

115.81

Medical and mental health screenings;
history of sexual abuse

Standard in Focus

Medical and mental health screenings; history of sexual abuse

§115.81

- a) If the screening pursuant to § 115.41 indicates that a **prison inmate** has experienced **prior sexual victimization**, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
- b) If the screening pursuant to § 115.41 indicates that a **prison inmate** has **previously perpetrated sexual abuse**, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
- c) If the screening pursuant to § 115.41 indicates that a **jail inmate** has experienced **prior sexual victimization**, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
- d) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
- e) Medical and mental health practitioners shall obtain **informed consent** from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

Purpose

To require a facility to appropriately respond and use information gathered during the intake screening process to timely and discretely offer medical and mental health consultations to confined persons who have previously experienced or perpetrated prior sexual abuse, either in a confinement setting or in the community.

- Offering a follow-up meeting to a confined person with prior victimization is intended to ensure that the confined persons understand they have access to professional medical and mental health services to assess and meet any needs related to their past victimization if they choose to accept the services.

- Offering a follow-up meeting with a mental health practitioner to prior **abusers** also emphasizes the availability of professional mental health services and treatment for confined persons who choose to take advantage of these services to address any unmet mental health needs or behavioral concerns that may be present.
- Proactively offering these services to victims and abusers helps address immediate medical and mental health needs of these confined persons that, if not addressed, may have negative impacts on the safety and security of confined people in the facility; taking these proactive measures also has the potential to reduce future incidents of sexual abuse, create greater trust in the facility treatment systems, and give confined people an improved overall sense of safety and security within the facility.

Implementation

- This standard provides instruction on how to use information on past sexual victimization or perpetration obtained during the intake screening (see Standard in Focus § 115.41, Screening for Risk of Victimization and Abusiveness).
- **It is important to note that past sexual victimization or perpetration is not limited to in-custody experiences; it includes victimization and perpetration that may have occurred in the community as well.**
- Follow-up meetings must be offered and provided to confined persons who do not refuse them.
- A follow-up meeting is intended to emphasize immediate medical or mental health needs and security risks. It entails an interaction between a mental health or healthcare provider and a confined person, in which the provider focuses on mitigating immediate medical or mental health concerns and assessing security risks, as well as informing decisions regarding further treatment. If further treatment is not warranted or otherwise appropriate, the facility need not provide such services.
- A follow-up meeting is different than the requirement in Standard 115.83(h) that prisons must attempt to provide mental health **evaluations** to known inmate-on-inmate abusers within 60 days of learning of their history. That evaluation is a comprehensive mental health assessment intended to inform future treatment plans.
- Facilities have different obligations for **prison inmates** and **jail inmates**.
 - **Prison inmates:**
 - **Prior victimization:** offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
 - **Prior perpetration:** staff shall ensure that the confined individual is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.
 - **Jail inmates:**
 - **Prior victimization:** offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
 - **Prior perpetration:** no requirement.
- **Use of screening information.** While follow-up meetings must be offered to confined persons with past victimization or abusiveness either in confinement settings or in the community, the standard imposes additional requirements depending on where the prior sexual victimization or

abusiveness occurred.

- **Sexual victimization or abusiveness that occurred in an institutional setting.** Information regarding sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, to the extent necessary to ensure a confined person's safety and proper treatment and to comply with federal, state, and local law. The information must be used, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments. The facility retains discretion in how to provide the necessary degree of confidentiality while still accounting for safety, treatment, and operational issues.
- **Sexual victimization that did not occur in an institutional setting.** Medical and mental health practitioners shall obtain informed consent from confined persons before reporting information about prior sexual victimization that did not occur in an institutional setting unless the inmate is under the age of 18.

Challenges

- Tracking confined individuals with prior victimization or perpetration to ensure that they are offered, and receive, the appropriate care within 14 days of screening, especially in jails with high inmate turnover and shorter time periods in custody.
- Developing a reliable system to communicate with medical and mental health units regarding which confined individuals need follow-up meetings.
- Documenting any refusals of follow-up care offers.
- Documenting when confined persons receive the required follow-up meetings and any treatment services that are deemed necessary.
- Limiting how information about past sexual victimization or abusiveness that occurred in an institutional setting is disclosed or shared in the facility.

Best Practices

- A written policy, although not required, is helpful to coordinate between intake and medical and mental health units. The policy should identify how the relevant screening information is transmitted to medical and mental health, and how follow-up meetings are documented in medical and mental health files.
- Agencies should require documentation of whether confined persons accept or refuse follow-up meetings, which can explain why not all inmates flagged at intake receive follow-up with medical or mental health.
- The 14-day time period is an outer limit for follow-up meetings. Best practice is to provide follow-up meetings with a healthcare practitioner as soon as possible.
- Medical and mental health units should maintain secondary materials, other than medical or mental health records (e.g., form, log), that document compliance with the above required services. These records can be forms, logbooks, or other non-private documents.

Audit Issues

- Auditors will examine the number of confined individuals who disclosed prior victimization or abusiveness during screening who were offered a follow-up meeting with a medical or mental health practitioner. Facilities should be prepared to provide auditors with a listing of individuals who disclosed prior victimization or abusiveness and relevant documentation showing the offer of the follow-up meetings and the date the meeting was offered, accepted, or rejected.
- Auditors may review additional medical/mental health secondary materials (secondary materials refer to materials maintained by health staff in a secure area but separate from the confined individual's medical record) that document compliance with the provisions of this standard.
- Auditors may interview confined persons who disclosed prior victimization or abusiveness to determine whether a follow-up meeting was offered within 14 days of intake. Auditors may also interview medical and mental health practitioners as well as screening staff to understand the protocol for compliance with this standard.

Standard Variations

The following variations in the standard are noted for **Lockups**, **Community Confinement Facilities**, and **Juvenile Facilities**. These variations are discussed in summary fashion below, but readers are encouraged to consult the full text of the specific set of standards to ensure a complete understanding of the differences.

- **Lockups:** § 115.181 is reserved in the Lockup Standards.
- **Community Confinement:** § 115.281 is reserved in the Community Confinement Standards.
- **Juvenile:** The following distinction is noted:
 - Residents must receive the same follow-up offers as prison inmates receive under this standard (as opposed to jail inmates): Residents who have experienced prior sexual victimization must be offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening [§ 115.381(a)]; and residents who have previously perpetrated sexual abuse must be offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening [§ 115.381(b)].

Resources

Frequently Asked Questions

→ www.prearesourcecenter.org/frequently-asked-questions

The Department of Justice has issued extensive guidance regarding the use of screening information. Visit the PREA Resource Center's FAQ page and search under Standard 115.81 for the many related FAQ responses provided by Department of Justice. The FAQs to date are as follows:

None available as of April 18, 2023.

PREA Resource Center Library

- Module 11: Sexual Victimization and Mental Health Interventions in Correctional Settings
 - <https://www.prearesourcecenter.org/sites/default/files/library/module11victimizationandmentalhealthcare.pdf>
- Specialized Training: Medical/Mental Healthcare (Regional Training Files) Introduction and Module 1: Detecting and Assessing Signs of Sexual Abuse and Harassment
 - <https://www.prearesourcecenter.org/sites/default/files/library/med-mhpresentationmod1detectingassessing.pdf>

Archived Webinars on the PRC Website

- Responding to Sexual Abuse of Inmates in Custody: Addressing the Needs of Men, Women and Gender Non-Conforming Individuals
 - <https://www.prearesourcecenter.org/training-and-technical-assistance/webinars/1462/responding-sexual-abuse-inmates-custody-addressing>
- Responding to Sexual Abuse of Youth in Custody: Addressing the Needs of Boys, Girls and Gender Non-Conforming Youth
 - <https://www.prearesourcecenter.org/training-and-technical-assistance/webinars/1468/responding-sexual-abuse-youth-custody-addressing>

Notes and Federal Disclaimer

Note: Standards in Focus (SIFs) are not intended for use by the Department of Justice PREA auditors to evaluate PREA compliance. SIFs are a tool designed to help agencies and facilities implement, educate, and become familiar with the PREA standards and some related best practices, but are not a compliance checklist. They contain guidance about implementation best practices that may not be required and thus it would not be appropriate for auditors to audit against the SIF. SIFs also do not exhaust implementation guidance for every requirement in every standard.

Notice of Federal Funding and Federal Disclaimer – This project was supported by Grant No. 2019-RP-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice or grant-making component.