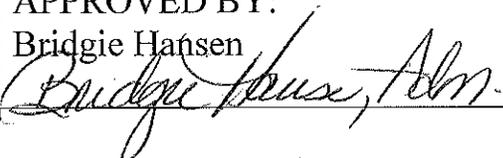
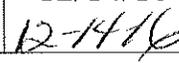


 GRAND FORKS CO. JUVENILE DETENTION CENTER	POLICY NUMBER P.R.E.A.	PAGES: 1 - 58
	REF: See PREA standards 115.311 to 115.501	
POLICY TITLE: Prison Rape Elimination Act Standards	SUBJECT: PREA Juvenile Rights	
APPROVED BY: Bridgie Hansen 	EFFECTIVE DATE: 05/24/16	REVISED DATE: 12/14/16 

- I. **AUTHORITY:** Authority for this policy with procedures is found in chapters 54-23.3 and 12-47 of the North Dakota Century Code and part 115 of title 28 of the code of federal regulations.
- II. **APPLICABILITY:** All employees, volunteers, contractors, and detainees of the Grand Forks County Juvenile Detention Center.
- III. **DEFINITIONS:** [115.311 (a)-3]
 - A. **Abuse:** The improper use or treatment of a detainee that directly or indirectly affects the detainee negatively; any intentional act that causes physical, mental or emotional injury to a detainee.
 - B. **Back of the hand technique:** This technique uses the back of the hand, with the thumb tucked to the index finger to pat search the breast, buttocks and groin.
 - C. **Behavioral health staff:** An employee of Grand Forks County

Juvenile Detention who by education and experience is qualified to provide counseling interventions designed to facilitate individual achievement of human development goals and mediate mental, emotional, or behavioral disorders and associated distresses which interfere with behavioral health and development.

- D. **Contractor:** A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
- E. **GFCJDC:** Grand Forks County Juvenile Detention Center.
- F. **GFCSO:** Grand Forks County Sheriff's Office
- G. **Deoxyribonucleic acid or D.N.A.:** A nucleic acid that contains the genetic instructions used in the development and functioning of all known living organisms.
- H. **Exigent circumstances:** Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the facility.
- I. **Gender non-conforming:** A person whose appearance or manner does not conform to traditional societal expectations.
- J. **Detainee/Resident:** A person housed at the GFCJDC.
- K. **Intersex:** a person who's 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.
- L. **Medical Practitioner:** Any person practicing medicine to include physicians, nurse practitioners and physician's assistants.
- M. **Mental health practitioner:** A mental health professional that, 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. The practitioner must hold a license in North Dakota to practice mental health treatment; including substance use disorders.
- N. **Prison Rape Elimination Act of 2003:** Federal law that prohibits and seeks to eliminate sexual assaults, sexual harassment and sexual misconduct in correctional institutions and community corrections settings.
- O. **Prison Rape Elimination Act Coordinator:** A senior level position that reports directly to the agency head. The coordinator responsibilities include developing, implementing and overseeing the agency's plan to comply with PREA standards. He or she is also responsible for ensuring the completion of the assessment checklist in compliance with PREA standards.

- P. **PREA Orientation Facilitator:** A GFCJDC staff member who reviews all the PREA intake and initial assessments, makes initial referrals to the PREA Coordinator for re-assessments and provides resident's comprehensive PREA education within 30 days to detainees either in group or individual formats.
- Q. **PREA Investigator:** Will serve as a lead investigator for GFCJDC sexual assaults (24/7) to answer central booking questions and PREA compliance. Responsible for detailed reporting documents of various situations/incidents.. Responsible for maintaining all records pertaining to staff/employee/juvenile investigations and PREA related matters, and they will provide factual evidence for the prosecution of those suspected of criminal acts.
- R. **Qualified agency staff member:** A staff member trained in victim centered response protocol who may act as a resident advocate in an incident of institutional abuse.
- S. **Sexual abuse of a resident by another resident:** Includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse which may include: persuasion, inducement, enticement or forcible compulsion, subjecting to sexual contact another person who is incapable of giving consent by reason of custodial status; subjecting another person to sexual contact who is incapable of consenting by reason of being physically helpless, physically restrained or mentally incapacitated; prostituting or otherwise sexually exploiting another person.
1. Contact between the penis and vulva or the penis and anus, including penetration, however slight;
 2. Contact between mouth and 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;
 4. Any other intentional touching, either directly or through clothing of the genitalia, anus, groin, breast, inner thigh or buttocks of another person, excluding contact incidental to a physical altercation.
- T. **Sexual Abuse of a resident by a staff member, contractor or volunteer:** Includes any of the following acts, with or without the consent of the resident:
1. Contact between the penis and vulva or the penis and 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 of another person, 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 intention touching, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or buttocks, that is unrelated to official duties or where the staff, contractor or volunteer has the intent to abuse, arouse, or gratify a 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 a resident;
8. Voyeurism by a staff member, contractor or volunteer.

U. Sexual Harassment includes:

1. Repeated and unwanted sexual advances, request for sexual favors or verbal comments, gestures or actions of a derogatory or offensive sexual nature by a resident directed towards another; and
2. Verbal comments or gestures of a sexual nature to a resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing. Obscene language or gestures.

V. Sexually transmitted diseases: Any of various diseases, including chancroid, Chlamydia, gonorrhea and syphilis that are usually contracted through sexual intercourse or other intimate sexual contact.

W. Substantiated allegation: allegation that was investigated and determined to have occurred.

X. Transgender: A person whose gender identity (internal sense of

being male or female) is different from the persons assigned sex at birth.

- Y. **Unfounded allegation:** Allegation that was investigated and determined not to have occurred.
- Z. **Unsubstantiated allegation:** Allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

AA. Volunteer: An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

BB. Volunteer and contractor resident contact: Any contact with residents that occurs while the volunteer or contractor is not escorted or observed by staff. These persons will receive prison rape elimination act training prior to entering GFCJDC unescorted or unsupervised. Volunteer and contractor training acknowledgement forms shall be retained in the volunteer/contractor's file by designated staff.

CC. Voyeurism by a staff member, contractor or volunteer: An invasion of privacy of a resident by a staff for reasons unrelated to official duties, such as peering at a resident who is using the toilet, in his or her unit to perform bodily functions; requiring a resident to expose their buttocks, genitals, breasts or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

IV. **ACRONYMS; [115.311 (a)-3]**

- a. ND-DOCR: North Dakota Department of Corrections and Rehabilitation
- b. DOJ: Department of Justice
- c. HIV: Human Immune Deficiency Virus
- d. PREA: Prison Rape elimination Act of 2003
- e. SAFE: Sexual Assault Forensics Examiner
- f. SANE: Sexual Assault Nurse Examiner
- g. STD: Sexually Transmitted Disease

- V. **POLICY:** Grand Forks County Juvenile Detention Center known hereafter as GFCJDC will have written policy and procedures mandating zero tolerance towards all forms of sexual abuse and sexual harassment and outlining GFCJDC's approach to prevention,

detection and response to such conduct. Policy and procedure will be in accordance with the DOJ Title 28 code of Federal Regulations, part 115, National Standards to prevent, detect and respond to prison rape.

1. PROCEDURES:

A. Prevention Planning

1. §115.311 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

a. GFCJDC has zero tolerance towards all forms of sexual abuse and sexual harassment within its facility. [115.11 (a) -1]

b. This policy outlines how GFCJDC will implement the agency's zero tolerance approach to preventing, detecting and responding to sexual abuse and sexual harassment. [115.311 (a)-2]

c. GFCJDC identifies disciplinary sanctions for those found to have participated in prohibited behaviors. [115.311(a)-4]

1) Disciplinary sanctions are identified under standards ~115.376,~115.377, and ~115.378

d. GFCJDC has designated upper-level facility PREA Coordinator who has sufficient time and authority, as well as authority to implement and oversee GFCJDC efforts to comply with PREA standards in its facility. [115.311(b)-1] [115.311(b)-2]

1) The PREA Coordinator's responsibilities include, but are not limited to:

a) Assist with the development and implementation of PREA related policies.

b) Develop and coordinate procedures to triage allegations received and identify, monitor and track incidents of sexual abuse and harassment.

c) Identify and track referrals of allegations to law enforcement and prosecutors.

d) Develop and implement a comprehensive system to audit compliance with PREA policies and applicable laws.

e) Keep GFCJDC administration informed on PREA related issues.

f) Maintain a memorandum of understanding for external victim advocacy.

g) Maintain a memorandum of understanding regarding criminal investigations of sexual abuse and sexual harassment.

h) Maintain a memorandum of understanding with local

S.A.N.E. organizations.

- i) Maintain PREA content for the GFCJDC website, including publication of required information and documents.
- j) Coordinate training of PREA investigators at facility.
- k) Create, provide and coordinate initial and bi-annual PREA training to volunteers and contractors, or assist GFCJDC Administrator as needed.
- l) Provide and coordinate initial and bi-annual training hands-on PREA training to staff or assist GFCJDC Administrator as needed.
- m) Provide follow-up overviews of GFCJDC vulnerability and/or sexual aggression tool (PREA intake and initial assessment) in the absence of GFCJDC PREA orientation facility case manager.
- n) Assess and reassess residents risk levels in regards to vulnerability and /or sexual aggression.
- o) Provide mental health screenings to sexual abuse victims and sex offenders, and provide ongoing mental health care where warranted.
- p) Participate in administrative PREA investigations.
- q) Maintain PREA investigation files and documents.
- r) Maintain qualifications as “Qualified Agency Staff Member and, Qualified Mental Health Practitioner”
- s) Provide inmate comprehensive PREA education in absence of GFCJDC orientation facility case manager.
- t) Ensure sexual abuse review team complete SART overview within 30 days of completed PREA investigations.
- u) Perform monthly checks to verify the PREA posters bearing the 2 external reporting telephones posted near all detainee telephones.
- v) Perform monthly functionality test of a random sample of resident telephones to verify the toll-free numbers are operational.
- w) Perform monthly checks to verify PREA posters provided by DADC are posted in areas accessible to residents and the public.
- x) Perform monthly checks to verify PREA resident brochures are provided to residents prior to being housed in general population.
- y) Monitor and provide technical resources to PREA

investigators.

z) Coordinate all audit preparations.

aa) Coordinate corrective action plans and ensure follow-up.

2. § 115.312 Contracting and other entities for the confinement of detainees.

a. GFCJDC does not contract with other entities to house detainees.

3. § 115.313 Supervision and monitoring

Staffing Plan:

Purpose:

To Describe the Grand Forks County Juvenile Detention Center's requirements for staff coverage.

Policy:

It is the policy of the Grand Forks Juvenile Detention Center to meet or exceed the PREA Standard staff coverage requirements for juvenile detention facilities.

Procedure:

The administrator is responsible to ensure compliance with the following requirements:

- Sufficient staff shall be available to provide continuous 24-hour per-day supervision of the residents for their safety and protection.
- There shall be a designated staff person on-site in charge of the facility at all times.
- There shall be a female Juvenile Detention Officer on duty whenever a female resident is in the facility.
- Periodically, during sleeping hours, and whenever juveniles are in their units, they shall be visually checked at least every 30 minutes, or less if they are a special needs watch. Each check shall be documented in a record log book.
- At no time shall there be fewer than two (2) Juvenile Detention Officers on active duty when a juvenile is in care at the facility.
- Shifts are typically 8 hours in duration with shifts covering 0001-0800, 0800-1600-1600-2400. Staff shall be assigned within the facility to ensure that appropriate coverage is maintained in accordance with adequate security and safety practice.

- Juvenile Detention Officers responsible for the supervision of juveniles, and included in meeting staff-to-juvenile ratios, shall not have other responsibilities assigned to them at that time, such as transportation, control room duties, or other duties.
 - The ratio of Juvenile Detention Officers on duty to residents during waking hours shall be at least one officer to eight juveniles; during sleeping hours at least one officer to sixteen juveniles within the center.
 - Supplemental staff members including, but not limited to clerical, food service, maintenance, education and medical personnel, as well as Juvenile Detention Officers and administrative staff who are not responsible for the direct and continuous supervision of juveniles, shall not be included in meeting the staff-to-juvenile ratios set forth in this plan.
 - There shall always be two staff present during any search of a juvenile. During an unclothed search, the second staff member shall be positioned as to view the staff member conducting the search, but not the juvenile.
 - Staff shall always remain on camera view if in a one-on-one situation with a youth.
 - Staff-to-juvenile ratios shall be increased when the special needs of the juveniles cannot be met or their health, safety and welfare cannot be guaranteed by the staff-to juvenile ratios set forth in this plan.
 - Any deviation to this policy must be approved by the Administrator, Lieutenant or designee and must be documented by the senior shift officer requesting the deviation in the exigent circumstance log.
- a. GFCJDC will develop, document, and make best efforts to comply on a regular basis with a staffing and where applicable, video monitoring to protect inmates from sexual abuse.
[115.313 (a)-1]
 - b. Each time the staffing plan is not complied with, the facility documents and justifies all deviations from the staffing plan.
[115.313 (b)-1]
 - 1.) The Administrator will update the roster to ensure staff

assignments.

- 2.) It is the responsibility of the Administrator to keep the roster updated.
 - 3.) There will be written justification for all deviations from the staffing plan on the roster.
- c. Monthly payroll summary report will highlight possible deviations from the staffing plan, such as overtime usage and offer an overview of current staffing levels.
- d. At least once every year the Administrator and PREA coordinator will review, determine and document whether adjustments need to be made. [115.313 (c)1]
- 1.) The staffing plan, purpose & policy.
 - a. The GFCJDC teams consist of at least two officers (one male and one female) per team with more added as needed. The ratio will maintain 1:8 staff to resident ratio at all times. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:
 - 1) Generally accepted detention and correctional practices.
 - 2) Any Judicial findings of inadequacy.
 - 3) Any findings of inadequacy from federal agencies.
 - 4) Any findings of inadequacy from internal or external oversight bodies.
 - 5) All components of the facilities physical plant, including blind spots or areas where staff or residents feel isolated.
 - 6) The composition of resident population.
 - 7) The number and placement of supervisory staff.
 - 8) Institutional 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.
 - 11) Any other relevant factors.
 - b. The Administrator and Lieutenant will conduct unannounced rounds of the facility to identify and deter staff sexual abuse and sexual harassment. [115.313 (d)-2]
 - 1) The unannounced rounds are to be documented.

[115.313 (d)-3]

- a.) Unannounced, sporadic, supervisor rounds will be conducted at least one time per 2 to 3 scheduled shifts by the shift commander or highest ranking staff member on duty. [115.313 (d)] -3
- b.) Staff will not alert other staff as to when an unannounced round shall occur unless such an announcement is related to legitimate operational functions of the facility. [115.313 (d)] -4

4. § 115.314 Adult residents

- a. Adult's charged as juveniles will not be housed within sight or sound of juvenile residents at the GFCJDC.

5. §115.315 Limits to cross gender viewing and searches.

- a. GFCJDC employees will not conduct cross-gender strip searches or cross gender visual body cavity searches (anal or genital opening) except in exigent circumstances or when performed by medical practitioners. [115.315 (a) -1]
- b. GFCJDC will not restrict female residents' access to regularly available programming or other out-of-unit opportunities in order to comply with this provision. [115.315 (b)-1]
- c. Employees log all cross gender pat down searches of residents on an Unusual Occurrence form, as well as the daily log. [115.315 (c)-1]
- d. Residents will be allowed to shower, perform bodily functions and change clothing without non medical staff of the opposite gender viewing their breasts, buttock or genitalia except in exigent circumstances or when such viewing is incidental to routine unit checks. [115.315 (d) -1]. Residents are provided with and notified of access to changing areas to prevent a state of undress being viewed on the camera or during rounds by staff.
- e. All opposite gender staff, uniformed and non uniformed will consistently announce their presence denoted by staff gender, prior to entering a unit where residents may be seen using the toilet, shower or in different stages of undress, throughout their shift, with the exception of observation units, where residents may be on a frequent check status. [115.315 (d)-2]
 - 1.) Signage stating GFCJDC is staffed by female and male staff 24 hours a day will be posted in conspicuous areas for those residents who are being housed in observation units.

- 2.) GFCJDC residents housed in general population are made aware of the presence of female and male staff on all shifts in the resident handbook.
 - 3.) GFCJDC residents are informed their toilets and areas near and around the toilet area are blackened out on the surveillance cameras in the resident handbook, which they are given during the intake process.
- f. Staff will not search or physically examine a transgender or intersex resident for the sole purpose of determining the residents genital status.
- 1.) If the residents genital status is unknown, it may be determined through conversation 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 licensed medical practitioner.
 - a. During the initial interview part of the intake with a transgendered or intersex resident, staff will ask if they prefer to be searched by a male or female officer and provide a “search preference form”. Pending the resident’s preference does not disrupt the safety and security of the facility, the Administrator, Lieutenant or designee will assign the gender of staff the resident is most comfortable with. That staff will perform the unclothed and pat down search for the transgendered or intersex resident. That information will be documented in the Pass-on log, UOF and the residents file.
- g. During initial training, staff will be trained to conduct cross-gendered pat-down searches of transgendered and intersex residents in a professional and respectful manner, in the least intrusive manner possible consistent with security needs.
- [115.315 (f)-1]
- 1.) GFCJDC must have a policy and procedure governing the clothed and unclothed searches of transgender, intersex, gender non-conforming, or other residents. When a resident who identifies themselves as transgender, intersex, gender non-conforming, or other, they may request staff of a specific gender, with which the resident identifies, to search them clothed and unclothed.

- a. Staff will have resident fill out GFCJDC “Statement of Search Preference” form.
- b. Staff will try to accommodate resident preference documented on the form.
- c. Staff may have to deviate from resident preference due to circumstances to maintain custody, control and care of the resident and the facility.
- d. All clothed and unclothed cross gender searches will be documented in the “Exigent Circumstance Log”
- e. All cross gender searches will be conducted in a professional manner using the “back of the hand technique”

6. § 115.316 Residents with disabilities and residents who are English proficient

- a. The following services have been established to provide disabled and limited English proficient residents equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect and respond to sexual abuse and sexual harassment. All resident educational materials will be in formats accessible to all residents in accordance with Title II of Americans with Disabilities Act, 28 CFR 35.164,[115.316 (a)-1] [115.316 (b)-1]

1.) Interpreter services for the deaf, blind or hard of hearing residents and non-English speaking residents.

- a. CTS Language Link at 1-888-338-7394
- b. Account Number xxxxx, followed by the # sign
- c. Full name of staff member making the call.

2.) Residents who have intellectual, psychiatric or speech disabilities will review materials with staff to ensure comprehension.

- a. GFCJDC will not rely on resident interpreters, resident readers or other types of resident assistants except in limited circumstances and must be fully documented, where an extended delay in obtaining an effective interpreter could compromise: [115.316 (c)-1] [115.316 (c)-2]

- 1. The residents safety
- 2. The performance of first responder

- duties under § 115.364; or
3. The investigation of the residents allegations

7. § 115.17 Hiring and Promotion Decisions

- a.) GFCJDC will not hire or promote anyone who may have contact with residents, and will not enlist services of any contractor or volunteer who may have contact with inmates, who: [115.317 (a)-1]
 - 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. or b. of this section.
 - a. GFCJDC considers any incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor who may have contact with residents.
 - b. Before hiring new employees who may have contact with residents, GFCJDC will [115.317 (c)-1]
 - 1) Perform criminal background check and
 - 2) Consistent with Federal, State and Local law, make the best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
 - c. GFCJDC will conduct criminal background records check before enlisting the service of any contractor or volunteer who may have contact with residents. [115.317 (d)-1]
 - d. Criminal Background checks will be conducted by NCIC trained staff at least every five years on all contractors who may have contact with residents. [115.317 (e)-1]
 - e. Criminal background checks will be conducted by

NCIC trained staff every two years on all current volunteers who may have contact with residents.

- f. GFCJDC requires all applicants, employees, volunteers and contractors to disclose any misconduct described in paragraph 1. A., and c. of this section through the following ways:
 - 1) Written applications or interviews for hiring or promotions.
 - 2) In writing or verbally to GFCJDC Administration when updating information in accordance to Affirmative Duty.
- g. Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination of employment, or volunteer privileges and contracts. [115.318 (b)-1
- h. Unless prohibited by law, GFCJDC shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer with whom the employee has applied to work.

8. § 115.18 Upgrades to Facilities and Technologies

- a. GFCJDC will consider the effect of the design, acquisition, expansion or modification in reference to the agency's ability to protect residents from sexual abuse during any planned expansion, modifications or video equipment updates to the facility. [115.318 (a)-1]
 - 1.) The GFCJDC Administrative team consults with the architect or engineer design team during planning and construction phase.
- b. Prior to installing or updating video monitoring system, electronic surveillance system or other monitoring technology, the Operations Administrator or designee will conduct an assessment to determine technology capabilities to further protect residents from sexual abuse. [115.318 (b)-1
 - 1.) When conducting an assessment, the Operations Administrator or designee will give consideration to cost, functionality, findings of inadequacy from

judicial or federal investigative agencies, blind spots throughout the facility and the prevalence of sexual abuse.

9. § 115.321 Evidence Protocol and forensic Medical Examinations

- a. GFCJDC is responsible for conducting administrative investigations into allegations of sexual abuse. [115.321 (a)-1]
- b. Grand Forks County Sheriff's Office conducts criminal investigations of sexual abuse. [115.321 (a)-2]
- c. All victims of sexual abuse will be offered access to forensic medical examinations. [115.321 (c)-1]
 - 1.) Forensic medical examinations will be offered without financial cost to the victim. Forensic examinations will be conducted at ALTRU Hospital/Emergency room. [115.321 (c)-2]
- d. Forensic medical exams are conducted by a *SAFE* or *SANE* within 120 hours of the incident. [115.321 (c)-3]
 - 1.) When a *SAFE* or *SANE* is not available, the examination may be performed by other qualified medical practitioners. The GFCJDC medical staff will document efforts to provide a *SAFE* or *SANE*. 115.321 (c)-4] [115.321 (c)-5]
- e. The PREA Coordinator will attempt to contact a victim advocate from CVIC; available to the victim in person or by other means. [115.321 (d)-1]
 - 1.) The PREA Coordinator will attempt to establish a Memorandum of Understanding with a rape crisis center.
 - a. The PREA Coordinator will document *MOU*'s or efforts to obtain them.
- f. If or when a rape crisis center is not available to provide victim advocate services, the facility provides a qualified agency staff member or a qualified community-based organization staff member. [115.321 (d)-3]
- g. If requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member will accompany and support the victim through the forensic evaluation process and

investigatory interviews while providing emotional support, crisis intervention, information, and referrals. [115.321 (e)-1]

10. § 115.322 Policies to ensure referrals of allegations for investigations

- a. GFCJDC will ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. [115.322 (a)-1]
 - 1.) For procedures see §115.371 Criminal and Administrative Agency Investigations.
- b. GFCJDC will ensure criminal allegations of sexual abuse or sexual harassment are referred to Grand Forks County Sheriff's Office unless the allegation does not involve potentially criminal behavior. [115.322 (b)-1]
 - 1.) The PREA Coordinator will document all referrals to the Grand Forks County Sheriff's Office in the investigative report. [115.322 (b)-3]
- c. The GFCJDC/PREA policy is available on the GFCJDC Website. GFCJDC/PREA statistics will be posted annually. [115.322 (b)-2]

11. § 115.331 Employee Training

- a. GFCJDC trains all employees during orientation prior to independent resident contact and every two years thereafter, on the following matters: [115.331 (a)-1]
 - 1.) Zero tolerance policy for sexual abuse and harassment.
 - 2.) How to fulfill employee responsibilities under GFCJDC's sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;
 - 3.) Resident's right to be free from sexual abuse and sexual harassment;
 - 4.) The right of resident and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - 5.) The dynamics of sexual abuse and harassment in confinement;
 - 6.) The common reactions to sexual abuse and sexual

- harassment victims;
 - 7.) How to detect and respond to signs of threatened and actual sexual abuse;
 - 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 non-conforming residents and;
 - 10.) How to comply with relevant laws related to the mandatory reporting of sexual abuse to outside authorities.
- b. Training is tailored to the gender of the residents at the facility. [115.331 (b)-1]
 - c. Employees are provided with information about current policies regarding sexual abuse and sexual harassment policies through; [115.331 (c)-3]
 - 1.) GFCJDC online PREA training
 - 2.) PREA materials posted throughout the facility
 - 3.) Annual policy review
 - 4.) Interim PREA trainings which may occur during the year opposite biannual PREA trainings.
 - d. GFCJDC documents that employees understand the training they have received through employee signature or electronic verification. [115.331 (d)-1]

12. § 115.332 Volunteer and contractor Training

- a. The Administrator, PREA Coordinator and PREA Orientation Facilitator will ensure all volunteers and contractors who have contact with residents will be trained on their responsibilities regarding sexual abuse and sexual harassment with residents, prior to contact with residents. [115.332 (a)-1]
 - 1.) The type and level of training is based on the services they provide and the level of contact they

have with the residents. [115.332 (b)-1]

- a. Unescorted and unsupervised contractors, volunteers will receive either online or classroom training on PREA, prior to contact with residents.
- b. Escorted and supervised contractors, volunteers, and all resident visitors will review and acknowledge understanding of the agencies zero tolerance policy regarding sexual abuse sexual harassment and information on how to report such incidents by signing the PREA Compliance Acknowledgment for Contractors, Visitors and Volunteers, prior to entry into the secure unit. [115.332 (b)-2]

2. Training is approved by the PREA Coordinator. The GFCJDC Administrator will track and retain this information.

- b. Unescorted or unsupervised contractors and all volunteers will be trained on policy and procedures relative to PREA. This training will be repeated every two years.
- c. GFCJDC shall maintain signed documentation confirming volunteers and contractors understand the training they have received. [115.332 (c)-1]

13. § 115.333 Inmate Education

- a. A GFCJDC resident who is deemed unstable by the GFCJDC intake Officer because of level of intoxication/detoxification, combative behavior, suicidal status, or display of significant degree of mental illness, such as psychosis will be placed in an observation unit by themselves, where the resident may be under an intense degree of observation consisting of frequent room checks and video surveillance camera monitoring. (after being cleared medically by a Dr.) PREA posters highlighting GFCJDC's zero tolerance policy and options for reporting are posted on the inside of the observation room's door. The

PREA orientation will occur upon stabilization of the resident.

- b. During the intake process, upon reasonable stabilization, GFCJDC's zero tolerance PREA policy is either read to all residents or offered in English and Spanish audio recordings to ensure understanding. Prior to being out in the dayroom area, the resident is issued the Resident PREA brochure, containing information on self protection, prevention techniques and reporting methods, as well as a resident handbook which has a section dedicated to the PREA process. The resident will sign the Acknowledgment of receipt, confirming he/she received the information.
- c. Within thirty days of intake, the PREA Orientation Facilitator, PREA Coordinator or Administrator will provide Inmate Comprehensive PREA Education to all residents by showing the video, 'PREA, What You Need to Know' and providing a verbal comprehensive explanation to the video, supplemented with PREA handouts in either group or individual sessions. The comprehensive education will explain the following: [115.331(a)-1] [115.331 (c)-3]
 - 1) GFCJDC zero tolerance policy regarding sexual abuse and harassment;
 - 2) Their right to be free from sexual abuse or harassment;
 - 3) How to report incidents or suspicions of sexual abuse or sexual harassment;
 - 4) Their right to be free from retaliation;
 - 5) The agency's policies and procedures for responding to such incidents.
 - 6) A Residents PREA Information Brochure is provided to each resident during the resident PREA comprehensive education on internal and external reporting methods.
- d. Resident PREA education is available in accessible formats for all residents including those who are limited English proficient, deaf, hearing impaired, visually impaired or otherwise disabled or limited in their reading skills.
[115.333 (d)-1]

- 1.) Deaf or hearing impaired-Education is available through print or close captioning.
 - 2.) Visually impaired- Training is available through audio, bold larger print and/or GFCJDC staff will read materials to resident in need.
 - 3.) Limited English proficiency- interpreter services provided.
 - a. 1-888-338-7394
 - b. Account number
 - c. Full name of employee making the call
 - 4.) Otherwise disabled or limited reading skills- PREA education is provided through education and behavioral health staff.
- e. The GFCJDC shall maintain documentation of resident participation and understanding in these education sessions. [115.333 (e)-1]
- 1.) The date of the detainee's completion of Inmate Comprehensive PREA Education is entered and saved on the residents PREA Intake and on initial intake paperwork.
 - 2.) The PREA Comprehensive Education sheet which bears a checklist of the content of the PREA comprehensive education, the residents signature, and affirmation of understanding of the Comprehensive PREA Education is provided to the PREA Coordinator by the PREA Orientation Education Facilitator, along with a list of GFCJDC resident population for the day the comprehensive PREA education was held, and kept in a file by the PREA Coordinator.
- f. The GFCJDC ensures key information is continuously and readily available or visible to residents through posters, resident handbooks, PREA brochures, and GFCJDC Resident Law Library. [115.333 (f)-1]
- g. If a resident is unable to participate in the PREA comprehensive education session within thirty days of intake because of instability, medical or security issues, the resident will be provided PREA education as soon as they are deemed appropriate to attend. GFCJDC staff will document on the Resident comprehensive PREA education

form the date of the completed education session, as well as the reason the comprehensive education was completed post thirty days from intake. This information will also be documented in the PREA Coordinators notes.

14. §115.334 Specialized training: Investigations

- a. PREA investigators who investigate allegations of sexual abuse are trained in conducting sexual abuse investigations in confinement settings. This includes: [115.334 (a)-1]
 - 1.) Department of Justice approved PREA investigator training, ND DOCR Specialized PREA investigator trainings and Specialized PREA Investigator trainings provided by or based on Moss Group trainings coordinated through the National PREA Resource Center, Specialized Training; Investigating Sexual Abuse In Confinement Settings, or National Institute of Corrections. [115.334 (b)]
 - a. Techniques for interviewing sexual abuse victims; and proper use of Miranda and Garrity Warnings;
 - b. Sexual abuse evidence collection in confinement settings;
 - c. Criteria and evidence required to substantiate a case for administrative action or for prosecution referral.

15. § 115.335 Specialized Training: Medical, Behavioral Health Care and Mental Health Care.

- a. Forensic exams will be conducted at ALTRU Health Systems. [115.335 (b)-1]
- b. All GFCJDC medical, behavioral health care and mental health care practitioners are trained in their respective disciplines: [115.335 (a)]
 - 1.) The GFCJDC Medical Services Director is *SANE*, *thereby* completing required training and practicum to achieve *SANE* status. (ALTRU)
 - 2.) GFCJDC approved PREA trainings which may consist of training resources found at the National PREA Resource Center as well as specialized National Institute of Corrections training, which includes;

- a. Specialized Training; PREA Medical and Mental care standards for sexual assault victims in a confined setting (medical staff)
- b. Specialized Training; PREA Medical and Mental Care Standards for sexual assault victims in a confinement setting (Mental Health and Behavioral Health staff)
 - i. How to detect and assess signs of sexual abuse and sexual harassment.
 - ii. How to preserve physical evidence of sexual abuse;
 - iii. How to respond to effectively and professionally to victims of sexual abuse and harassment.
 - iv. How and whom to report allegations or suspicions of sexual abuse and sexual harassment.
- c. The GFCJDC Administrator maintains documentation indicating medical, mental health and behavioral health practitioners have received the training as mentioned in this standard. [115.335 (c)-1]

16.§ 115.341 Screening for risk of sexual victimization and abusiveness

- a. Initial assessment/screening upon intake
 - 1.) During the intake/booking process upon admission to the GFCJDC, residents are assessed. No known victim or potential victim of sexual abuse will be housed with a sexual aggressor or potential sexual aggressor. [115.341 (a)-1] [115.341 (b)-1] [115.341 (c)-1]
 - 2.) A GFCJDC Corrections Officer will conduct this initial assessment using the GFCJDC PREA intake and initial assessment tool, which is reviewed by the PREA Orientation Facilitator, PREA Coordinator or Administrator.
 - 3.) The Corrections Officer completing the GFCJDC PREA Intake and Initial Assessment shall notify the

highest ranking Officer on duty when a resident scores and self-disclosure indicate potential vulnerability to or predation of sexual aggression in order to make appropriate housing decisions. Residents at the GFCJDC are generally housed in a single person unit.

- 4.) If a resident presents immediate vulnerability/aggression concerns which impact housing decisions, the highest ranking Officer on duty shall notify the PREA email group which includes Administrator, PREA Coordinator, PREA Orientation Facilitator and all Shift Commanders of the resident's potential vulnerability to or predation of sexual aggression.
 - 5.) The PREA Coordinator or PREA Orientation Facilitator and or Administrator will review the housing decisions.
 - 6.) The PREA Orientation Facilitator reviews every completed GFCJDC PREA intake for completion of data and signatures and refers all residents who may be identified vulnerability/aggression factors, or special needs for reassessment to the PREA Coordinator. The review date, referrals and findings for the PREA Orientation Facilitator are documented in the residents file. The PREA Coordinator will document the Residents risk and other relevant data on the GFCJDC PREA Intake and Initial Assessment form and initiate the process for a PREA alert to be denoted for the resident. The PREA email group will also be notified. The Resident will be identified with a red star on the Resident board for easy recognition.
- b. The GFCJDC PREA Intake and Initial Assessment considers the following criteria to assess residents for risk of sexual victimization and sexual abusiveness: [115.341 (d)] [115.341 (e)]
- 1.) Whether the resident has a behavioral, physical or developmental disability;
 - 2.) The age of the resident;

- 3.) The physical build of the resident;
- 4.) Whether the resident has previously been incarcerated.
- 5.) Whether the resident has a criminal history that is completely nonviolent.
- 6.) Whether the resident has prior convictions for sex offenses against an adult or child;
- 7.) How does the resident perceive their sexual orientation; heterosexual, gay, lesbian, bisexual, transgender, intersex or gender nonconforming?
- 8.) Whether the resident has previously experienced sexual victimization either institutional or otherwise.
- 9.) The residents own perception of vulnerability.

c. Subsequent Screenings/Re-Assessments

- 1.) Within 14 days of admission, every resident referred to the PREA Coordinator or the Administrator in the absence of the Coordinator, will receive a thorough re-assessment to determine risk of sexual victimization or abusiveness. [115.341 (f)-1]
- 2.) Initial screenings will be completed at the GFCJDC during the intake process by the GFCJDC Intake Corrections Officer. A subsequent screening will occur as soon as possible by the PREA Orientation Facilitator, PREA Coordinator or the Administrator, usually within 12 to 24 hours based on the level of vulnerability or propensity of aggressiveness, especially if the resident reveals they have been either a victim or aggressor in a PREA related institutional incident, or identify as gay, bisexual, transgender, intersex, are perceived non conforming. While residents await housing and bed assignments based on subsequent screenings they will be housed by themselves.
- 3.) Re-assessments occurring within 14 days are completed in individual sessions with the PREA Coordinator. The Administrator will complete the re-assessments in the absence of the PREA Coordinator. All residents who report being a victim of institutional or sexual abuse outside of an

institution, are accused of, or have been convicted as a sex offender, identify as lesbian, gay, bisexual, transgender, intersex, are perceived as non-conforming, or have indicated they felt vulnerable during the initial screening at intake are reassessed within 14 days.

- 4.) The re-assessment scores a resident as being at risk for 1) vulnerability to victimization and exhibiting 2) Sexually aggressive behavior, and 3) violent sexual behavior. The re-assessment rates the residents the residents self-disclosure, taking compiled data into account and gathering at a minimum the factors assessed in the PREA Intake and Initial Assessment. The reassessment encourages the resident to expand self-disclosure, and answer further questions. Prior to the beginning of the re-assessment, the resident is informed of exceptions to confidentiality and disclosures regarding mandatory reporting.
- 5.) The completed re-assessment form is kept in a file accessible to the PREA Coordinator, and authorized staff members; only the general results of re-assessments are shared with the PREA group.
 - a.) The date(s) of the re-assessment and the general results of the re-assessments, including PREA alerts, and justifications thereof, are documented on the residents PREA Intake and Initial Assessment form.
 - b.) The PREA Coordinator will document the residents risk and other relevant data on the GFCJDC PREA Intake and Initial Assessment form, and initiate the process for a PREA alert to be denoted for the resident in his file. The PREA email group will also be notified, and Officers on duty will denote the status on the resident board with a red star.

d. Subsequent Re-assessments :

- 1.) For each transgender or intersex resident, a subsequent re-assessment shall be completed at least once quarterly to review the appropriateness of placement and programming assignments and to reassess any threats to safety experienced by the resident.
- 2.) A subsequent re-assessment should also be completed when:
 - a. There is a triggering event, such as a substantiated PREA related incident; or
 - b. The resident self disclosed an act of sexual predation or victimization.
 - c. Warranted because of a referral, request or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.
 - d. Any staff member may refer a resident for reassessment. [115.341 (g)-1]
- e. Residents may not be disciplined for refusing to answer or for not disclosing complete information in response questions asked during initial screening/assessment or re-assessments. [115.341 (h)-1]
- f. GFCJDC maintains general information on the PREA Intake and Initial Assessment, in PREA alerts, and the PREA Coordinator documentation. Detailed personal information regarding residents re-assessments are kept in a file by the GFCJDC by the PREA Coordinator that limits access to GFCJDC staff and ensures information is not exploited to the resident's detriment by staff or other residents. Staff is required to follow the GFCJDC confidentiality agreement. [115.342 (b)-1]

17.§ 115.342 Use of Screening Information

- a. Prior to setting a schedule for the day where residents may come into contact, such as school or recreation time, staff will review the resident board in the control room, PREA alerts and any PREA Coordinator documentation. Through these processes, residents are identified as being high risk of being sexually abusive, or physically aggressive. These and other protective measures are implemented to ensure safety

of identified groups and the general population. [115.342 (a)-1]

- 1.) Known aggressors and potential aggressors will not be assigned housing units, share dayroom or recreation time, or share education/school time with known victims or a potential victim except under direct staff supervision.
- b. The facility staff shall make individualized determinations about how to ensure the safety of each resident through staff consultation utilizing medical/mental health screenings pass on logs, PREA alerts and PREA Coordinator documentation. [115.342 (b)-1]
- c. Residents identified as high risk with a history of sexually assaultive behavior will be re-assessed by the PREA Coordinator within 14 days of intake. The Administrator will perform this duty in the absence of the PREA Coordinator. This mental health session may be part the high risk sexually assaultive resident's re-assessment.
- d. Residents with a history of sexually assaultive behavior are identified, monitored and counseled.
 - 1.) If a resident appears to be high risk for sexual aggression as a result of initial screening/assessment, re-assessment, or further documentation, the resident may be referred for a sex offender assessment to be completed by a mental health professional. This referral will be documented, identifying the resident on the resident board in the control room and shared with the PREA email group.
 - 2.) After the sex offender assessment is completed it will be staffed with the GFCJDC Administration and PREA Orientation Facilitator to determine how to proceed while the resident remains detained.
 - 3.) The sex offender assessment, re-assessment and follow-up care will be part of the resident's confidential medical file.

- e. Residents identified as at risk for sexual victimization will be re-assessed by the PREA Coordinator within 14 days of booking. Residents at risk for sexual victimization will be identified, monitored and counseled.
 - 1.) If a resident has been identified as a potential victim or known victim, a vulnerable risk notification will be documented in the pass-on and on the Resident board in the Control Room. An email will be sent to the PREA email group.
 - 2.) The PREA Coordinator shall review the information and may refer the resident for follow-up care.
 - 3.) The mental health screening, assessment, re-assessment and follow-up care will be a part of the resident's confidential medical file.

- f. In deciding whether to assign a transgender or intersex resident to a unit with for male or female residents, The Administrator, PREA Coordinator and PREA Education Facilitator shall consider on a case by case basis whether a placement would ensure that the resident's health and safety and whether the placement would present management or security problems. In most instances, as with all residents, transgendered or intersex residents would be housed alone.
[115.342 (c)-1]
 - 1.) Placement and programming assignments for each transgender or intersex resident will be reassessed at least quarterly to review any threats to safety experienced by the resident. [115.342 (d)]
 - a. PREA Coordinator or Administrator will complete this task and record it in UOF form if changes are made and in the residents file.
 - b. A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration in the decision. [115.342 (e)]

- g. Transgender, intersex and all residents must have the opportunity to shower separately from other residents

[115.342 (f)]

- h. GFCJDC shall not place lesbian, gay, bisexual, transgender or intersex residents in dedicated facilities, units, or sections solely on the basis of such identification or status unless such placement is in a dedicated facility, unit, or section established with consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.

[115.342 (g)]

18. § 115.343 Protective Custody

- a. Residents at high-risk for sexual victimization may not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no alternative means of separation from likely abusers. If assessment can't be completed immediately, the resident may be held in involuntary segregated housing for less than 24 hours while assigned staff completes the assessment. [115.343 (a)-1]
- b. Residents placed in segregated housing for this purpose shall have access to programs, privileges and education to the extent possible. If the facility restricts programs, privileges or education, the facility shall document: [115.343 (b)1]
 - 1.) The opportunities that have been limited;
 - 2.) The duration of the limitation; and
 - 3.) The reasons for any limitations.
- c. Residents will only be assigned to involuntary segregated housing until an alternative means of separation from likely abusers can be arranged. The assignment may not ordinarily exceed a period of 30 days. [115.343 (c)]
- d. If an involuntary segregated housing assignment is made pursuant to substandard [115.343 (a)-1] of this section, the Shift commander or designee shall clearly document: {115.343 (d)}
 - 1.) The basis for concern for the residents safety;

- 2.) The reason why no alternative means of separation can be arranged.
 - 3.) Every 7 days the GFCJDC Administrative team shall afford each resident a review to determine whether there is a continuing need for separation from the general population.
- e. Refer to GFCJDC Policy on high risk/protective custody residents for more information.

19. § 115.351

- a. GFCJDC allows for internal reporting, by residents, to report privately to agency officials about sexual abuse, sexual harassment, staff neglect or responsibilities contributing to sexual abuse or harassment. Residents can report in the following ways: [115.351 (a)-1]
 - 1.) Verbal reporting to any staff member;
 - 2.) Third party reporting;
 - 3.) Resident memos;
 - 4.) Resident grievance forms;
 - 5.) Resident emergency grievance forms.
- b. GFCJDC allows residents to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency in the following ways: [115.351 (b)-1]
 - 1.) Domestic Violence Rape Crisis Center; 9-1-888-225-4506 (toll free, confidential, non-recorded line). This number can be accessed from Resident phone line.
 - 2.) Residents detained solely for civil immigration purposes are provided information on how to contact relevant consular officials and relevant officials of the Department of Homeland Security. This information is posted in the booking area and both dayroom areas, as well as the resident handbook.
- c. In accordance with subsection (b) of Section 115.351 of 28 C.F.R. Part 115 requires GFCJDC to provide a means for

residents to report sexual abuse or harassment to another entity that is not part of GFCJDC and is able to receive and immediately able to forward reports of sexual abuse and harassment to GFCJDC officials and provide anonymity to the resident if requested. GFCJDC has entered into a Memorandum of Understanding with the Grand Forks County Sheriff's Office to receive these reports. All reports will be reviewed by the Sheriff's Office and forwarded to GFCJDC for appropriate action. Making of false reports may result in disciplinary action. Reports may be made to:

- 1.) Grand Forks County S.O. telephone number(701)780-8280, or write to Grand Forks County S.O.

20. § 115.52 Exhaustion of Administrative Remedies

- a. There is no time limit on when a resident may submit a grievance regarding an allegation of sexual abuse. Residents are not required to use an informal grievance process or to otherwise attempt to resolve with staff an alleged incident of sexual abuse. [115.352 (b)-1] [115.352 (b)2]
- b. GFCJDC ensures that:
 - 1.) A resident who alleges abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; [115.352 (c)-1]
 - 2.) Such a grievance is not referred to a staff member who is the subject of the complaint. [115.352 (c)-2]
 - a. Refer to section 115.361 (a) for response steps.
- c. The Administrator or designee will issue a final decision on the merits of any portion of a grievance alleging abuse within 90 days of the initial filing of the grievance.

[115.352 (d)-1]

1.) Computation of the 90 day time period must not include time consumed by residents in preparing for any administrative appeal.

d. The Administrator or designee may claim an extension of time to respond up to 70 days, if normal time period for response is insufficient to make an appropriate decision.

[115.352 (d)-5]

1.) The investigating officer shall notify the resident in writing of any extension and provide a date by which a decision will be made. [115.352 (d)-6]

e. Third parties, including residents, other staff members, attorneys and advocates when filing requests for remedies relating to allegations of sexual abuse may file such requests on behalf of residents. [115.352 (e)-1].

f. If a third party files a request on behalf of a resident, the alleged victim must agree to have the request filed on their (the victim's) behalf. The alleged victim must also agree to personally pursue any subsequent steps in the administrative remedy process.

1.) If the resident declines to have the request processed on their behalf, the assigned investigator shall document the resident's decision and verify by residents signature. [115.352 (e)-2] This documentation will be documented in the PREA Coordinator's notes and become part of the investigation file, if appropriate.

g. A Resident may file an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse. [115.352 (f)-1]

1.) Once received, staff shall immediately forward the grievance (or any portion thereof that alleges the

substantial risk of imminent sexual abuse) to the Administrator or designee for which immediate corrective action may be taken.

- 2.) The Administrator or designee will provide an initial response within 48 hours. [115.352 (f)-2]
 - 3.) The Administrator or designee will issue a final decision within 5 calendar days. [115.352 (f)-5]
 - 4.) The initial response and final decision will document GFCJDC's determination whether a resident is in substantial risk of imminent sexual abuse and action taken in response to the emergency grievance. This documentation forwarded to the PREA Coordinator, and will be entered into the PREA Coordinator's notes.
 - 5.) After an agency's decision is made, a copy of the emergency grievance and all responses will be forwarded to the PREA Coordinator.
- h. A resident may be disciplined for filing a grievance related to alleged sexual abuse only when there is a determination the resident filed the grievance in bad faith. [115.352 (g)-1]

21. § 115.353 Resident access to outside confidential support services.

- a. Residents are provided with access to outside victim advocates for emotional support services related to sexual abuse through mailing addresses and telephone numbers, including toll free hotline numbers to the organizations listed below. If in the event of sexual abuse, a victim advocate is not able to provide victim services, a Qualified Agency Staff Member will be available to provide support services. The facility shall enable reasonable communication between residents and those organizations and agencies in as confidential a manner as possible. [115.353 (a)-1]

- 1.) Domestic Violence Rape Crisis Center: 9-1-888-225-4506 (toll free, confidential, non recorded line).
Community Violence Intervention Center(701-746-8900)
- b. Staff shall inform residents prior to giving them access to outside victim advocates, 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. [115.353 (b)-1] [115.353 (b)-2]
- c. GFCJDC maintains or attempts to enter into memorandum of understanding or other agreements with community service providers able to provide residents with confidential emotional support services related to sexual abuse. GFCJDC shall maintain copies of these agreements or documentation showing attempts to enter into such agreements. [115.353 (a)-1] [115.353 (c)-2] [115.353 (c)-3] [115.353 (c)-4]

22. § 115.354 Third Party Reporting

- a. GFCJDC publicly distributes on its website information on how to report resident sexual abuse or sexual harassment on behalf of residents. [115.354 (a)-1] [115.354 (a)-2]

23. § 115.361 Staff and agency reporting duties

- a. All GFCJDC staff, volunteers and contractors are required to report immediately any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of GFCJDC. [115.361 (a)-1]
 - 1.) Staff volunteers and contractors shall accept reports of sexual abuse and sexual harassment made; verbally, in writing, anonymously and from third parties. [115.351 (c)-1]
 - 2.) Staff, volunteers, and contractors shall immediately notify the Shift Commander or highest ranking

officer on duty of any verbal report of sexual abuse or sexual harassment against residents or staff.

Documentation will be completed and turned in to Shift commander before the end of shift. [115.351 (c)-2] [115.361 (a)-2]

3.) All GFCJDC employees, volunteers and contractors shall immediately report any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse, harassment or retaliation. [115.361 (a)-3]

a. GFCJDC Employees, volunteers or contractors may report abuse or harassment of residents to their supervisors or any facility supervisor, [115.351 (d)-1]

1. For procedure see §115.365
Coordinated response.

b. Apart from reporting to designated supervisors or officials, GFCJDC staff, volunteers or contractors may not reveal any information related to a sexual abuse report to anyone other than the extent necessary to make treatment, investigation and other management decisions. [115.361 (b)-1]

c. Unless otherwise precluded by federal, state or local law, GFCJDC medical, mental health and behavioral health practitioners shall report sexual abuse and inform residents of the practitioner's duty to report and the limitations of confidentiality at the initiation of services. [115.361(c)-1]

d. If the alleged victim is considered a vulnerable adult under state statute, service providers shall report the allegation to the ND Department of Human Services under applicable reporting laws. [115.361 (d)-1]

e. The Administrator or designee shall assign an investigator for all allegations of sexual abuse and harassment including third party and anonymous reports. [115. 361 (e)-1]

24. § 115.62 Agency Protection Duties

- a. When facility staff learns a resident is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the resident. [115.362 (a)-1]
 - 1.) Initiate §115.365 coordinated response as applicable.

25. §115.63 Reporting to other confinement facilities

- a. Upon receiving an allegation a resident was sexually abused or sexually harassed while confined at another facility, the Administrator or designee shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. [115.363 (a)-1]
- b. Such notification shall be provided as soon as possible but no later than 72 hours after receiving allegation. [115.363 (b)-1]
- c. GFCJDC shall document using PREA group email and P1 PREA Coordinator notes the provision of such notification or attempts to provide information. [115.363 (c)-1]
- d. The PREA coordinator will enter the documentation into the notes including which agency/facility received the report, request a PREA alert, request the on duty officer to identify the resident on the board with a star and forward the notification information to the ND DOCR PREA Coordinator if the report involves a N.D. facility.
- e. The facility head or agency head who receives such notification shall ensure the allegation is investigated in accordance with policy. [115.363 (d)-1]

26. §115.365 Coordinated Response-Investigations of sexual abuse or sexual harassment

- a. GFCJDC shall use this procedure as a plan to coordinate actions taken in response to an incident of sexual abuse and sexual harassment among staff, first responders, medical, mental health and behavioral health practitioners, investigators and facility leadership. [115.365(a)-1]
- b. When an Officer receives a report of possible sexual abuse or sexual harassment, the Administrator or designee shall

ensure an investigation is conducted.

c. Sexual abuse by a resident, staff member, contractor or volunteer:

1.) First responder:

1. When responding will follow universal precautions for bodily fluids.
2. Must separate the alleged victim from alleged accuser.
3. Notify Shift commander or highest ranking officer on duty of the incident, or announce a 10-78 if the incident is caught in progress, even if it appears consensual.
4. Immediately instruct the residents involved to separate; face the wall, or get on the floor. Upon arrival of back-up, physically separate the residents involved. If the residents refuse, follow the use of force continuum.
5. Preserve and protect the potential crime scene until steps can be taken to collect evidence, restricting access.
6. Ensure those involved are moved to a “dry” unit and ensure sight and sound distance between them.
7. If the abuse is alleged to have occurred within the last 120 hours, request that the alleged victim not take any actions that could destroy evidence.
8. Refrain from asking alleged victim any detailed questions about the incident.
9. If the alleged abuse happened within the last 120 hours staff will ensure the alleged abuser does not take any actions which could destroy evidence.
 - a. Having ensured the water is off in the designated housing area, the following outlines clothing collection process.
 - i. The resident must stand and undress on white, clean exam paper; carefully removing footwear and socks, and then

removing all clothing one item at a time. Each item must be placed in a labeled, dated paper evidence bag and closed with medical tape. The exam paper must be folded inward and placed into a separate, labeled evidence bag. Chain of custody forms should be started.

10. Ensure any pictures are taken of any scratches, abrasions, wounds or other signs that might be evidence.
 11. One Officer is to supervise each resident (alleged victim and alleged offender). One Officer is to stay with the alleged victim.
 12. All staff is to refrain from asking detailed questions to those involved regarding the incident in anticipation of the investigation.
 13. If the first receiver of the incident is not a Corrections Officer, they are required to request the alleged victim not take any actions that could destroy evidence.
 14. Consult with highest ranking officer on duty and complete the necessary reports according to GFCJDC policy.
- 2.) Shift Commander or highest ranking officer on duty:
1. Ensure the first responder duties are complete.
 2. Order facility lock down if needed.
 3. Preserve and protect crime scene. This area is to remain secured as a crime scene until released by the Administrator or in the event of a criminal investigation, The GFC Sherriff's Department.
 4. Assign one officer to supervise each resident involved, with the expectation the alleged victim will be continuously in the presence of staff.
 5. If the alleged abuser is a staff member, contractor, or volunteer escort them outside of the secure area and refer to law enforcement.

6. The shift commander notifies and consults with the Administrator or designee, the PREA coordinator and Medical Services.
 - a. The Administrator or designee will notify the N.D. DOCR PREA Coordinator/Jail Inspector of the incident.
 7. If directed by the Administrator or designee contact the GFC Sheriff's Office and requests an investigation.
 - a. The Shift commander becomes the Sheriff's Office's central contact during the shift communicating staff directives.
 8. If criminal sexual abuse/assault investigation has been referred to the Sheriff's Office, Shift Commander continues to ensure preservation of the crime scene until appropriate steps are taken to collect evidence, as indicated by and overseen by the Sheriff's Office. The area will remain a crime scene until released as such by the Sheriff's Office.
 9. If the alleged abuse occurred within 120 hours, the GFCJDC nurse will assist the Shift Commander with arrangements for the alleged victim to be transported to ALTRU Emergency Room for a forensics exam.
 10. In PREA coordinators absence, the Shift Commander will need to contact medical or behavioral staff, informing them of the incident and request they immediately assess victim to counsel and provide support.
 11. Complete the necessary reports required for any significant incident, according to policy.
- 3.) PREA Coordinator/Qualified Staff members;
1. The qualified staff, PREA Coordinator, medical/behavioral staff and orientation facilitator will immediately assess the victim to counsel and provide support. They may sit in on interviews with the victim if requested by the victim or law enforcement.
 2. The parent or custodial agency representative

- will be notified to be present for the juvenile.
3. Notify the victim advocate and request their presence at the E.R. during the exam at the resident's request.
 4. Complete the appropriate reports within 24 hours.

4.) Medical Staff:

1. Reassure the alleged victim that medical services are involved only to ensure evaluation and treatment of any injuries is obtained and psychological support is offered.
2. If a sexual assault exam is needed, explain the necessity and process. Before the exam the victim must be advised not to wipe or touch the areas of the injury or sexual contact or apply any treatment. The exam may include a mouth swab.
3. If the victim refuses the exam, medical staff shall document the refusal and have resident sign an Against Medical Advice Release from Responsibility Form.
4. All exams will be performed at Altru by a S.A.N.E. nurse if possible.
5. Contact Altru E.R. to notify them a resident will be transported there for a sexual assault exam.
6. Communicate the facts about the incident, including infectious disease status of the aggressor, if known, to the hospital.
7. Work with the Shift commander to make arrangements for transportation.
8. Document actions taken.
9. Request STD testing be done.
10. Request pre-HIV counseling is conducted.
 - a. Ensure post-HIV counseling is conducted and results given to the victim.
 - b. Ensure follow up infectious disease testing is completed on the abuser, if substantiated.

5.) Final determination of allegation.

- a. The allegation will be considered substantiated if a preponderance of the evidence (more than 50%) supports the finding. [115.372 (a)-1]
- b. If the investigation produces insufficient evidence, it will be considered unsubstantiated.
- c. If the investigation determines the incident did not occur, it will be considered unfounded.
- d. If it is determined that a resident made a false accusation, the resident may be subject to disciplinary sanctions.
- e. Following the investigation, the PREA Coordinator will inform those residents involved verbally and in writing. The PREA coordinator will deliver a letter during a meeting with those residents involved. The letter will be delivered in an envelope, which the resident may have placed in their personal property for privacy. The resident will be required to sign a findings form acknowledging the receipt of the letter. If the resident refuses to sign, the PREA Coordinator will document the refusal, with a staff member as a witness and sign the refusal. [115.373 (a)-1] [115.373 (e)-1]

6.) PREA Investigator:

- a. If it is determined a crime may have been committed, the PREA Investigator consults with the Administrator or Lieutenant and request a referral be made to the GFCSO for a criminal investigation. At that point, the Administrator or Lieutenant shall act as a liaison with the investigating agency.
 - i. As the GFCSO conducts the

investigation, the Administrator or designee shall become the liaison between GFCSO and GFCJDC and will inform the alleged victim of progress and outcomes.

b. At the completion of the PREA investigation, the PREA Investigator will compile all evidentiary documentation and send it to the PREA Coordinator. The Coordinator will ensure a summary kept in a created PREA Investigation File, in a locked filing cabinet.

c. Sexual Harassment:

i. By a resident: The Shift commander or highest ranking on duty officer on duty will:

1. Separate the alleged victim and accused.
2. Offer alleged victim the opportunity to speak PREA Coordinator, medical staff.
3. Ensure an investigation into the alleged incident is initiated.
4. Notify the Administrator who will assign an Investigator.

2) By a staff member, contractor or volunteer:

a.) All allegations of staff sexual harassment will be handled internally unless it is determined a crime has been committed.

b.) Any employee who receives information staff sexual harassment directed to a resident will immediately inform the Shift Commander or highest ranking staff on duty. The Administrator or Lieutenant will be notified immediately. Information may include rumors from staff or residents. Failure to report information about staff sexual harassment may result in disciplinary action, up to and including termination.

- c.) The Administrator or designee will:
 - i.) Notify the North Dakota DOCR PREA Coordinator of the incident and select an investigator.
 - ii.) The Administrator or designee and PREA investigator shall ensure there is separation between the resident and affected staff during the investigation. This is not considered punishment for either.
- d.) The GFCJDC PREA Staff Investigator will meet with the resident and review the statement, videotaping all interviews.
- e.) If it is determined a crime may have been committed, the PREA staff investigator shall consult with the Administrator prior to requesting assistance from the GFCSO and work as a liaison with the investigative agency and the GFCJDC.
- f.) If it is determined a crime has not been committed. The PREA staff investigator shall interview the staff member, videotaping all interviews.
- g.) During the investigation employees shall cooperate fully by providing pertinent information. Failure of an employee to answer any inquiry will be grounds for disciplinary action.
- h.) Employees interviewed or implicated may not make any attempt to contact the resident victim from the time the allegation is first made until the completion of the investigation.
- i.) Employees are prohibited from any form of retaliation against a resident who makes an allegation of staff sexual misconduct or staff sexual harassment.
- j.) If it is found to be a false accusation, disciplinary action may be imposed.
- k.) Employees, contractors, volunteers, official visitors, or agency representatives who are found to have committed staff sexual harassment as defined by these procedures will be subject to internal discipline in accordance with GFCJDC personnel policies and **§115.376 and §115.377.**

- 3) Final determination of allegation:
 - a.) The allegation will be considered substantiated if a preponderance of the evidence supports this finding. [115.372 (a)-1]
 - b.) If the investigation produced insufficient evidence to make a final determination as to whether or not the incident occurred, it will be considered unsubstantiated.
 - c.) If the investigation determines that the incident did not occur, the allegation will be considered unfounded.
 - d.) If a resident is determined to have committed sexual harassment against another resident, the resident will be subject to disciplinary action.
 - e.) Following the investigation, the PREA Coordinator will inform the resident or residents verbally and in writing whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The PREA Coordinator or PREA Investigator will deliver a letter during a meeting with the resident. The letter will be delivered in an envelope. The resident will be required to sign a findings form acknowledging the receipt of the letter. If the resident refuses to sign the findings form, the PREA Coordinator or PREA Investigator will document the refusal and have a staff member witness the refusal.

27. § 115.366 Preservation of ability to protect residents from contact with abusers

- a. Standard §115.366 does not apply to North Dakota since there are no collective bargaining agreements. North Dakota is a right to work state.

28. § 115.367 Agency Protection against Retaliation

- a.) The GFCJDC PREA Coordinator protects 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. [115.367 (a)-1] [115.367 (a)2]

1. The PREA Coordinator in conjunction with the Administrator shall ensure multiple protection measures are available, including removal of alleged staff or abusers from contact with victims, emotional support services for resident or staff that fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations. [115.367 (b)]
 - a. For at least 90 days following a report of sexual abuse or sexual harassment, the PREA Coordinator shall monitor the conduct and treatment of residents who reported the sexual abuse or harassment of residents who were reported to have suffered sexual abuse or sexual harassment to determine if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. In the case of staff, the Administrator will assign a staff member to monitor for retaliation against staff that reported or provided information regarding resident sexual abuse. [115.367 ©-1]
 - 1.) Items the facility should monitor for residents include housing or program changes. Monitoring can continue past 90 days if there is a continuing need.
 - 2.) Items the facility should monitor for staff include performance reviews, absentee from work and work performance. Monitoring can be extended if needed.

29. § 115.368 Post-Allegation Protective Custody

- a. Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to requirements of standard § 115.343 Protective Custody.

30. § 115.371 Criminal and Administrative Agency Investigations

- a. When GFCJDC conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall initiate a thorough and objective investigation of all allegations promptly, including third party and anonymous reports. [115.371 (a)-1]
- b. Where sexual abuse is alleged, GFCJDC shall utilize PREA

- investigators who have received Department of Justice approved sexual abuse investigation training. [115.371 (b)]
- c. PREA Investigators shall gather and preserve direct and circumstantial evidence, including available physical and DNA evidence and available electronic monitoring data; shall interview alleged victims, suspected perpetrators and witnesses; videotaping all interviews, and shall review prior complaints and reports of sexual abuse involving suspected perpetrator. [115.371 (c)]
 - d. When the quality of evidence appears to support criminal prosecution, the GFCJDC PREA investigator will stop the administrative investigation while the criminal investigation is being conducted. The agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. [115.371 (d)]
 - 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. The GFCJDC may not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. [115.371 (e)]
 - f. Administrative investigations: [115.371 (f)]
 - 1.) Must include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - 2.) Must be documented in written reports that include a description of physical and testimonial evidence, the reasoning behind credibility assessments and investigative acts and findings.
 - g. Criminal investigations must 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. [115.371 (g)]
 - h. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. [115.371 (h)]
 - i. The GFCJDC shall retain all administrative and criminal written reports referenced for as long as the alleged abuser is incarcerated or employed by the agency, plus five years or in

accordance with state statute. [115.371 (i)-1]

- j. Investigations are completed regardless of employee status or resident custody status. [115.371 (j)]
- k. When the GFSO investigates sexual abuse, GFCJDC PREA investigators shall cooperate with outside investigators and shall remain informed about the progress of the investigation, as the Administrator or designee will act as a liaison. [115.371 (l)]

31. § 115.372 Evidentiary standard for administrative investigations

- a. GFCJDC may not impose a standard higher than a preponderance (more than 50 percent) of the evidence in determining whether allegations of sexual abuse or sexual harassment substantiated. [115.372 (a)-1]

32. § 115.373 Reporting to Residents

- a. Following the investigation, the PREA Coordinator will inform the resident or residents verbally and in writing whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The PREA Coordinator or PREA investigator will deliver a letter during a meeting with resident or individual meeting with residents. The letter will be delivered in an envelope and the resident. The resident will be required to sign a findings form. Acknowledging the receipt of the letter. If the resident refuses to sign, the PREA Coordinator or PREA Investigator will document the refusal and have a staff member witness and sign the refusal. [115.373 (a)-1]
- b. If the GFSO conducts an investigation, GFCJDC shall request relevant information through the Administrator who will act as a liaison in order to inform the resident of the outcome of the investigation and this information will be reported to the resident by the PREA Coordinator. [115.373 (b)-1]
- c. If there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against a resident, the PREA Coordinator will inform the resident whenever [115.373 (c)-1]
 - 1. The staff member is no longer working with access to the resident.
 - 2. The staff member is no longer employed by the

facility.

3. The GFCJDC learns that the staff member has been charged or convicted on an offense related to sexual abuse within the facility.
 - d. Following a resident's allegation of sexual abuse by another resident in the GFCJDC, the PREA Coordinator will inform the alleged victim whenever: [115.373 (d)-1]
 - 1.) GFCJDC learns that the alleged abuse has been indicted or convicted on a charge related to sexual abuse within the facility.
 - e. All notifications or attempted notifications of the final determination of the allegation is documented and stored in the PREA Coordinators notes in the PREA investigation files. [115.373 (e)-1]
 - f. GFCJDC obligation to report under this standard terminates if the resident is released from GFCJDC's custody. [115.373 (f)]
- B. Discipline:** Any sexual contact or sexual harassment between staff and resident, volunteer and resident, or contract personnel and resident, regardless of consent, is prohibited and subject to administrative disciplinary and other sanctions.

1. § 115.376 Disciplinary sanctions for GFCJDC staff

- a. Staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies [115.376 (a)-1]
 - 1) Employees shall cooperate fully by providing all pertinent information during the investigation. Failure of an employee to answer any inquiry fully will be grounds for disciplinary action. Employees may not make any attempt to contact the inmate victim from the time the allegation is first made, until the completion of the investigation.
- b. Termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse with an inmate or ward of the state of North Dakota. [115.376 (b)]
- c. Disciplinary sanctions for violations of GFCJDC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be commensurate

with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. [115.376 (c) – 1]

- d. All terminations for violations of GFCJDC 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. [115.376 (d) -1]

2. § 115.377 Corrective action for contractors and volunteers

- a. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly no criminal, and to relevant licensing bodies. [115.377 (a) – 1] [115.377 (a) – 2]
- b. The Operations Administrator or designee shall take appropriate remedial measures, and shall consider whether to prohibit further contact with the juvenile, in the case of any other violation of GFCJDC sexual abuse or sexual harassment policies by a contractor or volunteer. [115.378 (d) – 1]

3. § 115.378 Disciplinary sanctions for juvenile detainees

- a. Juvenile detainees shall be subject to disciplinary sanctions pursuant to the GFCJDC disciplinary process following an administrative or criminal finding of guilt that the juvenile engaged in juvenile-on-juvenile sexual abuse. [115.378 (a) – 1] [115.378 (a) -2]
- b. Sanctions must be commensurate with the nature and circumstances of the abuse committed, the juvenile's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. [115.378 (b)]
- c. The disciplinary process shall consider whether a juvenile's mental disabilities or mental illness contributed to the juvenile's behavior when determining what type of sanction, in any, should be imposed. [115.378 (c)]
- d. Mental health staff shall consider, as a condition of access to

programming or other benefits, whether to require the offending juvenile to participate in therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. [115.378 (d) -1][115.378 (d) -2]

- e. GFCJDC may discipline a juvenile for sexual contact with staff only upon a finding the staff member did not consent to the contact. [115.378 (e) -1]
- 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 may not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. [115.378 (f) -1]

C. Medical and Mental Health Care

1. § 115.381 Medical and Mental Health Screenings; history of sexual abuse

- a. If the GFCJDC PREA intake and Initial Assessment indicates detainee has experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the detainee is offered a follow-up meeting with a mental health, medical or behavioral health practitioner within 14 days of the intake screening. [115.381 (a)/(c) -1][115.381 (a)/(c) - 2][115.381 (b) -1][115.381 (b) -2]

1. Residents receiving a mental health screening will be informed of limits of confidentiality by the PREA Coordinator, medical or behavioral health staff.

- a) This mental health screening may occur in conjunction with the re-assessment provided by the PREA Coordinator, or a mental health professional.
- b) Disclosure of information related to sexual victimization of abuse that occurred in an institutional setting must be strictly limited to staff, as necessary, to make security and management decisions, including

treatment plans, housing, bed, work, education, and program assignments, or as required by federal, state, or local law.

[115.381 (d) -2]

- c) Mental health, medical, and behavioral health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. [115.381 (e)-1]

2. § 115.382 Access to emergency medical and behavioral health services

- a. Residential victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope determined by medical, mental health and behavioral health practitioners according to their professional judgment. [115.381 (a) - 1][115.381 (a) -2]
- b. If medical, mental health, behavioral health practitioners, or qualified agency staff members are not on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical, mental health behavioral health practitioners, or qualified agency staff members. [115.382 (b)]
- c. Residential 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. [115.382 (c) -1][115.382 (f0) -1]
- d. Medical, mental health and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. [115.382 (d) -1][115.383 (f) -1]

3. § 115.383 ongoing medical and behavioral health care for sexual abuse victims and abusers

- a. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. [115.383 (a) -1]
- b. The evaluation and treatment of such victims must include, as appropriate, follow-up services, treatment plans, and, when necessary referrals for continued care following their transfer to, or placement in, other facilities, of their release from custody. [115.383 (b)]
- c. The facility shall provide such victims with medical and mental health services consistent with the community level of care. [115.383 (c)]
- d. Residential victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. [115.83 (d) -1]
- e. If pregnancy results from the conduct described in (d) above in this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. [115.383 (e) -1]
- f. Mental health staff will complete an evaluation of all known juvenile-on-juvenile abusers within 60 days of learning of such abuse history and offer treatment when appropriate. [115.383 (h) -1]
- g. A sexual risk notification, which includes a request for a PREA alert, notification of the PREA email group, documentation in the PREA Coordinator's notes in a UOF and a request for a purple dot identifying the juvenile on the juvenile board in the control room. These actions shall be completed by:
 - 1) The PREA Coordinator for all substantiated sexual abuse incidents, or as a result of a juvenile's self-disclosure of an act of sexual predation.

4. §115.386 Data Collection and Incident Reviews

- a. The facility shall conduct a sexual abuse incident review pursuant to PREA Standard 115.387 at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded. [115.386 (a) -1]

- 1) The PREA Coordinator may recommend completion of an incident review regarding sexual harassment investigations, and including any PREA investigation in which the allegation has been determined to be unfounded.
- b. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team, at a minimum, includes the PREA Coordinator, Administrator, Lieutenant, Medical Services Director, PREA Investigator(s) and Shift Commanders. The results of the review will be provided to the Operations Administrator. [115.386 (c) -1]
- c. The review team shall: [115.386 (d) -1 –(d) -5]
 - 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 whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - 5) Prepare a report of its findings, including determinations and any recommendations for improvement and submit such report to the Administrator of the Juvenile Detention Center.

5. § 115.387 Data Collection

- a. GFCJDC shall collect accurate, uniform data for every allegation of sexual abuse at its facility using a standardized instrument and set of definitions. [115.387 (a)/(c) -1]
 - 1) GFCJDC utilizes the Department of Justice, Bureau of Justice Statistics form SSV-2, Survey of Sexual Violence, if provided. [115.387

(a)/(c)2]

b. The GFCJDC PREA Coordinator shall aggregate the incident based sexual abuse data at least annually. [115.387 (b) -1]

1) GFCJDC shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. [115.387 (d) -1]

- a) The PREA Coordinator will ensure the documents are uploaded onto the I-drive
- b) The PREA Coordinator will compile data and statistics on the number of sexual abuse and sexual harassment incidents that occurred the prior calendar year. These statistics will be forwarded to the Department of Justice annually, upon request.
- c) GFCJDC does not contract with other facilities for the confinement of its residents. [115.387 (e) -1]
- d) Upon request, the GFCJDC shall provide the data from the previous calendar year to the DOJ no later than June thirtieth. [115.387 (f) -1]

6. § 115.388 Data Review For Correction Action

a. The PREA Coordinator in conjunction with the Administrator shall review data collected and aggregated pursuant to PREA Standard 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training to include: [115.388 (a) -1]

- 1) Identifying problem areas;
- 2) Taking corrective action on an ongoing basis; and
- 3) Preparing an annual report of its findings and corrective actions for each facility and the agency as a whole.
 - a) The report must include a comparison of the current year's data and corrective

actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse.

[115.388 (b) -1][115.388 (b) -2]

- b) The GFCJDC's report shall be approved by the Administrator of the GFJDC and made readily available to the public through its website or other means.

[115.388 (c) -1][115.383 (c) -3]

- c) GFCJDC may redact specific material from the reports when publication presents a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. [115.388 (d) -1][115.388 (d) -2]

7. § 115.389 Data Storage, Publication and Destruction

- a. GFCJDC ensures that data collected pursuant to § 115.387 are securely retained on the secure server. [115.389 (a) -1]
- b. GFJDC shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website. [115.389 (b) -1]
- c. Before making aggregated sexual abuse data publicly available, GFCJDC shall remove all personal identifiers. [115.389 (c) -1]
- d. The agency shall maintain sexual abuse data collected pursuant to § 115.387 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise. [115.389 (d) -1]
- e. All case records associated with claims of sexual abuse, including incident reports, investigation reports, resident information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and counseling will be retained in accordance with North Dakota statute.

8. § 115.393, 115.401 Audits of Standards

- a. Effective JUNE 19th and during each three-year period thereafter GFCJDC shall be audited at least once.

- b. GFCJDC will utilize an audit instrument developed by the DOJ to provide guidance on the conduct of and contents of the audit.
- c. The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type.
- d. The auditor shall have access to, and shall observe, all areas of the audited facilities.
- e. The auditor shall have access to, and shall observe, all areas of the audited facilities.
- f. The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
- g. The auditor shall retain and preserve all documentation including, video tapes and interview notes relied upon making audit determinations. Such documentations shall be provided to the DOJ upon request.
- h. The auditor shall interview a representative sample of residents and detainees, staff and supervisors, and administrators.
- i. The auditor shall review a sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.
- j. The auditor shall be permitted to conduct private interviews with the residents.
- k. Residents/detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
- l. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

9. § 115.402 Auditor Qualifications

- a. Auditors must be certified by the DOJ.
- b. An auditor must be a member of a correctional monitoring body that is not part of, or under the authority of, GFCJDC but may be part of, or authorized by, North Dakota state or local government.
- c. An auditor must be a member of an auditing entity such as an inspector general's or ombudsperson's office that is external

- to the GFJDC.
- d. Auditors may be other outside individuals with relevant experience.
 - e. No audit may be conducted by an auditor who has received financial compensation from the GFJDC within three years prior to the GFCJDC's retention of the auditor.
 - f. GFCJDC shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the GFCJDC's retention of the auditor, with the exception of contracting for subsequent PREA audits.

10. § 115.403 Audit Content and Findings

- a. Each audit must include a certification by the auditor that no conflict of interest exists with respect to their ability to conduct an audit of GFCJDC.
- b. Audit reports must state whether GFCJDC directives, policies, and procedures comply with relevant PREA standards.
- c. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings.
 - 1) Exceed standard:
 - a) Substantially exceeds requirements of the standard.
 - 2) Meets standard:
 - a. Substantial compliance, complies in all material ways with the standard for the relevant review period.
 - 3) Does not meet standard:
 - a. Requires corrective action
 - 4) The audit summary must indicate, among other things, the number of provisions the facility has achieved at each grade level.
 - 5) The audit reports must describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and must include recommendations for any required corrective action.
 - 6) Auditors shall redact any personally identifiable detainee or staff information from their reports,

but shall provide such information to the GFJDC upon request, and may provide such information to the DOJ.

- 7) The GFCJDC shall ensure that the auditor's report is published on the GFCJDC's website or provide other means so the report is readily available to the public.

11. § 115.404 Audit Corrective Action Plan

- a. A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.
- b. The auditor and the GFCJDC shall jointly develop a corrective action plan to achieve compliance.
- c. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan including reviewing updated policies and procedures or re-inspecting portions of the facility.
- d. After the 180-day corrective action period ends, the auditor shall issue a final determination whether the facility has achieved compliance with those standards requiring corrective action.
- e. GFJDC does not achieve compliance with each standard, it may (at the GFJDC's discretion and cost) request a subsequent audit once it believes compliance has been achieved.

12. § 115.405 Audit Appeal

- a. GFJDC may lodge an appeal with the DOJ regarding a specific audit finding it believes is incorrect. The appeal must be lodged within 90-days of the auditor's final determination.
- b. If the DOJ determines the GFCJDC has stated good cause for a re-evaluation, GFCJDC may commission a re-audit by an auditor mutually agreed upon by the DOJ and GFCJDC. The GFJDC shall then bear the costs of this re-audit.
- c. The findings of the re-audit shall be considered final.

13. § 115.501 State Determination and Certification of Full Compliance

- a. In determining pursuant to 42 U.S.C. 15607 (c) (2) whether

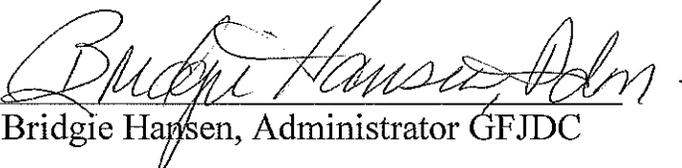
GFCJDC is in full compliance with the PREA standards, the Governor shall consider the results of the most recent GFCJDC audits.

- b. The Governor's certification shall apply to all facilities in the State under the operation control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.

D. Audit Requirements

1. GFJDC will comply with all audit requirements from the DOJ

- a. **SIGNATURE:** This policy with procedures becomes effective when signed by the Administrator of the GFCJDC.


Bridgie Hansen, Administrator GFJDC


Date