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PREA COMPLIANCE AUDIT INSTRUMENT – INTERVIEW GUIDE FOR SPECIALIZED STAFF

Community Confinement Facilities

August 11, 2014

GUIDELINES FOR AUDITORS: SPECIALIZED STAFF INTERVIEWS

Selecting specialized staff for interview:

Per the instructions for random staff interviews, the auditor shall request a list of staff sorted by assignment (e.g., supervision in housing units) and by shift on the first day of the site visit. The auditor shall select, at random (if practical), staff from the list of specialized staff below and request that these persons be brought for an interview on a subsequent day to be determined.

The auditor will request to interview specialized staff, including:

- Agency contract administrator;
- Medical and mental health staff;
- Administrative (human resources) staff;
- SAFE and SANE staff;
- Volunteers and contractors who have contact with residents;
- Investigative staff;
- Staff who perform screening for risk of victimization and abusiveness;
- Staff on the incident review team;
- Designated staff member charged with monitoring retaliation;
- First responders, both security and non-security staff; and
- Intake staff.

This list of specialized staff, and the following interview guides, are meant to provide auditors with guidance on the types of staff who should be interviewed and the types of questions they should be asked. However, it may be that some staff roles overlap and that auditors only need to talk to one or two people to answer some of these questions. Likewise, auditors may need to interview several staff who have different responsibilities to answer questions for a single role designated above. Additionally, agencies/facilities may use different titles to refer to their staff than the nomenclature used in this guide. As part of auditors' preparation for an audit, auditors should talk with their agency/facility contact(s) to get an understanding of the staff they will need to talk to answer the various types of questions.

Interviews shall be conducted in a setting where staff will feel free to talk without being overheard by other staff. At large facilities or those with many different housing units, auditors may choose to interview additional staff to develop a more comprehensive assessment. The decision regarding total number staff to be interviewed should take into consideration the time available for interviews with both residents and staff during the visit.

Informing Staff of the Audit's Purpose and Reason for Their Requested Participation

Prior to interviewing each staff person, the auditor should communicate the following to him or her:

"Thank you for meeting with me. My name is [NAME]. I have been hired by the [NAME OF CORRECTION AGENCY] to conduct an assessment of whether or not this facility is in compliance with standards that have been established by the federal government to prevent sexual harassment and abuse. Although the [NAME OF CORRECTION AGENCY] hired me, I am an independent auditor and not under the authority of [NAME OF CORRECTION AGENCY]. I have been certified by the U.S. Department of Justice to conduct this assessment. I would like to ask you some questions about facility policies and practices. Your participation is voluntary, and you may choose not to answer any or all of the questions."

"As a matter of professional conduct, I will do my very best to protect the confidentiality of the information that you provide to me. Under no circumstances can I be required to turn over my interview notes to the facility if they ask me for them. As I conduct my interviews, I will not be discussing what you tell me with any facility staff. However, you should be aware that if the U.S. Department of Justice wants to examine any of the information that I collect during this audit. I must provide it to them if they ask.

"You should also know that for the final report that I will give to the facility at the end of this audit, I am prohibited from including any personally identifying information of yours in it. The only way that my

report could include personally identifying information is if I make a mistake and include it, and I can assure you that I will not make such a mistake. If my final report ends up including personally identifying information by mistake, I have to provide it to the agency if they ask.

“If you experience any negative consequences for talking with me, such as retaliation or threatened retaliation, please do not hesitate to contact me. I can be reached at **[THIS SHOULD BE THE SAME CONTACT INFORMATION PROVIDED IN ADVANCE OF THE AUDIT VISIT THAT SOLICITS INMATE COMMENTS].**”

“Do I have your permission to ask you some questions?”

IF YES, CONTINUE WITH INTERVIEW GUIDE.

<u>AGENCY CONTRACT ADMINISTRATOR</u>	<u>1</u>
<u>MEDICAL AND MENTAL HEALTH STAFF</u>	<u>2</u>
<u>NON-MEDICAL STAFF INVOLVED IN CROSS-GENDER STRIP OR VISUAL SEARCHES</u>	<u>4</u>
<u>ADMINISTRATIVE (HUMAN RESOURCES) STAFF</u>	<u>5</u>
<u>SANE/SAFE STAFF</u>	<u>6</u>
<u>VOLUNTEERS AND CONTRACTORS WHO MAY HAVE CONTACT WITH RESIDENTS</u>	<u>7</u>
<u>INVESTIGATIVE STAFF</u>	<u>8</u>
<u>STAFF WHO PERFORM SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS</u>	<u>10</u>
<u>INCIDENT REVIEW TEAM.....</u>	<u>12</u>
<u>DESIGNATED STAFF MEMBER CHARGED WITH MONITORING RETALIATION</u>	<u>13</u>
<u>SECURITY STAFF AND NON-SECURITY STAFF WHO HAVE ACTED AS FIRST RESPONDERS</u>	<u>14</u>
<u>INTAKE STAFF</u>	<u>15</u>

AGENCY CONTRACT ADMINISTRATOR

1. How do you monitor new and renewed contracts for confinement services to determine if the contractor complies with required PREA practices? [115.212]
2. Have PREA compliance results been completed for each contract entered into within the past 12 months? [115.212]
3. Have contract facilities completed and submitted PREA compliance results?
 - a. If not, are they scheduled to be completed within the contracting agency's three-year cycle?
4. Since August 20, 2012, has the agency entered into one or more contracts with a private agency or other entity that failed to comply with the PREA standards? [115.212]

If yes:

- a. Why were such contracts necessary? (PROBE: Emergency circumstances?)
- b. What attempts were made to find a private agency or entity in compliance with PREA standards?
- c. Were any unsuccessful attempts documented? If yes, please describe.

MEDICAL AND MENTAL HEALTH STAFF

1. If you conduct forensic examinations, are you qualified, and have you received the appropriate training in conducting forensic examinations? [115.235]
2. Have you received any other specialized training regarding sexual abuse and sexual harassment? If so, can you describe it? Did the training cover topics such as: [115.235]
 - How to detect and assess signs of sexual abuse and sexual harassment;
 - How to preserve physical evidence of sexual abuse;
 - How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
 - How and to whom to report allegations or suspicions of sexual abuse and sexual harassment?
3. At the initiation of services to a resident, do you disclose the limitations of confidentiality and your duty to report? [115.261]
4. Are you required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning of it? [115.261]
5. Have you ever become aware of such incidents? Did you report them? [115.261]
6. If the facility offers therapy, counseling, or other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse, does the facility consider whether to offer these services to the offending resident? [115.278]
7. When you provide these services, do you require a resident's participation as a condition of access to programming or other benefits? [115.278]
8. Do resident victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services? [115.282]
9. How fast does this typically occur? [115.282]
10. Are the nature and scope of these services determined according to your professional judgment? [115.282]
11. Are victims of sexual abuse offered timely information about access to emergency contraception and sexually transmitted infection prophylaxis? [115.282]
12. What does evaluation and treatment of residents who have been victimized entail? *(Probe: does treatment contains follow-up services, treatment plans, and when necessary, referrals for continued care after leaving the facility.)* [115.283]
13. Are the medical and mental health services offered consistent with community level of care? [115.283]
14. If pregnancy results from sexual abuse while incarcerated, are victims given timely information and access to all lawful pregnancy-related services? [115.283]

15. When, ordinarily, are such victims provided this information and access to services?
[115.283]

16. Do you conduct a mental health evaluation of all known resident-on-resident abusers and offer treatment if appropriate? After learning about the abuse history of such a resident, when do you typically conduct an evaluation? [115.283]

NON-MEDICAL STAFF INVOLVED IN CROSS-GENDER STRIP OR VISUAL SEARCHES

1. What urgent circumstances would require cross-gender strip and visual body cavity searches? [115.215]

ADMINISTRATIVE (HUMAN RESOURCES) STAFF

1. Does the facility perform criminal record background checks or consider pertinent civil or administrative adjudications for all newly hired employees who may have contact with residents and all employees, who may have contact with residents, who are considered for promotions? Do you do this for any contractor who may have contact with residents as well? [115.217]
2. Does the facility consider prior 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? [115.217]
3. What system does the facility presently have in place to conduct criminal record background checks of current employees and contractors who may have contact with residents? Are these background checks conducted at least once every five years? [115.217]
4. Does the facility ask all applicants and employees who may have contact with residents about previous misconduct described in section (a)* in written applications for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees? [115.217]
5. Does the facility impose upon employees a continuing affirmative duty to disclose any such previous misconduct? [115.217]
6. When a former employee applies for work at another institution, upon request from that institution, does the facility provide information on substantiated allegations of sexual abuse or sexual harassment involving the former employee, unless prohibited by law? *(Probe for information about laws that would prohibit such information transfer.)* [115.217]

**Previous misconduct from section (a): (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.*

SANE/SAFE STAFF

1. Are you responsible for conducting *all* forensic medical examinations for the facility?
(Note to auditors: the standard does not require SANE/SAFE staff to conduct "all" forensic medical evaluations; therefore, responses do not dictate compliance/noncompliance.)
[115.221]
2. When SANE/SAFE staff are unavailable to conduct forensic medical examinations, who assumes the responsibility? [115.221]

VOLUNTEERS AND CONTRACTORS WHO MAY HAVE CONTACT WITH RESIDENTS

1. Have you been trained in your responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response, per agency policy and procedure? [115.232]
2. If YES, what does this training consist of? [115.232]
3. Have you been notified of the agency's zero-tolerance policy on sexual abuse and sexual harassment, as well as informed about how to report such incidents? [115.232]

INVESTIGATIVE STAFF

If the agency conducts its own investigations of allegations of sexual abuse, ask the following questions:

1. Did you receive training specific to conducting sexual abuse investigations in confinement settings? [115.234]
2. If YES, can you describe it briefly? [115.234]
3. Did the training topics include: [115.234]
 - Techniques for interviewing sexual abuse victims?
 - Proper use of Miranda and Garrity warnings?
 - Sexual abuse evidence collection in confinement settings?
 - The criteria and evidence required to substantiate a case for administrative or prosecution referral?
4. Does agency policy require that allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? *(Note: The referral agency may include the agency itself, if it conducts its own criminal investigations.)* [115.222]
5. How long does it take to initiate an investigation following an allegation of sexual abuse or sexual harassment? [115.271]
6. What would be the first steps in initiating an investigation and how long would they take? [115.271]
7. Please describe the investigation process. [115.271]
8. How do you handle anonymous or third-party reports of sexual abuse or sexual harassment? Are they investigated differently? [115.271]
9. Please describe any direct and circumstantial evidence you would be responsible for gathering in an investigation of an incident of sexual abuse. *(Probe: See if these include physical and DNA evidence, electronic monitoring data, interviews, and prior complaints and reports of sexual abuse.)* [115.271]
10. When you discover evidence that a prosecutable crime may have taken place, do you consult with prosecutors before you conduct compelled interviews? [115.271]
11. On what basis do you judge the credibility of an alleged victim, suspect, or witness? [115.271]
12. Would you, under any circumstances, require a resident who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation? [115.271]
13. When do you refer cases for prosecution? *(Note: the standard requires referrals when there are substantiated allegations of conduct that appear to be criminal.)* [115.271]

14. a) How do you proceed when a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct? [115.271]
- b) How do you proceed when a victim who alleges sexual abuse or sexual harassment or an alleged abuser leaves the facility prior to a completed investigation into the incident? [115.271]
15. When an outside agency investigates an incident of sexual abuse in this facility, what role do you play? [115.271]

Questions #16 and 17 are for investigators who conduct administrative investigations specifically:

16. What efforts do you make during an administrative investigation to determine whether staff actions or failures to act contributed to the sexual abuse? [115.271]
17. Do you document administrative investigations in written reports? What information do you include in those reports? [115.271]
18. Are criminal investigations documented? What is contained in that report? (*Probe: Do reports include thorough descriptions of physical, testimonial, and documentary evidence, as well as attached copies of documentary evidence?*) [115.271]
19. What standard of evidence do you require to substantiate allegations of sexual abuse or sexual harassment? [115.272]
20. Do your agency procedures require that a resident who makes an allegation of sexual abuse must be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation? [115.273]

STAFF WHO PERFORM SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS

1. Do you screen residents upon admission to your facility or transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other residents? [115.241]
2. Do you screen residents for risk of sexual victimization or risk of sexually abusing other residents within 72 hours of their intake? [115.241]
3. What does the initial risk screening consider? (*Probe for consideration of any resident disabilities, resident age, physical build of resident, previous incarceration of resident, resident criminal history (including nonviolent offenses and sex offenses), perceived sexual orientation of resident, previous sexual victimization of resident, and resident perception of vulnerability.*) [115.241]
4. What is the process for conducting the initial screening? [115.241] (*Probe: If a set format or checklist is used, is it simply yes or no answers to questions or does it ask for data?*)
5. Do you reassess a resident's risk level as needed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness? [115.241]
6. How long after arrival are residents' risk levels reassessed? [115.241]
7. Are residents disciplined in any way for refusing to respond to (or for not disclosing complete information related to) the following: [115.241]
 - Whether the resident has a mental, physical, or developmental disability.
 - Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming (by "transgender," I mean: people whose gender identity and/or gender expression does not match the sex and/or gender they were assigned at birth; by "intersex," I mean: an individual born with external genitalia, internal reproductive organs, chromosome patterns, and/or endocrine systems that do not seem to fit typical definitions of male or female; by "gender non-conforming," I mean: individuals who express their gender in a manner that breaks societal norms for one's gender (e.g., someone who identifies as a girl/woman but wears clothing typically assigned to boys/men)).
 - Whether the resident has previously experienced sexual victimization.
 - The resident's own perception of vulnerability.
8. Has the agency outlined who can have access to a resident's risk assessment within the facility in order to protect sensitive information from exploitation? [115.241]
9. How does the agency/facility use information from the risk screening during intake (per 115.241) to keep residents safe from being sexually victimized or from being sexually abusive? (*Probe: During intake, is risk screening information used to make individualized determinations to ensure resident safety?*) [115.242]
10. Are a transgender or intersex resident's own views of his or her own safety given serious consideration in placement and programming assignments? [115.242]

11. Are transgender and intersex residents given the opportunity to shower separately from other residents? [115.242]

INCIDENT REVIEW TEAM

Does the review team:

1. 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? [115.286] (By “transgender,” I mean: people whose gender identity and/or gender expression does not match the sex and/or gender they were assigned at birth; by “intersex,” I mean: an individual born with external genitalia, internal reproductive organs, chromosome patterns, and/or endocrine systems that do not seem to fit typical definitions of male or female; by “gender non-conforming,” I mean: individuals who express their gender in a manner that breaks societal norms for one’s gender (e.g., someone who identifies as a girl/woman but wears clothing typically assigned to boys/men).)
2. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? [115.286]
3. Assess the adequacy of staffing levels in that area during different shifts? [115.286]
4. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? [115.286]

DESIGNATED STAFF MEMBER CHARGED WITH MONITORING RETALIATION

Note: If no staff members are charged with monitoring retaliation at the facility, these questions should be addressed to the PREA Compliance Manager instead:

1. What role do you play in preventing retaliation against residents and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations? *(Probes: Housing changes or transfers, removal of alleged abusers, emotional support services)* [115.267]
2. Can you describe the different measures you take to protect those residents and staff from retaliation? [115.267]
3. Do you initiate contact with residents who have reported sexual abuse? If so, how often? [115.267]
4. What do you look for to detect possible retaliation? What do you monitor? *(Probe: Does this include any resident disciplinary report housing changes, program changes, negative performance reviews or reassignments of staff, periodic status checks?)* [115.267]
5. How long do you monitor the conduct and treatment of residents and staff who report the sexual abuse of a resident or were reported to have suffered sexual abuse? [115.267]
6. If there is concern that potential retaliation might occur, what is the maximum length of time that you would monitor conduct and treatment? [115.267]

SECURITY STAFF AND NON-SECURITY STAFF WHO HAVE ACTED AS FIRST RESPONDERS

1. Can you describe the actions you take as a first responder to an allegation of sexual abuse? (*Probe: Are any of the following actions included?*) [115.264 and 115.282]
 - a. Separating the alleged victim and abuser;
 - b. Preserving and protecting any crime scene until appropriate steps can be taken to collect any evidence;
 - c. Requesting that the alleged victim not take any actions that could destroy physical evidence (such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating), if the abuse occurred within a time period that still allows for the collection of physical evidence; and
 - d. Ensuring that the alleged abuser does not take any of the above actions that could destroy physical evidence, if the abuse occurred within a time period that still allows for the collection of physical evidence; and
 - e. Immediately notifying medical and mental health practitioners.

INTAKE STAFF

1. Do you provide residents with information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment? [115.233]
2. How do you ensure that current residents, as well as those transferred from other facilities, have been educated on the agency's zero-tolerance policy on sexual abuse or sexual harassment? [115.233]
3. How does the agency ensure that residents are educated regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents? [115.233]
4. In general, how long from the date of intake are residents made aware of these rights? [115.233]