  - (3) Residents' right to be free from sexual abuse and sexual harassment;
  - (4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
  - (5) The dynamics of sexual abuse and sexual harassment in juvenile facilities;



<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 9 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

- (6) The common reactions of juvenile victims of sexual abuse and sexual harassment;
  - (7) How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents;
  - (8) How to avoid inappropriate relationships with residents;
  - (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
  - (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
  - (11) Relevant laws regarding the applicable age of consent.
- (b) Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities and to the gender of the residents at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.
  - (c) Martin Hall Juvenile Detention shall provide each employee with refresher training every year to ensure that all employees know Martin Hall Juvenile Detention's current sexual abuse and sexual harassment policies and standard operating procedures.
  - (d) Martin Hall Juvenile Detention shall document, through employee signature or electronic verification that employees understand the training they have received.

**§ 115.332 Volunteer and contractor training.**

- (a) Martin Hall Juvenile Detention shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under Martin Hall Juvenile Detention's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.
- (b) The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of Martin Hall Juvenile Detention's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
- (c) Martin Hall Juvenile Detention shall maintain documentation confirming that volunteers and contractors understand the training they have received.

**§ 115.333 Resident education.**

- (a) During the intake process, residents shall receive information explaining, in an age appropriate fashion, Martin Hall Juvenile Detention's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
  - (1) Staff will document verification of offender orientation and education on PREA by completing the Resident PREA Acknowledgement Form. Staff will maintain the original signed acknowledgement form in the offender's main file.
- (b) Within 10 days of intake, Martin Hall Juvenile Detention shall provide comprehensive age-appropriate education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.
- (c) Martin Hall Juvenile Detention shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.
  - (1) Residents with low English proficiency may be provided interpretation by a staff member at Martin Hall or through the Court of the resident's County. If the Court is unable to provide interpretation

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 10 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

services, staff will contact the Martin Hall Juvenile Detention Administrator. The Administrator will make arrangements for interpretation service through Language Line Solutions (1-800-752-6096. www.LanguageLine.com) to assist staff. Designated staff will communicate the information verbally and in writing, in a manner that is clearly understood by residents. Information provided will include, but is not limited to:

- i. Presentation of this policy/procedure;
- ii. CCCS, Inc. Martin Hall Juvenile Detention zero tolerance stance;
- iii. Self-protection methods;
- iv. Prevention and intervention;
- v. Treatment and counseling;
- vi. Reporting incidents;
- vii. Protection against retaliation;
- viii. Consequences of false allegations;

- (d) Martin Hall Juvenile Detention shall maintain documentation of resident participation in these education sessions.
- (e) In addition to providing such education, Martin Hall Juvenile Detention shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

**§ 115.334 Specialized training: Investigations.**

- (a) In addition to the general training provided to all employees pursuant to § 115.331, Martin Hall Juvenile Detention shall ensure that, to the extent Martin Hall Juvenile Detention itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.
- (b) Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
- (c) Martin Hall Juvenile Detention shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.
- (d) Any State entity or Department of Justice component that investigates sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations.

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

- (a) Martin Hall Juvenile Detention shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:
  - (1) How to detect and assess signs of sexual abuse and sexual harassment;
  - (2) How to preserve physical evidence of sexual abuse;
  - (3) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
  - (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
- (b) If medical staff employed by Martin Hall Juvenile Detention conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.
- (c) Martin Hall Juvenile Detention shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from Martin Hall Juvenile Detention or elsewhere.
- (d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.331 or for contractors and volunteers under § 115.332, depending upon the practitioner's status at Martin Hall

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 11 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

Juvenile Detention.

### Screening for Risk of Sexual Victimization and Abusiveness

#### § 115.341 Obtaining information from residents.

- (a) Within 72 hours of the resident's arrival at the facility and periodically throughout a resident's confinement, Martin Hall Juvenile Detention shall obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident.
- (b) Such assessments shall be conducted using an objective screening instrument.
- (c) At a minimum, Martin Hall Juvenile Detention shall attempt to ascertain information about:
  - (1) Prior sexual victimization or abusiveness;
  - (2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
  - (3) Current charges and offense history;
  - (4) Age;
  - (5) Level of emotional and cognitive development;
  - (6) Physical size and stature;
  - (7) Mental illness or mental disabilities;
  - (8) Intellectual or developmental disabilities;
  - (9) Physical disabilities;
  - (10) The resident's own perception of vulnerability; and
  - (11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.
- (d) This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files.
- (e) Martin Hall Juvenile Detention shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.
- (f) All staff and residents will be alert to signs of potential situations in which sexual abuse/misconduct might occur. Signs may include, but aren't limited to: Staff and resident undue familiarity, preferential treatment, material and/or financial rewards, and favors.
- (g) Martin Hall staff will identify, assess, and manage residents with special needs, including those who are potentially vulnerable and potentially dangerous, to provide safe housing, adequate protection, and programmatic resources to meet their needs. Staff will inquire whether residents have been victims of, or perpetrators of, sexual abuse to establish a safe housing environment for all residents. .
- (h) Victims or perpetrators of sexual abuse are referred to medical within 14 days of intake screening without financial costs to victim. Ongoing treatment is provided if deemed necessary by health care providers.

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

- (a) Martin Hall Juvenile Detention shall use all information obtained pursuant to § 115.341 and subsequently to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.
- (b) Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 12 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

During any period of isolation, agencies shall not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents shall also have access to other programs and work opportunities to the extent possible.

- (c) Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.
- (d) In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, Martin Hall Juvenile Detention shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.
- (e) Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident.
- (f) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
- (g) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- (h) If a resident is isolated pursuant to paragraph (b) of this section, the facility shall clearly document:
  - (1) The basis for the facility's concern for the resident's safety; and
  - (2) The reason why no alternative means of separation can be arranged.
- (i) Every 30 days, the facility shall afford each resident described in paragraph (h) of this section a review to determine whether there is a continuing need for separation from the general population.

## Reporting

### § 115.351 Resident reporting.

- (a) Regardless of its source, Martin Hall staff and volunteers who receive information concerning resident on resident sexual misconduct or who observe an incident of resident on resident sexual misconduct, or have reasonable cause to suspect a resident is a victim of sexual misconduct, must immediately report the information or incident directly to their immediate supervisor. The supervisor will notify the CJCO and the PREA Compliance Manager, complete an Incident Report and forward it to the Program Administrator.
- (b) Regardless of its source, Martin Hall staff and volunteers who receive information concerning sexual misconduct, or who observe an incident of staff on offender sexual misconduct, or have reasonable cause to suspect an offender is a victim of sexual misconduct, must immediately report the information or incident directly to their supervisor. The supervisor will notify the CJCO and PREA Compliance Manager, who in conjunction with the Program Administrator will initiate an appropriate plan of action.
- (c) In addition to the above reporting requirements, Martin Hall staff, contract employees and volunteers who know or have reasonable cause to suspect that a resident has been abused or neglected, must immediately report the matter to their supervisor, or designee, who will subsequently report to the appropriate authorities.
- (d) Any Martin Hall staff, contract employee, or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete, or untruthful information with the intent to alter a report, may face disciplinary action, up to and including termination of employment
- (e) Residents can report any instances of sexual abuse through the following modes:
  - (1) Fill out a formal grievance form.
  - (2) Verbally tell a staff member;
  - (3) Utilize a Blue Resident Phone and call 509-624-7273. This phone call will connect the resident with a crisis intervention specialist.
  - (4) Marin Hall does not have a time limit on when a resident can submit a grievance regarding sexual

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 13 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised: 4/11/16</b> <b>Approved: 7/20/11</b> <b>Effective: 4/11/16</b>		

misconduct.

- (5) Third party reports can be filed with Martin Hall staff on behalf of the resident using one of the above listed modes.
  - (6) If Martin Hall Juvenile Detention staff are informed of alleged sexual abuse at another confinement facility, the Program Administrator will notify the head of the facility where the alleged abuse occurred and shall also notify the appropriate investigative agency.
- (a) Martin Hall Juvenile Detention shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.
    - (1) Residents may utilize the formal grievance procedure to report sexual misconduct in accordance with facility procedures. Staff will process such grievances, both formal and verbal, as a high priority and will immediately inform a supervisor, the Chief Juvenile Corrections Officer (CJCO), the PREA Compliance Manager or the Program Administrator.
  - (b) Martin Hall Juvenile Detention shall also provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of Martin Hall Juvenile Detention and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request. Residents detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security.
    - (1) Residents may report abuse or harassment to a private entity or office that is not part of CCCS, Inc. or Martin Hall Juvenile Detention. Specifically residents who are victims of or have knowledge of, sexual misconduct may contact Lutheran Community Services at 210 W. Sprague Ave. • Spokane, WA 99201 or (509) 624-7273.
  - (c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.
    - (1) Residents are not required to file written reports; however, Martin Hall Juvenile Detention staff members who receive verbal reports from residents are required to report the information immediately to a supervisor and document the information via a memorandum.
  - (d) Martin Hall Juvenile Detention shall provide residents with access to tools necessary to make a written report.
  - (e) Martin Hall Juvenile Detention shall provide a method for staff to privately report sexual abuse and sexual harassment of residents. To privately report sexual abuse and sexual harassment Martin Hall Staff may contact:
    - (1) Lutheran Community Services at 210 W. Sprague Ave. • Spokane, WA 99201 or (509) 624-7273
    - (2) Colleen O’Leary – CCCS Inc. Director of Human Resources (406) 496-1180 or coleary@cccscorp.com
    - (3) Steve McCarthur – CCCS Inc. PREA Coordinator (406) 782-0417 or smcarthur@cccscorp.com
  - (f) Substantiated deliberately malicious or false reports by residents or other parties will result in disciplinary action or criminal charges.

**§ 115.352 Exhaustion of administrative remedies.**

- (a) Martin Hall Juvenile Detention shall have administrative procedures to address resident grievances regarding sexual abuse.
  - (1) Martin Hall Juvenile Detention shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.
  - (2) Martin Hall Juvenile Detention may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 14 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

- (3) Martin Hall Juvenile Detention shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
- (4) Nothing in this section shall restrict Martin Hall Juvenile Detention's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.
- (b) Martin Hall Juvenile Detention shall ensure that—
- (1) A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and
  - (2) Such grievance is not referred to a staff member who is the subject of the complaint.
- (c) Martin Hall Juvenile Detention shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.
- (1) Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal.
  - (2) Martin Hall Juvenile Detention 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. Martin Hall Juvenile Detention shall notify the resident in writing of any such extension and provide a date by which a decision will be made.
  - (3) 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.
- (d) 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.
- (1) 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.
  - (2) If the resident declines to have the request processed on his or her behalf, Martin Hall Juvenile Detention shall document the resident's decision.
  - (3) 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.
- (e) Martin Hall Juvenile Detention shall establish standard operating procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.
- (1) After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, Martin Hall Juvenile Detention 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 Martin Hall Juvenile Detention's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
- (f) Martin Hall Juvenile Detention may discipline a resident for filing a grievance related to alleged sexual abuse only where Martin Hall Juvenile Detention demonstrates that the resident filed the grievance in bad faith.

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

- (a) The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers,

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 15 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	<b>4/11/16</b>	
	<b>Approved:</b>	<b>7/20/11</b>	
	<b>Effective:</b>	<b>4/11/16</b>	

including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.

- (b) The facility shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- (c) Martin Hall Juvenile Detention 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. Martin Hall Juvenile Detention shall maintain copies of agreements or documentation showing attempts to enter into such agreements.
- (d) The facility shall also provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.

**§ 115.354 Third-party reporting.**

Martin Hall Juvenile Detention 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.

**Official Response Following a Resident Report**

- (a) If the alleged sexual misconduct is reported within 72 hours of the incident, with the alleged victim’s permission, Martin Hall staff will immediately transport the victim to a community medical facility equipped to evaluate and treat sexual assault/rape victims.
- (b) If the alleged sexual misconduct is reported more than 72 hours after the incident, with the victim’s permission, law enforcement may request that facility and program staff transport the victim to a community medical facility for evidence collection.
- (c) If the alleged victim refuses medical attention following a sexual abuse incident or allegation, staff will document refusal.
- (d) Detention officers will follow appropriate security procedures, which include:
  - (1) Providing mental health and medical assistance for the alleged victim as soon as possible;
  - (2) Separating the alleged victim from the alleged perpetrator;
  - (3) Taking reasonable measures to identify, isolate, and separate witnesses;
  - (4) Securing the incident scene so items cannot be removed or introduced;
  - (5) If necessary, segregated housing can be used to protect the alleged victim only when it is a last resort when less restrictive measures are inadequate to keep them safe.
  - (6) Allowing only assigned investigators to assess the scene
- (e) A written report will contain descriptions of evidence and testimonial of all criminal and administrative investigations. There reports must be kept for a minimum of five years. Investigations shall not be terminated if the resident is released before the case is closed.

**§ 115.361 Staff and agency reporting duties.**

- (a) Martin Hall Juvenile Detention shall require all staff to report immediately and according to Martin Hall Juvenile Detention policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of Martin Hall Juvenile Detention; retaliation

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 16 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

- (1) All Martin Hall staff who witness or have knowledge of alleged sexual misconduct must submit a memorandum before the end of their shift. This includes staff that secured the incident scene, transported residents, or talked to possible witnesses.
- (b) Martin Hall Juvenile Detention shall also require all staff to comply with any applicable mandatory child abuse reporting laws.
- (c) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in policy, to make treatment, investigation, and other security and management decisions.
- (d) Medical and mental health practitioners shall be required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section, as well as to the designated State or local services agency where required by mandatory reporting laws.
  - (1) Such practitioners shall be required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.
- (e) Upon receiving any allegation of sexual abuse, the Martin Hall Juvenile Detention Administrator or his designee shall promptly report the allegation to the appropriate agency office and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
  - (1) If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.
  - (2) If a juvenile court retains jurisdiction over the alleged victim, Martin Hall Juvenile Detention Administrator or his designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.
- (f) The facility shall report all allegations of sexual abuse and sexual harassment, including third- party and anonymous reports, to the facility's designated investigators.
- (g) Shift supervisors will refer incidents of sexual misconduct reported more than 72 hours after the incident to the Martin Hall Juvenile Detention Nurse who will:
  - (1) Complete a patient history and conduct an examination to document the extent of physical injury to determine whether referral to another medical facility is indicated;
  - (2) Offer to all alleged victims, as appropriate, prophylactic treatment and follow up care for sexually transmitted or other communicable diseases (e.g. HIV, hepatitis B);
  - (3) Arrange an evaluation by a qualified professional for crisis intervention counseling; and

**§ 115.362 Agency protection duties.**

When Martin Hall Juvenile Detention learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.

Martin Hall Staff who receives an initial report of sexual misconduct are required to promptly intervene on the alleged victim's behalf to ensure the victim receives prompt medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense. Alleged victims of sexual misconduct must have an assessment for potential risk of suicide.

**§ 115.363 Reporting to other confinement facilities.**



<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 17 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

- (a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Martin Hall Juvenile Detention Administrator or his designee that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency.
- (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (c) Martin Hall Juvenile Detention shall document that it has provided such notification.
- (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

**§ 115.364 Staff first responder duties.**

- (a) Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report shall be required to:
  - (1) Separate the alleged victim and abuser;
  - (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
  - (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  - (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- (b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

**§ 115.365 Coordinated response.**

Martin Hall Juvenile Detention shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

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

- (a) Neither Martin Hall Juvenile Detention nor any other governmental entity responsible for collective bargaining on Martin Hall Juvenile Detention’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits Martin Hall Juvenile Detention’s ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
- (b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:
  - (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.372 and 115.376; or
  - (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member’s personnel file following a determination that the allegation of sexual abuse is not substantiated.

**§ 115.367 Agency protection against retaliation.**

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 18 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

The PREA Compliance Manager and Chief Juvenile Corrections Officer will take appropriate measures to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff.

- (a) Martin Hall Juvenile Detention PREA Compliance Manager and Chief Juvenile Corrections Officer shall establish a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.
- (b) Martin Hall Juvenile Detention PREA Compliance Manager and Chief Juvenile Corrections Officer shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- (c) For at least 90 days following a report of sexual abuse, Martin Hall Juvenile Detention PREA Compliance Manager and Chief Juvenile Corrections Officer shall monitor the conduct or treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items Martin Hall Juvenile Detention should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. Martin Hall Juvenile Detention shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.
- (d) In the case of residents, such monitoring shall also include periodic status checks.
- (e) If any other individual who cooperates with an investigation expresses a fear of retaliation, Martin Hall Juvenile Detention PREA Compliance Manager and Chief Juvenile Corrections Officer shall take appropriate measures to protect that individual against retaliation.
- (f) Martin Hall Juvenile Detention's obligation to monitor shall terminate if Martin Hall Juvenile Detention determines that the allegation is unfounded.

**§ 115.368 Post-allegation protective custody.**

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

**Investigations**

**§ 115.371 Criminal and administrative agency investigations.**

- (a) When Martin Hall Juvenile Detention conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
- (b) Where sexual abuse is alleged, Martin Hall Juvenile Detention shall use the Spokane County Sheriff's Department for investigations.
- (c) The Spokane County Sheriff's Department shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- (d) Martin Hall Juvenile Detention shall not terminate an administrative investigation solely because the source of the allegation recants the allegation.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 19 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

- (e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. Martin Hall Juvenile Detention shall not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the administrative investigation of such an allegation.
- (f) Administrative investigations:
  - (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
  - (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- (g) 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.
- (h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
- (i) Martin Hall Juvenile Detention shall retain all written reports referenced in paragraphs (g) and (h) of this section for as long as the alleged abuser is incarcerated or employed by Martin Hall Juvenile Detention, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.
- (j) 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.
- (k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
- (l) 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.

**§ 115.372 Evidentiary standard for administrative investigations.**

Martin Hall Juvenile Detention shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**§ 115.373 Reporting to residents.**

- (a) Following an investigation into a resident's allegation of sexual abuse suffered in the facility, the Martin Hall Juvenile Detention Program Administrator shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- (b) If Martin Hall Juvenile Detention did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.
- (c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the Martin Hall Juvenile Detention Program Administrator shall subsequently inform the resident (unless Martin Hall Juvenile Detention has determined that the allegation is unfounded) whenever:
  - (1) The staff member is no longer posted within the resident's unit;
  - (2) The staff member is no longer employed at the facility;
  - (3) Martin Hall Juvenile Detention learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - (4) Martin Hall Juvenile Detention learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- (d) Following a resident's allegation that he or she has been sexually abused by another resident, Martin Hall Juvenile Detention Program Administrator shall subsequently inform the alleged victim whenever:
  - (1) Martin Hall Juvenile Detention learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - (2) Martin Hall Juvenile Detention learns that the alleged abuser has been convicted on a charge related

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 20 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

to sexual abuse within the facility.

- (e) All such notifications or attempted notifications shall be documented.
- (f) An agency's obligation to report under this standard shall terminate if the resident is released from Martin Hall Juvenile Detention's custody.

## **Discipline**

### **§ 115.376 Disciplinary sanctions for staff.**

- (a) Staff shall be subject to disciplinary sanctions up to and including termination for violating Martin Hall Juvenile Detention's sexual abuse or sexual harassment policies.
- (b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
- (c) Disciplinary sanctions for violations of facility policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- (d) All terminations for violations of Martin Hall Juvenile Detention's sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

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

- (a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- (b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of Martin Hall Juvenile Detention's sexual abuse or sexual harassment policies by a contractor or volunteer.

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

- (a) A resident may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
- (b) Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. In the event a disciplinary sanction results in the isolation of a resident, Martin Hall Juvenile Detention shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.
- (c) The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
- (d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending resident participation in such interventions. Martin Hall Juvenile Detention 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.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 21 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

- (e) Martin Hall Juvenile Detention may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
- (f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- (g) Martin Hall Juvenile Detention prohibits all sexual activity between residents and may discipline residents for such activity. Martin Hall Juvenile Detention may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

### **Medical and Mental Care**

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

- (a) If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
- (b) If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
- (c) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
- (d) Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

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

- (a) Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
- (b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to § 115.362 and shall immediately notify the appropriate medical and mental health practitioners.
- (c) Resident victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
- (d) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

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

- (a) Martin Hall Juvenile Detention shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any juvenile facility.
- (b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 22 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

their release from custody.

- (c) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- (d) Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
- (e) If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy- related medical services.
- (f) Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
- (g) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- (h) The facility shall attempt to conduct a mental health evaluation of all known resident-on- resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.
- (i) Psychological trauma may occur to individuals other than the alleged victim of sexual misconduct. Case Management staff must be available to support and assist those in need
- (j) The Program Administrator will provide available services to residents who allege that they are victims of sexual misconduct and will ensure that residents who allege that they are victims have access to the following services:
  - (1) Medical examination, documentation, and treatment of injuries, including testing for HIV and other sexually transmitted diseases;
  - (2) Mental health crisis intervention and treatment; and
  - (3) Reasonable measures taken to protect and prevent future assaults such as classification procedures to identify predator and vulnerable residents and separation needs.

## **Data Collection and Review**

### **§ 115.386 Sexual abuse incident reviews.**

- (a) Martin Hall Juvenile Detention shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
- (b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.
- (c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
- (d) The review team shall:
  - (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - (4) Assess the adequacy of staffing levels in that area during different shifts;
  - (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  - (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the Martin Hall Juvenile Detention Administrator and PREA compliance manager.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 23 of 24
<b>Chapter</b> ADMINISTRATION	<b>Related Standards</b>		
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)	<b>Revised:</b>	4/11/16	
	<b>Approved:</b>	7/20/11	
	<b>Effective:</b>	4/11/16	

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

**§ 115.387 Data collection.**

The PREA Compliance Manager will ensure records including incident and investigative reports, offender information, case disposition, medical and counseling findings, and recommendations for post-release treatment and/or counseling are maintained in the appropriate files. The PREA Compliance Manager will report to CCCS, Inc. as required. Appropriate data as required will be forwarded to CCCS, Inc. for reporting to federal authorities. Data will be maintained for at least ten years after the date of initial collection

- (a) Martin Hall Juvenile Detention shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
- (b) Martin Hall Juvenile Detention shall aggregate the incident-based sexual abuse data at least annually.
- (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
- (d) Martin Hall Juvenile Detention shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
- (e) Upon request, Martin Hall Juvenile Detention shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

**§ 115.388 Data review for corrective action.**

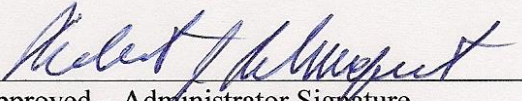
- (a) Martin Hall Juvenile Detention shall review data collected and aggregated pursuant to § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  - (1) Identifying problem areas;
  - (2) Taking corrective action on an ongoing basis; and
  - (3) Preparing an annual report of its findings and corrective actions for Martin Hall Juvenile Detention.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of Martin Hall Juvenile Detention's progress in addressing sexual abuse.
- (c) Martin Hall Juvenile Detention's report shall be approved by Martin Hall Juvenile Detention's Administrator and made readily available to the public through its website or, if it does not have one, through other means.
- (d) Martin Hall Juvenile Detention may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

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

- (a) Martin Hall Juvenile Detention shall ensure that data collected pursuant to § 115.387 are securely retained.
- (b) Martin Hall Juvenile Detention shall make all aggregated sexual abuse data readily available to the public at least annually through its website or, if it does not have one, through other means.
- (c) Before making aggregated sexual abuse data publicly available, Martin Hall Juvenile Detention shall remove all personal identifiers.
- (d) Martin Hall Juvenile Detention shall maintain sexual abuse data collected pursuant to § 115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

<b>COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC. MARTIN HALL JUVENILE FACILITY</b>		<b>Policy Number</b> 2.4	<b>Pages</b> 24 of 24
<b>Chapter</b> ADMINISTRATION		<b>Related Standards</b>	
<b>Subject</b> PRISON RAPE ELIMINATION ACT (PREA)		<b>Revised:</b> 4/11/16	<b>Approved:</b> 7/20/11
		<b>Effective:</b> 4/11/16	

Reviewed Dates	Reviewed Initials	Revised Date	Revised Initials	Approved Date	Approved Initials
				7/20/11	RJP
1/17/12	RJP	1/17/12	RJP	1/17/12	RJP
1/23/13	RJP	1/15/14	RJP	1/15/14	RJP
1/15/14	RJP	-	RJP	-	RJP
1/29/15	RJP	-	RJP	-	RJP
1/29/16	RJP	1/29/16	RJP	1/29/16	RJP
4/11/16	RJP	4/11/16	RJP	4/11/16	RJP

  
 Approved – Administrator Signature