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§115.311 (a) I **POLICY:** The Philadelphia Juvenile Justice Services Center has zero tolerance for sexual misconduct involving any juvenile. It is the policy of the Juvenile Justice Services Center to provide a safe, humane, and secure environment, free from all forms of sexual abuse and sexual harassment by establishing definitions of prohibited conduct and maintaining a program of prevention, detection and response to all forms of sexual misconduct.

.311 (b,c) A PREA Coordinator, designated by the Philadelphia Juvenile Justice Services Center’s Executive Director, with sufficient time and authority to oversee JJSC’s efforts to comply with PREA Standards will coordinate, develop, and implement, the facility’s mandated zero tolerance PREA program in prevention, detection, and responding to allegations of all forms of sexual misconduct, sexual abuse, sexual harassment, and/or retaliation. JJSC does not operate more than one facility.

A Victim Support Person, designated by the JJSC Executive Director, shall be notified as soon as possible, upon allegations of a sexual abuse at JJSC, but not later than the next business day. The Victim Support Person along with the PREA Coordinator and/or the Executive Director or designee shall consult with the investigator on the case and offer assistance to the alleged victim as is appropriate based on their training. The Victim Support Person may sit in on administrative interviews of the victim but may not in any manner obstruct or interfere with the course of the investigation.

II **PURPOSE:** The purpose of this policy is to provide guidelines and procedures to protect juveniles and staff from sexual abuse, sexual misconduct, sexual harassment, and retaliation. This zero tolerance policy outlines JJSC’s approach to prevent, detect, investigate, tracking, and response to all alleged and substantiated sexual misconduct, sexual abuse, sexual harassment, and retaliation that occur at JJSC.

Other responses to sexual abuse and sexual harassment on residents shall include, but not limited to, separating the alleged staff from the alleged victim, correcting unmonitored blind spots and isolated areas.

Other responses for preventing resident on resident misconduct shall include, but not limited to referrals to mental health, social services and/or medical in efforts to treat and prevent resident on resident sexual misconduct and sexually abusive behavior.

This policy also addresses the admissions process where each resident will be made aware of their rights at the time of admissions. All residents are provided with an initial assessment and receive verbal and written PREA materials on sexual assault, sexual misconduct, reporting options, protection against retaliation, medical and mental health treatment, and counseling. A signed receipt indicating the resident’s understanding is kept on file.

III **DEFINITIONS:** As used in this document, the following definitions shall apply:

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- §115.5
- A. **Aggressor**: Any person committing sexual misconduct, sexual abuse, sexual harassment, or retaliation against another. The aggressor may be the same or different gender as the victim.
- B. **Investigator**: Individual(s) designated by the JJSC Executive Director to conduct internal investigations / interviews into alleged sexual misconduct, sexual abuse, sexual harassment or retaliation in order to assess the incident and/or maintain evidence and compile documentation required to substantiate a case for administrative action or prosecution referral.
- C. **Juvenile**: Any individual confined or detained in a juvenile facility or in a community confinement facility (treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other facilities which juveniles reside as part of a term of imprisonment or condition of pre-trial release supervision).
- D. **Non-Employee**: Any volunteer, contractor, therapist, juvenile probation and parole officer, officer of the court or other non-staff individual who interacts with juveniles who are in the custody of the JJSC facility.
- E. **PREA Coordinator**: Individual designated by the JJSC Executive Director, with time and authority, who is responsible for coordinating, developing, implementing and overseeing the facility's compliance with PREA Standards and coordinating the facility's response to allegations of all forms of sexual misconduct, sexual abuse, sexual harassment and retaliation.
- F. **Sexual Abuse includes** sexual abuse of a resident by another resident; sexual abuse of a resident by a staff member, non-employee, contractor, or volunteer.
- G. **Sexual Acts**: Any contact between the sex organ of one person and the sex organ of another person, however slight. Contact between the mouth, penis, anus or vulva. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
- §115.6
- 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; or where the act is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
- H. **Sexual Contact**: Any Intentional touching, by resident, staff, contractor or volunteer, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of a person other than by staff for medical purposes or for purposes of performing legitimate policy-authorized searches.
- I. **Sexual Misconduct**: All forms of sexual behavior prohibited by this policy, including sexual abuse, sexual harassment, sexual acts and sexual contact regardless of whether it is consensual. Examples of sexual misconduct include:

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1. Requests for sexual favors, sexual acts or sexual contact.
2. Influencing, promising or threatening a juvenile's safety, custody or security level, including recommendations for court actions, privacy, housing, privileges, work detail or program status in exchanges for sexual favors.
3. Promise of protection in exchange for sexual favors.
4. Statements, comments or innuendos made directly or indirectly concerning the sexual orientation or perceived sexual orientation of any person.
5. Intimate or close relationships with a juvenile, defined as any relationship beyond the boundaries of a professional relationship.
6. Intimate conversation or correspondence with a juvenile.
7. Exchanging letters, pictures, phone numbers, addresses, email addresses or other personal information with juveniles.
8. Unreasonable invasion of a juvenile's privacy, such as inappropriate viewing of any juvenile.
9. Any verbal, non-verbal or physical conduct which is sexual in nature or sexually suggestive.
10. Creating an intimidating, hostile or offensive environment by engaging in or permitting sexually offensive behavior or language that is directed at or observable by juveniles or others.
11. Kissing, hugging, fondling or other touching of an individual's breast, genital, anal or other intimate area either directly or through clothing for sexual arousal, gratification, abuse or assault of either party.
12. Rape, sexual assault, sexual intercourse, oral sex, anal sex, vaginal sex.
13. Sex or penetration with any object or body part.

J. Sexual Harassment: For purposes of this policy, sexual harassment includes comments of a sexual nature; demeaning references to gender; lewd remarks about clothing, body or appearance; profane or obscene language or gestures; and displaying sexually oriented images.

K. Retaliation: Any act of vengeance, covert or overt action, or threat of action taken against an individual in response to their claim of sexual misconduct, sexual contact or sexual abuse or cooperation in the reporting or investigation of sexual misconduct, regardless of the disposition of the complaint. Examples of retaliation include:

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1. Unnecessary discipline.
2. Verbal or physical intimidation or threats.
3. Unnecessary changes in housing classification.
4. Unnecessary changes in work or program assignments.
5. Unjustified denials of privileges or services.
6. Any action to compromise the victim or witness's safety including refusal or failure to protect.

L. **Victim:** Any person who has been the target of sexual misconduct, sexual abuse, sexual harassment, or retaliation.

M. **Victim Support Person:** An individual(s) designated by the JJSC Executive Director who has been specially trained to support a victim during investigation of alleged sexual acts, sexual abuse or sexual contact.

N. **Voyeurism:** an invasion of privacy of a resident by a staff member or non-employee for reasons unrelated to official duties, such as peering at a resident who is using a toilet to perform bodily functions; requiring a resident to expose his or her buttocks, genitals or breast; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.

Contracting With Other Entities for Confinement of Residents.

Any outside private or public entities that contract to hold the Philadelphia Juvenile Justice Services Center's residents in confinement shall be subject to the following:

1. All new and renewal contracts will include the contractor's obligation to adopt and comply with the PREA Standards.
2. Any new or renewal contracts shall provide for contract monitoring to ensure that the contractor is complying with the PREA Standards.

§115.312
(a)(b)

IV PROCEDURAL GUIDELINES

A. Supervision and Monitoring.

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The Juvenile Justice Services Center will make its best effort to comply with a regular staffing plan that provides for adequate levels of staffing on all tours, with the use of a written daily staff schedule for each tour identifying full staff coverage, to protect residents against sexual abuse, sexual misconduct, sexual harassment and retaliation. [JJSC Policy 12.5 (C,D,E&F) pgs. 1&2].

§115.313
(a)

Any limited and discrete exigent circumstances shall be fully documented and JJSC will utilize mandated regulations of mandatory overtime and volunteer staff, to best protect residents from sexual abuse, when needed. In developing an adequate staffing plan for staffing levels and the need for video monitoring, the following factors shall be considered

.313(b)

1. Generally accepted detention practices.
2. Any judicial findings of inadequacy.
3. Any findings of inadequacy from Federal Investigative Agencies.
4. Any findings of inadequacy from internal or external oversight bodies.
5. All components of the facility’s physical plant (including “blind spots” or areas where staff or residents may be isolated).
6. The composition of resident population.
7. The number and placement of supervisory staff.
8. 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 factors that could impact the safety and security of the facility.

JJSC maintains a video monitoring system throughout the facility to protect residents against sexual abuse, sexual misconduct, sexual harassment and retaliation.

.313 (c)

The Department of Public Welfare, 3800 regulations mandate that 1:6 ratio be maintained during awake hours and 1:12 ratio during the sleeping hours. [3800 (.274 (5&6) pgs. 51&52], [JJSC Policy 12.4 (C), pg. 2].

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JJSC’s administration, in consultation with the PREA Coordinator will assess, determine, and document, at least once a year, whether adjustments are needed to: [JJSC Policy 12.5 (I) pg. 1].

§115.313
(d)

1. The staffing plan established under standard §115.313a.
2. Existing staffing patterns.
3. The deployment of additional video monitoring equipment or other monitoring technologies.
4. The resources available to ensure commitment to this staffing plan.

.313 (e)

Shift Managers, Directors of Residential and Professional Services, will conduct and document unannounced rounds daily, on each shift, to identify and deter sexual misconduct, sexual abuse and sexual harassment. Staff is prohibited from alerting other staff members that such supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility. These rounds will be documented in a logbook located in the shift manager’s office. The PREA Coordinator will monitor documentation of supervisory rounds, as well as conduct unannounced rounds to identify blind spots and isolated areas.

B. Cross-Gender Viewing and Searches.

§115.315
(a,b,c)

JJSC prohibits cross-gender pat-down searches or strip searches except in exigent circumstances. Any cross-gender searches must be documented and justified. (JJSC Policy; Search Procedures, 12.3, III-B2-b and D2). A medical practitioner performs any and all visual body cavity searches. (JJSC Policy; Search Procedures; 12.3, III-E-1&2). All visual body cavity searches must be authorized by the Executive Director, or designee, justified, and documented. The resident shall be sent to the hospital emergency room and searched by a qualified medical practitioner.

.315(e)

Staff is prohibited from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident’s genital status. Gender identity of transgender or intersex residents shall be determined by asking each new admit resident, upon entering the admission’s area; “do you identify as lesbian, gay, bisexual, transgender or intersex, (LGBTI),” (JJSC Non-Discriminatory Treatment of Lesbian, Gay, Bisexual and Transgender (LGBTI) Youth; policy 16.6 pg.2c), then following the “search preference” procedures, for residents identifying as transgender or intersex, using the Transgender/Gender-Variant Juvenile Statement Of Search form. If necessary, the resident’s genital status may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that

information as part of a broader medical examination conducted in private by a medical practitioner.

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- §115.315 (e) Staff shall be trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security requirements.
- .315(f) Staff shall be required to receive annual training pertaining to JJSC Search Procedures as outlined in JJSC policy (12.3, III-A,B,C,D & E-1&2).
- .315 (d) All residents shall shower, perform bodily functions, and change their clothing without being viewed by non-medical staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine room checks. Staff of the opposite gender must knock and announce their presence, (“male on the unit” or “female on the unit”), when entering an area where residents may be showering, performing bodily functions, or changing clothing.
- Staff shall make an announcement to residents, at the beginning of each tour or during an initial unit group session, introducing staff of the opposite gender who is assigned to that unit. Staff of the opposite gender that is temporarily visiting any unit on a POD must also knock and announce their presence.

C. Residents with Disabilities and Residents who are Limited English Proficient.

- §115.316 (a) The Philadelphia Juvenile Justice Services Center shall maintain accurate documentation on steps taken to ensure effective communications, for residents with disabilities (physical or mental). Residents with disabilities shall have an equal opportunity to understand their right to be free from sexual abuse, sexual harassment and protection from retaliation while in JJSC custody.
1. JJSC shall provide sign language interpreters to ensure effective communication with residents who are deaf or hard of hearing.
 2. JJSC shall have access to interpreters; who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; through the Department of Human Services website; dhscentral.phila.gov or by calling 1 800 514-9237.
 3. JJSC shall also provide written PREA materials in the form of a resident PREA brochure, Resident Rights form, and JJSC resident’s handbook, along with an audio-video “Orientations DVD” for residents to view and/or listen to. These methods shall ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

JJSC Staff shall make every effort to read such materials to the residents, multiple times, if necessary, to ensure their understanding of PREA Laws.

PJJSC shall take reasonable steps to ensure meaningful access to all aspects of its zero-tolerance policy to prevent, detect, and respond to sexual abuse and sexual harassment

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§115.316
(b)

to residents who are limited English proficient. JJSC shall provide professional language interpreters; who can interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary; through the Department of Human Services website “Translation Services” at dhscentral.phila.gov or by calling 1 800 514-9237 to gain access to a “telephonic interpreter.” In addition, JJSC shall seek assistance, if necessary, from “Language Line Services,” with more than 200 languages available, at 1-800-752-6096 or languageline.com. Full instructions shall be posted in the admissions area.

.316 (c)

JJSC shall not rely on resident interpreters, resident readers, or other types of resident assistants except if unavoidable limited circumstances exist where an extended delay in obtaining an effective interpreter could compromise the resident’s safety, the performance of first-response duties under §115.364 or the investigation of the resident’s allegations.

D. Employee/Applicant Background Checks and References.

Hiring and promotion decisions:

JJSC shall not hire or promote anyone who may have contact with juveniles, or shall not enlist the services of any contractor, who may have contact with residents, [pursuant to DHS PREA Disclosure Release 28 C.F.R.], who has:

§115.317
(a)

1. Engaged in sexual abuse in any institutional setting.
2. 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.
3. Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (2) of this section.

JJSC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

.317 (b)

Before hiring new employees, who may have contact with residents, DHS Human Resources shall require all new hires to provide the following background records checks:

.317
(c-1&2)

1. Pennsylvania State Criminal History Clearance.
2. Pennsylvania Department of Human Services Child Abuse (Childline) Clearance.
3. Federal Bureau of Investigation (FBI) Clearance (fingerprints).

.317 (c-3)

DHS human resources shall make its 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.

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§115.317
(c-3)

JJSC shall require a criminal background records check be conducted and child abuse registries consulted before enlisting the services of any new volunteer or contractor who has direct contact with the residents.

.317 (d)

All current employees and contractors, who have contact with residents, shall have new criminal background records checks conducted every three years for contractors and five years for employees on their anniversary of hire or contract date.

.317(e)

JJSC shall ask all applicants and employees, who may have contact with residents directly, in written application [*pursuant to DHS PREA Disclosure Release 28 C.F.R.*], or interviews for hiring, or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees about previous sexual misconduct including: acts of sexual abuse; convictions of engaging or attempting to engage in sexual activity by force, threats of force, coercion, or if the victim did not consent or was unable to consent, and if civilly or administratively adjudicated to have engaged in these acts. JJSC shall also impose upon employees an ongoing obligation to disclose any of the above-mentioned sexual misconduct.

.317 (f)

Material omissions regarding the above sexual misconduct or the provision of materially false information and/or statements, or refusal to disclose the required information shall be grounds for termination, subject the employee to dismissal, or contract termination.

.317 (g)

DHS Human Resources shall provide information on substantiated allegations of sexual abuse or sexual harassment involving former employees when requested from an institutional employer for whom such employee has applied to work.

.317 (h)

E. Upgrades to Facilities and Technologies.

The Philadelphia Juvenile Justice Services Center is a newly constructed facility, first fully occupied in April 2013. It is equipped with a high-tech video monitoring system throughout the facility in all areas populated by residents. The design of the facility was constructed from plans designed for the safety of the residents and staff. All modifications, upgrades or expansions to the facility such as lighting, additional cameras, or change in construction, will include the affect the upgrade will have on JJSC's ability to protect residents from sexual abuse.

§115.318
(a,b)

F. Evidence protocol and forensic medical examinations.

All allegations of sexual abuse shall be fully investigated by the Philadelphia Police Department Special Victims Unit (SVU) and/or the (state) Department of Human Services (DHS). All criminal and administrative investigations shall follow the most recent uniform protocol for obtaining usable physical evidence for administrative proceedings and criminal prosecutions, as required by local and state laws.

§115.321
(a,b,f)

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§115.321
(c)

In all cases of alleged sexual abuse or other sexual acts or contact, the JJSC shift manager, medical administrator, or designee shall promptly notify the Special Victims Unit to have the SVU detectives transport the victim to the SVU location at 300 East Hunting Park Avenue, Philadelphia, Pa. 19124, (215-685-3251) for a forensic examination and a forensic interview, if the resident is 14 years and older and if the sexual abuse happened at JJSC or if the incident happened at any other location within the past 72 hours. JJSC maintains the option of transporting the resident to the SVU location. Residents 13 years and younger shall be transported by JJSC staff to The Children’s Hospital of Philadelphia (CHOP), emergency at 324 S. 34th Street, Philadelphia, Pa. 19104, for a forensic examination by a Sexual Assault Nurse Examiner (SANE), or Sexual Assault Forensic Examiner (SAFE), or other qualified medical practitioner. The Philadelphia Children’s Alliance of the SVU will arrive at CHOP to conduct the forensic interview with the alleged victim. The JJSC medical department will make the initial assessment and work with the shift manager to have the resident transported to CHOP emergency.

.321 (d,e)

Any resident that is a victim of sexual abuse shall be provided a victim advocate and advocate services through the Women Organized Against Rape (WOAR), (1617 JFK Blvd. Suite 1100, hotline (215) 985-3333), as available, or the JJSC victim support person, if necessary. Upon request by the victim, the advocate or victim support person shall be in attendance for the forensic examination and investigatory interviews and shall also provide emotional support, crisis intervention, and referrals.

G. Referrals of allegations for investigations.

§115.322
(a,b)

The Philadelphia Police Department Special Victims Unit and the (state) Department of Human Services has the legal authority to conduct criminal investigations for JJSC, for which the Executive Director or designee will refer. All allegations of potentially criminal behavior involving sexual abuse or sexual harassment, between staff and resident, non-employee and resident, or resident and resident shall be investigated by the SVU upon referral. All referrals shall be documented.

.322 (d)

The (state) Department of Human Services will follow its investigative procedures to conduct a complete administrative investigation of all referred allegations of potentially criminal behavior involving sexual abuse or sexual harassment of JJSC residents. Documentation shall be kept on all allegations referred to the Philadelphia Police Department Special Victims Unit and the (state) Department of Human Services.

JJSC shall conduct an internal review of all allegations of sexual misconduct, sexual abuse, sexual harassment, and retaliation involving any resident in JJSC’s custody. All notifications, referrals, and reviews shall be documented.

All documentation of internal reviews, and/or interviews will be made available to the administrative investigator and/or the criminal investigator. It is the responsibility of the (state) Department of Human Services to inform JJSC of the progress and outcome

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(c)

of all administrative investigations. JJSC shall request written documentation from the Philadelphia Police Department Special Victims Unit on the outcome of all criminal investigations.

If necessary, the Executive Director will appoint an internal reviewer with the authority to conduct such a review of all allegations of sexual misconduct, sexual abuse, sexual harassment or retaliation which shall include, but is not limited to, ensuring that the alleged victim and the alleged aggressor are kept physically separated, pending the outcome of all internal, administrative, or criminal investigations.

.322 (c)(e)

Upon receiving a report of an allegation of sexual abuse at JJSC, it is the responsibility of the first responder and/or the supervisor to immediately separate the alleged victim and the alleged aggressor to ensure the victim's safety; secure any evidence that may be pertinent to an investigation by placing a "DO NOT ENTER" sign at the scene until the investigators gives an "all-clear;" promptly refer the victim to the medical department and mental health; notify the Shift Manager who shall notify the Directors of Residential and Social Services, Executive Director, and the PREA Coordinator. The first responder shall complete an incident report. The shift manager shall initiate a "keep separate" report to be made available to all managers, supervisors, and staff members. [*Follow First Responder duties, pg. 23&24*].

The Executive Director or designee will refer, for investigation, all potentially criminal behavior to the Philadelphia Police Department Special Victims Unit (SVU), the (state) Department of Human Services (DHS) and shall follow all policy requirements pursuant to PREA Standards [*§115.361(e)(1),(2),(3)-Staff and agency reporting duties pg. 21 & 22*]. This policy shall be made accessible to all stakeholders and published on the PREA website.

The resident information brochure; staff PREA guide brochure; and posters displayed throughout the building and in public areas, will include information on JJSC's responsibility to refer allegations of potentially criminal behavior to law enforcement and DHS for a complete administrative and/or criminal investigation.

V TRAINING AND EDUCATION

A. Staff Training.

§115.331
(a)(1)

1. **Training for Employees:** All facility employees shall receive instruction related to this policy and the following critical subjects:

- (a) The JJSC zero tolerance policy for all forms of sexual misconduct, sexual abuse, sexual harassment, and retaliation.
- (b) How employees shall fulfill their responsibilities under JJSC's zero tolerance policy for the prevention, detection, reporting, and response to sexual misconduct, sexual abuse, sexual harassment, and retaliation.

.331(a)(2)

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- (a)(2) (c) A Juveniles’ right to be free from sexual misconduct, sexual abuse, and sexual harassment.
- .331(a)(3) (d) The right of juveniles and employees to be free from retaliation for reporting sexual misconduct, sexual abuse, or sexual harassment.
- .331 (a)(4) (e) The dynamics of sexual misconduct, sexual abuse and sexual harassment in confinement.
- .331 (a)(5) (f) The common reactions of sexual abuse and sexual harassment victims.
- .331 (a)(6) (g) How to detect and respond to signs of threatened and actual sexual misconduct and sexual abuse.
- .331(a)(7) (h) How to avoid inappropriate relationships with juveniles.
- .331(a)(8) (i) How to communicate effectively and professionally with juveniles, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming youth.
- .331(a)(9) (j) How to comply with the Pennsylvania mandated child protected service laws related to mandatory reporting of sexual abuse to outside authorities.
- .331 (a)(10) (k) Relevant laws regarding the applicable age of consent, such as the Pennsylvania age of consent law (age-of-consent.info) and 18 Pa. Cons.Stat. § 3124.2 Institutional sexual assault.
- .331 (a)(11) (l) Employee trainings shall be tailored to the gender and the unique needs and attributes of residents in JJSC custody.
- .331 (b) All employees will receive this training as part of their pre-service or initial orientation to the JJSC. Current employees will receive this training within one year of the effective date of the August 20, 2012, PREA Standards or of implementation of this policy. It shall include, but is not limited to, the following sources: the National Institute of Corrections video - “Keeping Our Kids Safe,” the Pa. Child Protective Service Laws, and the 3800 regulations. All employees shall receive refresher training on these subjects every year as part of their annual in-service training and shall be provided with information on current sexual abuse and sexual harassment policies. Documentation shall be maintained, through employee signature, that employees understand the training they have received.
- .331 (c, d)

B. Training for Volunteer, Contractor and other Non-Employees who have contact with Juveniles:

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§115.332
(a,b,c)

Non-employees who have contact with juveniles shall receive training on their responsibilities under JJSC’s sexual abuse and sexual harassment - prevention, detection and response policies and procedures. Training shall include notification of JJSC’s zero tolerance policy for sexual misconduct, sexual abuse, sexual harassment and retaliation; prohibited conduct involving any juvenile, prevention, detection and responding to sexual misconduct, as well as their duty to report incidents of sexual misconduct, sexual abuse, sexual harassment or retaliation. Training must be completed prior to contact with PJJSC residents. Volunteers, Contractors and other Non-Employees shall be required to sign a training form indicating that they understand the training that they have received.

C. Resident Orientation and Education.

§115. 333
(a)

1. All individuals admitted into JJSC shall receive; in an age-appropriate manner, verbal and written resident rights and a PREA information brochure. In addition, residents shall, view an “Orientation” video, during their admissions assessment process. This information shall address:

- (a) JJSC’s zero tolerance policy regarding sexual misconduct, sexual abuse and sexual harassment and retaliation.
- (b) How to report incidents or suspicions of sexual misconduct, sexual abuse, sexual harassment or retaliation.
- (c) What constitutes sexual misconduct.
- (d) The JJSC program for prevention of sexual misconduct.
- (e) Method of self-protection.
- (f) Protection from retaliation.
- (g) Treatment and counseling.

.333 (b)

2. Within 10 days of their initial orientation, residents will receive a follow-up age-appropriate education regarding their rights to be free from sexual abuse and sexual harassment, free from retaliation for reporting such incidents, and JJSC policies and procedures for responding to such incidents by viewing an “Orientation video” and/or during a weekly sexual contact group conducted by staff and/or the PREA Coordinator or PREA team member.

.333 (c)

3. All current residents shall be educated through an “Orientation video” and/or during a weekly sexual contact group administered to all residents by staff and/or the PREA Coordinator or a PREA team member and shall receive education upon transfer to a different facility if its policies and procedures

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differ. All transfer residents will be given the PREA information brochure upon leaving JJSC.

§115.333
(d)

4. Appropriate provisions shall be made, as necessary, for juveniles not fluent in English, and juveniles with disabilities (including, for example, juveniles who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) so that all juveniles have an equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and harassment. *(Full details appear under §115.316 "Residents with Disabilities and Residents who are limited English Proficient – pg. 7 & 8).*

.333 (e)

5. JJSC shall maintain documentation of resident participation in these education sessions.

.333 (f)

6. Information regarding these topics will be approved by the JJSC Executive Director and made continuously and readily available in the juvenile orientation materials, resident PREA brochure, facility Resident Handbook and on information boards and posters in lobbies, visitation, medical, housing and court waiting areas.

D. Specialized Training for PREA Coordinator, Internal reviewer and the Victim Support Persons.

§115.334
(a,b,c)

The Philadelphia Juvenile Justice Services Center (JJSC) shall refer all potentially criminal behavior related to sexual abuse and sexual harassment to the Philadelphia Police Department Special Victims Unit and the Department of Human Services for criminal and/or administrative investigation. Specialized training shall be provided to the internal reviewer/interviewer, the PREA Coordinator, the victim support persons and any other person assigned by the Executive Director in basic techniques for interviewing the alleged victim and securing the crime scene to protect evidence for the SVU investigators.

JJSC shall maintain documentation that this training has been completed for this specialized group.

.334 (d)

Such specialized training shall be provided by the Philadelphia Police Department Special Victims Unit.

E. Specialized Training for Medical and Mental Healthcare Personnel:

§115.335
(a1-4, d)

In addition to the training for non-employee personnel described in §115.332, all medical and mental healthcare practitioners who work regularly in the facility, full and part-time, shall be trained in:

1. How to detect and assess signs of sexual misconduct.

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2. How to preserve physical evidence of sexual abuse.
3. How to respond effectively and professionally to victims of sexual misconduct, sexual abuse and sexual harassment.
4. How and to whom to report allegations or suspicions of sexual misconduct, sexual abuse and sexual harassment.

§115.335
(b)

An initial assessment shall be conducted by an on-duty qualified SANE or SAFE medical practitioner or other qualified medical practitioner. Medical personnel shall work with the shift managers to immediately have the alleged victim of sexual abuse transported to the Philadelphia Police Department Special Victims Unit (SVU) or the Children’s Hospital of Philadelphia, depending on the resident’s age, for a forensic examination. The Health Services Administrator and JJSC Executive Director shall approve all lesson plans or materials for the above specialized training.

Documentation confirming training for medical and mental health care practitioners shall be maintained by JJSC.

.335 (c)

VI Screening for Risk of Sexual Victimization and Abusiveness

A. Obtaining Information from residents.

§115.341
(a)

1. All residents admitted to JJSC shall be screened for potential “vulnerability victimization” (VV) and/or “sexually aggressive behavior” (SAB). Within 72 hours of the resident’s arrival at JJSC, and thereafter, at least every 90 days throughout the resident’s confinement, JJSC shall obtain and use information about each resident’s personal history and behavior to reduce the risk of sexual abuse by or upon a resident. This assessment shall be conducted by Social Services, using the “Vulnerability Assessment Instrument” as the objective screening instrument.

.341 (b)

Information obtained shall include but is not limited to:

.341 (c)

- (a) Prior sexual victimization or abusiveness.
- (b) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex (LGBTI) and whether the resident may therefore be vulnerable to sexual abuse.
- (c) Current charges and offense history.
- (d) The age of the resident.
- (e) Level of emotional and cognitive development.
- (f) Physical size and stature.
- (g) If a resident has mental illness or mental disabilities.
- (h) Intellectual, developmental, or physical disabilities.
- (i) The resident’s own perception of vulnerability.
- (j) Any other specific information about individual residents that may indicate heightened needs for intensive or one-to-one supervision or

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additional safety precautions, or separation from certain other residents.

§115.341
(d)

All information shall be ascertained through interview discussions, with the resident, at the time of admissions; medical and mental health screenings; during classification assessments; by reviewing court records; case files; behavioral records, and other relevant documentation from the resident's files.

2. Juveniles identified as high risk with a history of "sexually aggressive behavior" or who have been identified as at risk for "vulnerability victimization" will be referred to mental health and medical for follow-up. (In accordance with the Vulnerability Assessment Instrument). Such juveniles shall be monitored by mental health services and receive continuous counseling. Potential high-risk residents will not be singled out. Staff will closely monitor their behavior and they will be evaluated throughout their stay.
3. The Director of Professional Services shall be notified when a juvenile has been identified as a potential and/or confirmed victim or aggressor and ensure this information is entered into the appropriate juvenile file.
4. All questions asked pertaining to resident's screening for risk of sexual victimization and aggressiveness shall be shared with control and appropriate discretion in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.

.341 (e)

B. Placement of residents in housing, bed, program, education, and work.

§115.342
(a)

1. All residents shall be assigned to the male orientation or female PODs upon their completion of the admissions process and upon medical clearance, unless the assessment information obtained pursuant to §115.341 determine the need for a resident to be housed in special housing or room assignment. The assessments shall also determine any special bedding, special programs, special education, co-defendants or other types of special assignments required with the goal of keeping all residents safe and free from sexual abuse.

.342 (b)

2. The use of isolation is prohibited at JJSC.

.342 (c)

3. Lesbian, gay, bisexual, transgender, or intersex (LGBTI) residents shall not be placed in a particular housing, bed, or other assignments solely on the basis of such identification or status nor shall JJSC consider lesbian, gay, bisexual, transgender, or intersex (LGBTI) identification or status as an indicator of likelihood of being sexually abusive. (*JJSC LGBTI policy 16.6 pg2-C*).

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- .342 (d) 4. POD and unit assignments, for transgender or intersex residents, as well as other housing and program assignments shall be decided on a case-by-case basis and whether such decision would ensure the resident’s health and safety or would present management or security problems.
- §115.342 (e) 5. Staff, social services, mental health, and medical professionals shall reassess, periodically, but at least twice each year, placement and programming assignments, for each transgender or intersex resident, to review any threats to safety experienced by the resident.
- .342 (f) 6. A transgender or intersex resident’s own view in respect to his or her own safety shall be given serious consideration.
- .342 (g) 7. In accordance with JJSC’s unit structure, all residents have access to single showers and therefore, transgender and intersex residents shall be given the opportunity to shower separately from other residents. (*JJSC LGBTI policy 16.6 pg. 3-F*).
- .342 (h) 8. JJSC does not place residents in isolation as stated in paragraph (b).
- .342 (i) 9. If there is a special need to separate a resident from the general population, a review of such need will be conducted within 30 days to determine whether there is a continuing need for separating a resident from the general population.

VII Reporting

A. Resident Reporting.

- §115.351 (a) 1. A juvenile may report sexual misconduct, sexual abuse, sexual harassment or retaliation to any staff member or non-juvenile.
2. The Philadelphia Juvenile Justice Services Center provides multiple internal ways for residents to privately make a report of sexual abuse, sexual harassment, and/or retaliation by other residents or staff members and also ways to report staff neglect or violations of responsibilities that may have contributed to an incident of sexual abuse and sexual harassment. Such ways are outlined in the Resident’s PREA Information brochure that is given to the residents during the admissions process. Resident reporting options are explained to them at time of admission. As well as, during the 10-day PREA education follow-up that is conducted weekly by the counseling staff. “How to Report” information is recorded on posters that are placed throughout the facility, including in the court area, visitors lobby area, medical area, mental health area, social services office, recreation area, dining area, and on each POD and unit.

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§115.351
(b)

3. The resident’s PREA Information brochure outlines reporting options that include Reporting the incident to any staff member, verbally, in writing or use of the medical drop box on their POD. Residents are requested to give as much information as they are comfortable giving to help with the investigation. All information will be held in strict confidence. If the resident is no longer in the custody of JJSC they can report to their current facility or to the Child Line at 1-800-932-0313, WOAR’s 24-hour hotline at 215-985-3333, or the Police Special Victims Unit at 215-685-3251. The resident’s family or friends can also use these numbers to report an incident for them. Residents are encouraged to talk to any staff member they feel comfortable with to report sexual misconduct, sexual abuse, sexual harassment and retaliation. This can be a “teacher, nurse, counselor, Chaplain, social worker—anyone” The resident is instructed to use a resident complaint form to file a grievance about sexual misconduct, sexual abuse, harassment, and retaliation and give the grievance form to a counselor, supervisor, shift manager or social worker. Residents may also report by addressing a sealed envelope to the Director of Residential Services, Director of Professional Services, Executive Director, or PREA Coordinator marked “personal and confidential” or sending it to JJSC’s address through the US mail to the attention of “PREA Coordinator.”

4. Resident’s may report sexual abuse or sexual harassment, from a designated phone line to the following outside support services:
Women Organized Against Rape (WOAR) 24-hour hotline (215) 985-3333.

5. JJSC does not detain juveniles solely for civil immigrant purposes.

.351 (c)

6. Staff shall accept reports made verbally, in writing, anonymously, and from third parties. Staff shall notify their supervisor and immediately write an incident report to be submitted to the supervisor. (*Follow first responder instructions pg. 23, D*)

.351(d)

7. Staff shall provide all materials for residents to write a report.

.351 (e)

8. Staff can privately report sexual abuse by directly contacting the Executive Director, Director of Residential Services, Director of Professional Services, Shift Manager or PREA Coordinator by email, incident report or verbally. All reports shall be handled with extreme confidentiality.

B. Exhaustion of administrative remedies.

§115.352
(a)

1. JJSC’s Resident Rights and Grievance Procedures are distributed and explained to each resident during the admissions process. (*PA Code Title 55. DPW Chapter 3800.31 and 32 pg. 14&15*). A signed copy shall be maintained in the resident’s folder. The Resident Rights and Grievance Procedures form is a part of the resident’s handbook.

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- .352
(b-1,2,4)
2. Although regular statute of limitations defenses applies to claims, the facility does not impose a time limit on when a juvenile may submit a grievance regarding an allegation of sexual abuse.
- §115.352
(b-3)
3. A resident shall not be required to use an informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
4. A juvenile who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint.
- .352 (c-1)
5. Such grievance shall not be referred to a staff member who is the subject of the complaint.
- .352 (c-2)
6. In accordance with the JJSC Grievance process, all complaints shall be reviewed by a Shift Manager, subject to #5 above, and a written response shall be submitted to the resident within 24-hours of receipt of all complaints. The resident has a right to appeal to the Executive Director or his/her designee and shall receive a response within 72-hours of receipt of the complaint (except holidays and weekends) with a decision. In the event the resident is dissatisfied with the Executive Director's decision the resident may consult their attorney, public defender, or any other legal representative of choice to intervene on his/her behalf.
- .352
(d-1, 2)
7. JJSC shall issue a final decision within 90 days of the initial filing of any grievance alleging sexual abuse, excluding time consumed by residents in preparing for an appeal.
- .352 (d-3)
8. Upon notification to the resident in writing, JJSC may request a 70-day extension to respond, if necessary. The notification shall include a date by which a decision will be made.
9. A lack of response, to the resident at any level, may be considered a denial.
- .352 (d-4)
10. Third parties shall be permitted to assist and/or file a grievance on a resident's behalf, including:
- .352 (e-1)
- (a) A fellow resident
 - (b) Staff members
 - (c) Family members
 - (d) Attorneys
 - (e) Outside advocates

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- §115.352 (e-2,3)

11. JJSC shall use its discretion to require, as a condition, that the alleged victim shall agree to have the grievance filed on his/her behalf, if other than the parent or legal guardian, and that the alleged victim shall pursue any further steps on his/her own behalf. JJSC shall document any decision to decline by the resident.
- .352 (e-4)

12. A parent or guardian shall file a grievance on behalf of a resident without any conditions upon the resident agreeing to have the grievance filed.
- .352 (f-1,2)

13. An emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse shall be immediately forwarded to the supervisor and responded to immediately by the unit supervisor and the shift manager on duty. Upon review, immediate corrective action shall be processed within 48 hours and a final decision submitted within five (5) calendar days from the Director of Residential Services and/or Executive Director.
- .352 (g)

14. Documentation shall be maintained on the final decision, whether the resident is in substantial risk of imminent sexual abuse, and the actions taken in response to the emergency grievance.
- 15. If it is demonstrated that the resident filed a grievance in bad faith, disciplinary action can be taken against the resident.

C. Resident access to outside support services and legal representation.

- §115.353 (a)

1. Residents are provided with access to an outside victim advocates or rape crisis center for emotional support services related to sexual abuse as outlined in the Resident PREA Information Brochure that the resident receives at the time of admissions. The WOAR Rape Crisis Center’s 24-hour hotline number [(215) 985-3333] and mailing address [WOAR 1617 JFK Blvd. Suite 1100, Philadelphia, PA 19124] are listed in the Resident PREA Information Brochure. Posters are placed throughout the building also displaying the Rape Crisis Center’s contact information. Residents are allowed a private phone call to the advocate organization or crisis center from a designated phone line. Prior to the phone call residents are counseled that all resident phone calls to the crisis center will be visually monitored but residents will be afforded a private phone call to the crisis center. Residents are further counseled that, in accordance with mandatory reporting laws and this policy, staff is obligated to report all incidents of sexual misconduct, sexual abuse, sexual harassment and retaliation.

.353 (b)
- .353 (c)

2. JJSC maintains on file all memoranda of understanding agreements or attempts to enter into an agreement with outside support services groups or rape crisis centers, related to sexual abuse.

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§115.353
(d)

3. Residents are provided with reasonable and confidential access to their attorneys or legal representation and reasonable access to parents or legal guardian through their assigned social worker and in accordance with JJSC's Resident Rights that state, "You have the right to communicate and visit privately with your attorney and clergy." Resident Rights are explained and given to the resident in written form during the initial admissions process. Residents are asked to sign the Resident Rights form indicating they understand and have received a copy. The signed copy is maintained in the resident's file and a copy forwarded to the parent or guardian. The resident's phone call procedure is also included in the Resident's Handbook that is received during orientation.

D. Third-party reporting.

§115.354

Third party reporting of sexual abuse and sexual harassment shall be received by mail or telephone to the PREA Coordinator or by telephone, only, to the Director of Professional Services, the Victim Support Person or the Shift Managers on duty. Information on how to report sexual abuse and sexual harassment on behalf of a resident is listed on posters throughout the facility and in the PREA Staff Guide, Contractor/Volunteer guide brochure, and the resident's PREA information brochure, made available to the public.

VIII Official Response Following a Resident Report

A. Staff and agency reporting duties.

§115.361
(a)

1. All staff members and non-juveniles have an affirmative duty to immediately report to the Supervisor, Shift Manager, Director of Residential Services and/or PREA Coordinator any knowledge, suspicion, or information regarding all incidents of sexual misconduct, sexual abuse, or sexual harassment that occurred in any facility, whether or not it is a part of the JJSC, that involves a juvenile, and/or any retaliation against a resident or staff who reported such an incident. Additionally, any staff neglect or violation of staff's responsibilities that may have contributed to an incident or retaliation. An incident report must be completed for each incident.

.361 (b)

2. Failure of employees to report incidents of sexual misconduct is cause for disciplinary action up to and including termination.
3. Staff must comply with mandatory child abuse reporting laws. All incidents of sexual assault, contact or abuse must be reported to the Police, Special Victims Unit (SVU) and the (state) Department of Human Services (DHS) under the requirements established under the 3800 regulations.

.361 (c)

4. Confidentiality must also be preserved. Apart from reporting to the JJSC, Supervisor, Shift Manager, Directors of Residential Services, Executive

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Director and the PREA Coordinator, staff is prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

- §115.361
(d-1,2)
5. Medical and mental health practitioners are also required to report sexual abuse to the Health Services Administrator, Mental Health Director, Shift Manager, Director of Professional Services, Directors of Residential Services, JJSC Executive Director, and PREA Coordinator. The Shift Manager, or designee, shall notify the Childline, and the Special Victims Unit. If no Shift Managers are available, medical personnel shall make the report to the Childline and communicate such with the Directors of Residential and Professional Services. Such practitioners are required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.
- .361 (e-1)
6. Upon receiving any allegation of sexual abuse, that occurred at JJSC or any other facility, the JJSC Executive Director or designee, the Directors of Residential or Professional Services or their designee, or the Shift Manager or designee shall promptly report the allegation to the (state) DHS, the SVU, and to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
- .361 (e-2)
- (a) If the alleged victim is under the guardianship of DHS, the report shall be made to the alleged victim's CYD social worker instead of the parents or legal guardians.
- .361 (e-3)
- (b) If a juvenile court retains jurisdiction over the alleged victim, the JJSC Executive Director or designee; or the Directors of Residential or Professional Services or their designee shall report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.
- .361 (f)
7. JJSC shall refer all allegations of potentially criminal behavior involving sexual abuse or sexual harassment, between staff and resident, non-employee and resident, or resident and resident to the Police Department Special Victims Unit (SVU) and the (state) Department of Human Services (DHS) for a criminal investigation. This includes all third party and anonymous reports of sexual abuse.

B. Agency Protection Duties.

- §115.362
- When JJSC learns that a resident is subject to a substantial risk of imminent sexual abuse the staff, supervisor and/or shift manager shall immediately review the POD, unit, and room assignment of the resident and/or develop

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and implement a written plan of action, whichever is appropriate to protect the resident.

§115.363
(a)

C. Reporting to other confinement facilities.

1. Upon receiving an allegation that a juvenile was sexually abused while confined at another facility, the JJSC Executive Director shall notify the administrator of the facility where the alleged abuse occurred and shall also notify Department of Human Services.

§115.363
(b,c)

2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. JJSC shall document that it has provided such notification and a copy forwarded to the PREA Coordinator.

.363 (d)

3. It is the responsibility of the facility director that receives the notification to ensure that the allegation is investigated.

§115.364
(a)

D. Staff first responder duties.

1. Any staff member or non-juvenile, who receives a report of sexual misconduct, whether verbally or in writing or upon receiving or learning of an allegation that a resident was sexually abused at JJSC, shall:

.364 (a-1)

(a) Immediately separate the alleged victim from the aggressor.

(b) Notify the Supervisor and Shift Manager.

(i) The Shift Manager shall immediately notify the Director of Residential Services and PREA Coordinator and ensure that the SVU is notified and a report is called in to (state) DHS, if the allegation is an alleged sexual abuse. The Shift Manager or designee shall conduct a “Basic Internal Review” with the alleged victim of sexual abuse. There shall be no other internal interviews conducted involving the alleged victim of sexual abuse. The Police Special Victims Unit shall conduct a complete forensic interview with the alleged victim and aggressor. JJSC shall request a copy of the forensic interviews, if necessary.

(ii) The Shift Manager/Supervisor/PREA Coordinator shall ensure that the alleged victim and aggressor are physically separated, either through the placement of the alleged victim or aggressor on one of the special needs units or some other effective means and shall take steps to secure any video coverage.

(c) Staff or Supervisor shall immediately notify medical personnel and make a referral to mental health services.

.364 (a-2)

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- (d) Staff or Supervisor shall preserve and protect any crime scene, by closing off the area or room and posting a “DO NOT ENTER” sign, until appropriate steps can be taken to collect any evidence by the SVU investigators.
- (e) First responder shall complete an incident report and document the incident for all allegations of sexual misconduct, sexual abuse, sexual harassment or retaliation.
- (f) Staff or Supervisor shall request that the alleged victim and the alleged aggressor not take any actions that could destroy physical evidence including:
 - (i) Wash or shower
 - (ii) Brushing teeth
 - (iii) Changing clothes
 - (iv) Urinating
 - (v) Defecating
 - (vi) Drinking or eating
- (g) The above request shall be made only if the assault occurred within a time period that still allows for the collection of evidence (up to 72 hrs.) or in accordance with the Special Victims Unit investigators.

§115.364
(a-3,4)

.364 (b)

If the first responder is not a JJSC childcare staff, they shall notify any childcare worker, the Supervisor, Shift Manager, Director or PREA Coordinator and be required to request that the alleged victim not take any actions that could destroy physical evidence.

In every case where the alleged aggressor is an employee, there will be no contact between the alleged aggressor and the alleged victim without the approval of the Executive Director.

The PREA Coordinator shall assume responsibility for the handling of all sexual misconduct allegations including assignment of a Victim Support Person, any referrals to medical or mental health services and shall, in consultation with the Executive Director, refer all potentially criminal behavior related to sexual abuse and sexual harassment to the Philadelphia Police Department Special Victims Unit and the (state) Department of Human Services for criminal and/or administrative investigation.

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Allegations of sexual misconduct shall be treated with discretion and, to the extent permitted by law, and confidentiality. Individuals who fail to keep allegations of sexual misconduct confidential are subject to discipline.

§115.365

E. Coordinated Response – A written plan for action taken in response to an incident of sexual abuse, shall include but is not limited to:

1. First Responders shall initiate notification to the Supervisor, Shift Manager, Directors, PREA Coordinator, Social Services, Medical, Mental health, and shall follow the protocol outlined in Standard §115.364 (Staff First Responder Duties).
2. JJSC Executive Director, or designee, shall notify:
 - (a) The Philadelphia Police Department Special Victims Unit
 - (b) Department of Human Services
 - (c) Collaborate with other internal departments and outside entities.
3. Directors of Residential Services, or designee, shall:
 - (a) In collaboration with the Shift Managers, Executive Director and PREA Coordinator ensure that all functions of the reporting process are implemented.
 - (b) And shall be notified of all incidents of sexual misconduct, sexual abuse, sexual harassment and retaliation involving any resident in JJSC custody.
4. Shift Managers, or designee, shall:
 - (a) Gather and conduct a basic internal interview with the victim of a sexual assault, the alleged aggressor, and any witnesses.
 - (b) Ensure steps have been taken to protect the alleged victim.
 - (c) Arrange to have the alleged victim transported to the hospital for a forensic interview and/or forensic examination, if necessary.
 - (d) Ensure the preservation of evidence needed for investigation by closing off the crime scene and posting a “DO NOT ENTER” sign on the area.
 - (e) Provide a staff member to accompany the victim during the forensic examination, if necessary.

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- (f) Ensure that the process of a reportable incident has been followed. Notify the Special Victims Unit and the (state) Department of Human Services.
 - (g) Collaborate with other internal departments and external entities.
 - (h) Give all relevant information, reports to the SVU and DHS investigators and the PREA Coordinator.
5. Medical Personnel (SANE) practitioner or other qualified medical practitioner shall assess the victims acute medical needs and shall:
- (a) Explain to the victim the need for a forensic medical exam and offer the victim the option of undergoing one, and shall
 - (b) Work with the shift managers to arrange for the alleged victim to be transported to the SVU or CHOP for a forensic interview and/or examination.
6. Mental health Services shall:
- (a) Provide Crisis Intervention counseling and victim support.
 - (b) Assign the victim a mental health therapist for follow-up.
7. Social Services / Director of Professional Services shall work with the Shift Managers, Directors of Residential Services and PREA Coordinator to:
- (a) Notify the victim's parents or guardian.
 - (b) Provide a victim support person.
 - (c) Provide crisis intervention.
 - (d) Notify the WOAR rape crisis center to provide an advocate, if necessary.
 - (e) Report the alleged abuse to the Childline, if necessary.
8. PREA Coordinator shall:
- (a) Assign a Victim Support Person.
 - (b) Oversee the entire Coordinated Response Process, including documentation in all areas.

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(c) Work in consultation with the Executive Director to refer all potentially criminal behavior, related to sexual abuse and sexual harassment, to the Philadelphia Police Dept. Special Victims Unit and the (state) Department of Human Services for criminal and/or administrative investigation.

§115.365

(d) Ensure that the protection of the evidence and the crime scene has been secured.

(e) Contact Women Organized Against Rape (WOAR) to request a victim advocate for support during the forensic examination.

§115.366

(a)

F. Preservation of ability to protect residents from contact with abusers.

1. Effective August 20, 2012, The Philadelphia Juvenile Justice Services Center (JJSC) is prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the ability of JJSC to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

.366 (b-2)

2. This is not intended to restrict agreements that govern the conduct of the disciplinary process or that address whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegations of sexual abuse are not substantiated.

G. Protection Against Retaliation.

Retaliation against a juvenile who refuses to submit to sexual activity, or retaliation against individuals (including witnesses) because of their involvement in the reporting or investigation of sexual misconduct, is prohibited and possible grounds for disciplinary action including termination and criminal prosecution

§115.367

(a)

1. The Philadelphia Juvenile Justice Services Center (JJSC) shall protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff.

.367(b)

2. JJSC staff, supervisors, shift managers and/or the Director of Residential Services shall be in charge of monitoring retaliation to ensure resident and staff protection. Protection measures include but are not limited to:

(a) Unit transfer of residents, both victims and/or aggressor.

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(b) Removal of alleged staff or resident aggressor from contact with victim.

(c) Provide emotional support services for residents through mental health services, social services and/or outside advocacy support.

(d) Provide coaching and counseling to staff through the immediate supervisor and/or upper level management or outside advocacy services.

§115.367
(c)

3. The Philadelphia Juvenile Justice Services Center shall monitor the conduct or treatment of residents and staff who report sexual abuse and victims of sexual abuse for 90 days to identify signs of retaliation by residents or staff that may appear unusual through:

(a) Reviewing the resident BMS program disciplinary reports (point sheets).

(b) Resident unit or room changes.

(c) Program activity changes or denials.

(d) Negative unit log entries, or

.367 (d,e)

(e) Negative staff performance evaluations and or reassignments of staff.

(f) In addition, periodic status checks will be made during unannounced PREA rounds. Monitoring will continue beyond 90 days, if needed. This policy will apply to any other resident or staff who cooperates with an investigation that expresses fear of retaliation.

.367 (f)

(g) All monitoring obligations will terminate if allegations are determined to be unfounded.

§115.368

H. Any housing decisions made to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirement of §115.342.

IX Investigations.

§115.371
(a,b)

A. Criminal and administrative agency investigations.

1. Upon receipt of a report alleging sexual misconduct, sexual abuse, sexual harassment or retaliation, the Executive Director or designee, in consultation with the PREA Coordinator, shall review the report promptly, thoroughly, and objectively-including third-party and anonymous reports-and shall refer all potentially criminal behavior, related to sexual abuse, sexual harassment, or retaliation to the Philadelphia Police Dept. Special Victims Unit (SVU)

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- §115.371 (e) and the Department of Human Services (DHS) for criminal and/or administrative investigation.
2. JJSC shall protect and preserve any evidence by securing the area in which the alleged abuse occurred, closing off the area and displaying a “DO NOT ENTER” sign on the room or area. The shift manager or designee shall conduct a “basic internal review” with the alleged victim and gather the names of any witnesses to be turned over to the criminal or administrative investigators. JJSC shall conduct any necessary compelling interviews only after consulting with prosecutors as to whether such compelled interviews may be an obstacle for subsequent criminal prosecution.
- §115.371 (m)
3. JJSC shall give its full cooperation with the Philadelphia Police Department SVU and the (state) Department of Human Services investigators and JJSC must remain informed about the process of the investigation.
- .371 (g)
4. The Department of Human Services (DHS) shall conduct all administrative investigations, related to sexual abuse and sexual harassment in accordance with this standard, including:
- (a) An attempt to determine whether staff actions or failure to act contributed to the abuse.
- (b) Documentation and written reports shall include:
- (i) A description of the physical and testimonial evidence.
- (ii) The reasoning behind credibility assessments.
- .371 (f)
- (iii) Investigative facts and findings.
5. An alleged victim, suspect, or witness credibility shall be assessed on an individual basis and shall not be determined by their status as a resident or a staff member. JJSC shall not require an alleged victim to submit to a polygraph examination or other truth-telling devices as a condition to proceed with investigating their allegations.
- .371(i)
6. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
- .371 (c,d,k)
7. The Philadelphia Police Department Special Victims Unit shall investigate all potentially criminal behavior, related to sexual abuse and sexual harassment and shall not terminate an investigation solely because the source of the allegation recants the allegation or the alleged aggressor or victim is no longer employed or housed at JJSC. The SVU investigators shall gather and preserve direct and circumstantial evidence, including any available electronic monitoring data and shall interview alleged victims, suspected

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§115.371
(h)

aggressors, and witnesses along with any prior complaints and reports of sexual abuse involving the suspected aggressor. Criminal investigations shall include:

(a) Documentation in written reports that contain:

(i) A description of the physical, testimonial, and documentary evidence.

.371 (j)

(ii) Copies attached of documented evidence, where feasible.

8. All documented written reports for administrative and criminal investigations shall be retained for as long as the alleged aggressor is in JJSC custody or employed by JJSC, plus five years.

.371 (l)

(a) Except, if the abuse was committed by a juvenile resident and the law requires a shorter period of time.

§115.372

9. In accordance with this standard, the SVU and DHS investigators shall follow the requirements pursuant to this PREA Standard.

B. Evidentiary standard for administrative investigations.

The Philadelphia Juvenile Justice Services Center shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

§115.373
(a,b)

C. Reporting to residents.

1. Juveniles who are currently in the custody of JJSC are entitled to know the outcome of investigation into their allegation as follows:

(a) Following an investigation into a juvenile's allegation of sexual abuse in JJSC, the PREA Coordinator and Director of Professional Services or designee shall inform the resident, whether the allegation was determined to be substantiated, unsubstantiated, or unfounded. This information shall be obtained from the Police Department Special Victims Unit and /or the Department of Human Services.

.373 (c)

(b) If the allegation involved a JJSC staff member, the resident shall be informed whenever; (unless the allegation is unfounded)

(i) The staff member is no longer posted within the juvenile's unit;

(ii) The staff member is no longer employed at JJSC;

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(d)

(iii) The staff member has been indicted on a charge related to sexual abuse within the facility; or

(iv) The staff member has been convicted on a charge related to sexual abuse within the facility.

(c) If the allegation involved sexual abuse by another juvenile, the alleged victim shall be informed whenever:

(i) JJSC learns that the alleged aggressor has been indicted on a charge related to sexual abuse within the facility; or

.373 (e,f)

(ii) The alleged aggressor has been convicted on a charge related to sexual abuse within the facility.

(d) All notifications or attempted notifications shall be documented. JJSC shall have no further obligation to report, under this standard, if the resident is released from the JJSC custody.

X Discipline

A. Disciplinary sanctions for staff.

Sexual misconduct, sexual abuse, sexual harassment, or retaliation perpetrated by non-juveniles is contrary to the policies of this facility and professional ethical principles that all employees are bound to uphold. Any such conduct is cause for disciplinary action up to and including termination.

§115.376
(a)

In Pennsylvania consensual sex in a custodial or supervisory relationship is prohibited as a matter of law. "A sexual act with a juvenile by a person in a position of authority over the juvenile is a felony" subject to criminal prosecution. (*18 Pa. Cons. Stat. § 3124.2*)

.376 (b)

1. JJSC has zero tolerance for any staff member that violates the Philadelphia Juvenile Justice Services Center PREA Policy. Violation of this sexual abuse or sexual harassment policy is cause for disciplinary action up to and including termination. The JJSC Executive Director will take any action necessary to enforce this policy and shall work with the local District Attorney's office to facilitate criminal prosecution. Any staff member or non-employee who violates this policy shall be prohibited from contact with juveniles and shall be reported to law enforcement and any relevant licensing bodies.

.376 (c)

2. Any staff engaging in or have engaged in sexual abuse shall be terminated.

3. Disciplinary action for violations of sexual misconduct, without actually engaging in sexual abuse, shall be:

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§115.376
(c)

(a) Appropriate with the nature and circumstances of the acts committed.

(b) The staff's disciplinary history.

.376 (d)

(c) The sanctions imposed for comparable offenses by other staff with similar histories. (*JJSC Policy 4.13 I-B pg 1*)

4. All terminations for violations of JJSC's sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated if not for their resignation, shall be reported to law enforcement agencies, and to any relevant licensing bodies, unless the activity is determined not to be criminal.

§115.377
(a)

B. Corrective action for contractors and volunteers.

1. JJSC has zero tolerance for any contractor, non-employee, or volunteer who engages in sexual abuse or sexual harassment. Any contractor, volunteer or non-employee who engages in sexual abuse shall be prohibited from contact with residents and banned from the facility. The JJSC Executive Director or designee shall work with the local district attorney's office to facilitate criminal prosecution for acts in violation of this policy and shall report the incident to the Police Department Special Victims Unit (SVU) unless the activity was clearly not criminal.

.377 (b)

2. In the case of any other violation of the JJSC zero tolerance policy by a contractor, volunteer, or non-employee, JJSC shall take appropriate measures and shall consider whether to prohibit further contact with residents.

§115.378
(a)

C. Interventions and disciplinary sanctions for residents.

1. The Philadelphia Juvenile Justice Services Center has a zero tolerance for sexual misconduct involving any juvenile. Any resident that violates this policy is subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative ruling that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
2. Disciplinary sanctions will be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and comparable offenses by residents with the same history.

.378 (b)

3. If the disciplinary sanction results in isolation, the resident shall not be denied daily large-muscle exercises or legally required educational programming or services, daily medical or mental health visits, other programs and opportunities to the extent possible.

.378 (c,d)

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- .378 (e) 4. The resident’s mental disabilities or mental illness shall be considered as a contributing factor in the resident’s abusive behavior, when determining the type of discipline to impose. Residents will be offered access to mental health sessions, counseling, and social services designed to correct abusive behavior.
- .378 (f) 5. Residents will be disciplined for sexual contact with staff if it is determined, upon investigation that the staff member did not consent to such contact.
- §115.378 (g) 6. No disciplinary action will be imposed for a report of sexual abuse made in good faith if it is believed to have occurred. It shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegations.
7. JJSC has zero tolerance for sexual misconduct, sexual abuse, sexual harassment, and retaliation between residents. All forms of sexual conduct and sexual activity between residents are strictly prohibited.

D. Sexual Misconduct Between Juveniles

1. Sexual contact, sexual acts, and other sexual misconduct between juveniles are prohibited by this policy regardless of whether it is alleged to be consensual.
2. Juveniles who report sexual misconduct are protected from retaliation.
3. Juveniles who engage in retaliation are subject to discipline.
4. Juvenile aggressors are subject to discipline.
5. Juveniles who knowingly make false allegations of sexual misconduct are subject to discipline.

§115.381 (a)

XI Medical and Mental Care

A. Medical and mental health screenings; history of sexual abuse.

1. If during the screening of the “Vulnerability Assessment Instrument,” pursuant to §115.341, or the initial screening conducted by the admission’s nurse, or the admission’s staff, it indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall immediately generate a mental health referral form to ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
2. If during the initial medical assessment the resident indicates prior sexual victimization, the medical staff will document notification to the Shift

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§115.381
(b)

Manager and the Health Services Administrator who shall document notification to the Director of Professional Services and the PREA Coordinator. Medical will immediately document a referral to mental health.

.381 (c)

3. If during the screening of the “Vulnerability Assessment Instrument,” pursuant to §115.341 it indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall immediately generate a mental health referral form to ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

.381 (d)

4. Information related to sexual victimization or abusiveness occurring in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, for security and management decisions or for treatment plans, including unit placement, room assignments and off-unit activities.

§115.382
(a)

5. Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

B. Access to emergency medical and mental health services.

.382 (b)

1. Alleged victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are to be determined by medical and mental health practitioners based on their professional assessment.

.382 (c)

2. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, a counselor, a supervisor, or shift manager shall take preliminary steps to protect the victim from further harm. The shift manager shall immediately notify the Director of Residential Services and make arrangements to have the resident transported to the Special Victims Unit or Children’s Hospital of Philadelphia for emergency forensic treatment. The shift manager or director shall contact the appropriate on-call medical and mental health practitioners and shall notify the JJSC Executive Director. In accordance with this policy standard (§115.364 pg23-24), the appropriate authorities shall be notified.

.382 (d)

3. The medical department shall offer an alleged victim of sexual abuse 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.

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§115.383
(a)

4. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

.383 (b)

C. Ongoing medical and mental health care for sexual abuse victims and abusers.

1. The facility offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any institution or juvenile facility.
2. If necessary, the evaluation and treatment of such victims shall include:

(a) Follow-up services

.383 (c)

(b) Medical and mental health treatment plans

(c) When necessary, referrals for continued care following their transfer to, or placement in other facilities, or their release from custody.

.383 (d)

3. JJSC shall provide such victims with medical and mental health services consistent with medical and mental health care standards provided to JJSC residents.

.383 (e)

4. Alleged victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

.383 (f)

5. If pregnancy results from conduct specified in above paragraph 4, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

.383 (g)

6. Alleged victims of sexual abuse shall be offered tests for sexually transmitted infections as medically appropriate.

.383 (h)

7. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

8. The facility shall attempt to conduct a mental health evaluation of all known juvenile-on-juvenile assaults within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

§115.386
(a,b)

XII Data Collection and Review

A. Sexual abuse incident reviews.

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- .386 (c)
1. For incidents involving allegations of sexual abuse, the JJSC Executive Director or designee shall conduct a sexual abuse incident review within 30 days of the conclusion of the investigation including where the allegation has not been substantiate but not if the allegation has been determined to be unfounded.
- .386 (d-1-6)
2. The review team shall consist of the PREA Team members along with any other members designated by the Executive Director which may include input from supervisors, investigators-where applicable; medical and mental health staff.
 3. The review team shall:
 - (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.
 - (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the JJSC.
 - (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
 - (d) Assess the adequacy of staffing levels in that area during different shifts.
 - (e) Assess whether additional monitoring technology should be deployed or augmented to supplement supervision by staff.
 - (f) The review team will prepare a report of its findings that include determinations made and any recommendations for improvement and submit such report to the JJSC Executive Director and PREA Coordinator.
 4. JJSC shall implement the recommendations for improvement, or shall document its reasons for not doing so.

B. Data Collection.

§115.387 (a,b)

Tracking: The PREA Coordinator shall maintain a tracking system that records all allegations of sexual misconduct, sexual abuse, sexual harassment and retaliation and their disposition. Tracking records should include investigative reports, disciplinary

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reports, incident reports, victim and aggressor information, and case disposition. A report must be submitted to the Executive Director, monthly.

- §115.387
(c)
- .387 (d,e)
- .387 (f)
- §115.388
(a)
1. The Philadelphia Juvenile Justice Services Center shall collect accurate, uniform information related to the purpose outlined at the beginning of this policy and shall be collected for every allegation of sexual abuse at JJSC. In addition data collection through incident reports shall be collected through our Performance Based Standards System on all forms of sexual misconduct. This data shall be used to help JJSC detect possible patterns and prevent future incidents of sexual abuse within the facility. JJSC shall aggregate the incident-based sexual abuse data at least annually.
 2. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
 3. JJSC Executive Director or designee and/or the PREA Coordinator shall maintain, review and collect data, as needed, from all available incident-based documents including, at a minimum:
 - (a) Reports.
 - (b) Investigation files and status conducted by the SVU and DHS.
 - (c) Sexual abuse incident reviews.
 - (d) Facilities under contract with JJSC for confinement of residents.
 4. JJSC shall, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30 of the current calendar year.

C. Data review for corrective action.

- .388 (b)
- .388 (c)
- .388 (d)
1. JJSC shall review data collection and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training, including:
 - (a) Identifying problem areas.
 - (b) Taking corrective action on an ongoing basis
 - (c) Preparing an annual report of its findings and corrective actions for JJSC.
 2. The reports shall include a comparison of the current year's data and corrective actions with those from prior years along with a progress assessment for addressing sexual abuse.

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(a)

3. The Executive Director shall approve the report and the report shall be put on display in the visitors lobby area and made available to the public.

.389 (b)

4. JJSC shall redact specific material from the report when publication would present a clear and specific threat to the safety and security of the facility but must indicate the nature of the material redacted.

.389 (c)

D. Data storage, publication and destruction.

§115.389

(d)

1. JJSC shall securely contain all data collected.

2. JJSC shall make available all aggregated sexual abuse data including its contracted facilities, readily available to the public, annually, through publication and/or display.

3. All personal identifiers shall be removed before making aggregated sexual abuse data publicly available.

4. JJSC shall maintain sexual abuse data collected pursuant to 115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.