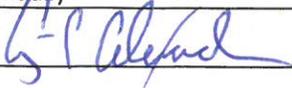


 <p style="text-align: center;"><b>ADMINISTRATIVE POLICIES AND PROCEDURES</b> Shelby County Division of Corrections</p>	Policy #: 333	Page: 1 of 14
	Effective Date: October 29, 2018	
	Distribution: Intranet, Postings & Inmate Handbook	
Review Date: Annually	Application: SCDC Employees, Inmates, & Non-Facility Support Staff	
Approved By: 	Supersedes: 333 {August 26, 2013}	
Subject: Compliance with The Federal Prison Rape Elimination Act ( <b>PREA</b> )		
References: ACA: 4-4281-1, 4-4281-2, 4-4281-3, 4-4281-6, 1-Core-4D-13; TCI: 1400-01-.13 (31), 1400-01-016 (4 i),		
PREA: 115.11, 115.13, 115-15, 115.16, 115.17, 115.21, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41,		
115.51, 115.53, 115.54, 115.61, 115.62, 115.64, 115.65, 115.67, 115.71, 115.76, 115.77, 115.78, 115.81, 115.86,		
115.87, 115.89		
Attachments: <b>A</b> – Annual PREA Acknowledgement Form, <b>B</b> – Contractor, Intern, Volunteer, & Vendor Training		
Acknowledgement Form, <b>C</b> – Background Check Authorization & Annual PREA Disclosure Form,		
<b>D</b> – SCDC PREA Staffing Plan Template		

- I. **Purpose and Policy** (ACA: 4-4281-6, 1-Core-4D-13; TCI: 1400-01-.13 [31], 1400-01-.16 [4i])
- A. The purpose of this policy is to provide required Prison Rape Elimination Act (**PREA**) definitions, to establish the Shelby County Division of Corrections (**SCDC**) **ZERO-TOLERANCE** position against prison sexual misconduct, and to provide guidance in prevention and tracking techniques for sexual misconduct directed toward inmate victims by employees and other persons.
  - B. It is the policy of SCDC to provide a safe, humane, and appropriately secure environment, free from threat of sexual misconduct for all inmates by maintaining a program of prevention, detection, response, investigation and tracking.
    1. SCDC shall maintain a **ZERO-TOLERANCE** for sexual misconduct;
    2. Sexual misconduct among inmates and by employees, contract employees, interns, volunteers, and vendors towards inmates is strictly prohibited; and
    3. All allegations of sexual misconduct and/or sexual harassment shall be administratively and/or criminally investigated. (ACA: 4-4281-3)
- II. **Definitions and Acronyms**
- A. **Abuser:** A high risk inmate who has been found guilty of committing one (1) or more instances of sexual abuse in an institutional setting.

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- B. Behavioral Compliance Review Board (BCRB):** A team, consisting of the Division's Administrative Captain, Corrections Officer Supervisor (**sergeant or lieutenant**), Corrections Program Specialist I or II personnel (**CPS I or II**), Correctional Officer, SCDC Mental Health personnel, Medical personnel, SCDC Diagnostic and Classification representative, SCDC PREA Compliance Officer, and other staff as necessary, established to complete a PREA Accommodation Strategy, determine an inmate's eligibility for Protective Custody and Administrative Segregation housing.
- C. Custody Personnel:** For the purpose of this policy, the term custody personnel refers to any SCDC employee who has completed pre-service custody personnel training at the Shelby County Sheriff's Office (**SCSO**)/ Corrections Training Academy.
- D. Employee/Staff:** For the purpose of this policy, any person compensated for working full-time, part-time or under temporary appointment with the Division of Corrections. This includes Non-Facility Support Staff.
- E. Extended Restrictive Housing:** Housing that separates an inmate from the general population and restricts the inmate to their cell twenty-two (22) hours or more per day for a period of thirty (30) days or longer.
- F. IAU:** Internal Affairs Unit
- G. Indecent Exposure:** Any display by an employee, contract employee, intern, volunteer, or vendor of his/her body uncovered genitalia, buttocks, or breast in the presence of an inmate.
- H. LGBTI:** An acronym for a group for sexual minorities including lesbian, gay, bisexual, transgender, and intersex individuals.
- I. Limited Privilege Housing:** Assignment of an inmate to a cell or other designated area for the purpose of separating them from other inmates but is still considered general population. Designated out of cell time shall be more than two (2) hours daily. Inmates may participate in meaningful activities, programs, and recreational opportunities as deemed appropriate by the BCRB.
- J. Non-Facility Support Staff (NFSS):** Individuals who are not on the payroll of SCDC who may have regular or daily contact with inmates. For the purpose of this policy, NFSS consist of, but is not limited to, Contract Employees, Interns, Professionals, Volunteers, and Vendors.
- K. PREA Accommodation Strategy:** A plan prepared by the BCRB, the Count Room/Housing Supervisor, and Unit Management for an inmate's housing, bed, work, education and program assignments based upon the PREA classification determined by the PREA Risk Assessment module, the needs of the individual inmate, and the correctional judgment of security and counseling personnel.

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- L. **PREA Advocate (Victim Support Person):** A designated employee that has been specially trained to support a victim of sexual abuse which includes: Accompanying the victim to the hospital; Support the victim through the forensic medical examination and investigatory interview; and/or providing emotional support, crisis intervention information, and referrals.
- M. **PREA Classifications:** For purposes of tracking risk of sexual abuse, all inmates will be designated as an abuser, victim, potential abuser, potential victim or not classification based upon screening results from the PREA Risk Assessment module.
- N. **PREA Risk Assessment Module:** A module in SCDC Electronic Offender Management System (**OMSe**) designed to assist in assessing risk of sexual abuse from an individual inmate and to assist in tracking and sharing information about PREA classifications and LGBTI inmates.
- O. **Recent Sexual Abuse:** Oral sexual abuse that has occurred within twenty-four (24) hours; vaginal or anal abuse that has occurred within ninety-six (96) hours.
- P. **Restrictive Housing:** Housing that separates inmates from the general population and restricts inmate to their cell twenty-two (22) hours or more per day.
- Q. **SCSO:** Shelby County Sheriff's Office.
- R. **Sexual Abuse:** Any behavior or act of a sexual nature, or any attempt, threat or request for same directed toward an inmate by an employee, contract employee, intern, volunteer or vendor, which may include one (1) or more of:
  - 1. Sexual conduct;
  - 2. Sexual contact;
  - 3. Voyeurism;
  - 4. Indecent exposure; or
  - 5. Any behavior or act of a sexual nature, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse, directed toward an inmate by another inmate which may include one (1) or more of:
    - a. Sexual conduct; or
    - b. Sexual contact.

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- S. **Sexual Conduct**: Vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and without relation to official duties, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- T. **Sexual Contact**: Any touching or an erogenous zone of another including without limitation the thigh, genitals, buttocks, public region, or if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- U. **Sexual Harassment**: Repeated and unwelcome sexual advances, requests for sexual favors or verbal comments, gestures, or actions of a derogatory or offensive nature by one (1) inmate toward another, or repeated verbal comments or gestures of a sexual nature to an inmate by an employee, contract employee, intern, volunteer, or vendor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- V. **Sexual Misconduct**: Any behavior or act of a sexual nature directed toward an inmate by an employee, contract employee, intern, volunteer, or vendor or other inmate which may be sexual harassment, sexual abuse or a combination of both as defined in this policy.
- W. **Substantiated Allegations**: An allegation that was investigated and determined to have occurred.
- X. **Unannounced Rounds**: Any area walk-through conducted by Supervisors without giving forewarning or previous notice to staff on duty.
- Y. **Unfounded Allegation**: An allegation that was investigated and determined not to have occurred.
- Z. **Unsubstantiated Allegation**: An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- AA. **Victim**: A high risk inmate who has been the victim of sexual abuse in an institutional setting, which has been confirmed by disciplinary records of the abuser and/or inmate on inmate assault records.
- BB. **Voyeurism**: Voyeurism by an employee, contract employee, intern, volunteer, or vendor means an invasion of privacy of an inmate by an employee for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his/her cell to perform bodily functions; requiring an inmate to expose his/her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of any inmate performing bodily functions.

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### III. Procedures

#### ZERO-TOLERANCE

- A. In accordance with [Shelby County Division of Corrections Administrative Policies and Procedures, Policy # 126, "Staff Relationships with Inmates and Former Inmates"](#), all employees shall be subject to corrective action up to and including termination if found to be guilty of sexual misconduct with an inmate.
1. Terminations for sexual misconduct violations or resignations by staff that would have been terminated if not for their resignation shall be reported to the SCSO (**unless the activity was clearly not criminal**); and
  2. Any contract employee, intern, volunteer, or vendor, who engages in sexual misconduct, shall be immediately banned from the Division and the incident shall be reported to the SCSO (**unless the activity was clearly not criminal**).
- B. In accordance with [Shelby County Division of Corrections Administrative Policies and Procedures, Policy #303 "Inmate Rules and Discipline"](#), inmates shall be subject to disciplinary sanctions following an administrative and/or criminal finding the inmate engaged in inmate-on-inmate sexual misconduct - [SCDC Disciplinary Code # 1415, "Inappropriate Contact"](#).
- C. Department Administrators/designees shall develop a staffing plan that provides for adequate levels of staff and, where applicable, video monitoring, to protect inmates against sexual misconduct. In calculating staffing levels and determining the need for video monitoring, Department Administrators/designees shall consider: (PREA: 115.13)
1. Generally accepted correctional practices;
  2. Any judicial, federal investigative and internal/external oversight agency findings of inadequacy;
  3. The facility's physical plant including blind-spots or areas where staff or inmates may be isolated;
  4. The composition of the inmate population;
  5. The number and placement of supervisory staff;
  6. Institution programs occurring on a particular shift;
  7. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and



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- G. All custody personnel shall be trained on how to conduct cross-gender pat-down searches and searches of transgender and intersex inmates to ensure professionalism and to utilize the least intrusive manner possible consistent with security needs. (PREA: 115.15)
- H. Employees are prohibited from cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical.
- I. If cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat down searches of male and female inmates must occur (**due to exigent circumstances**) it shall be documented in the appropriate log (**electronically and/or manually**), to include incident reports (**if applicable**).
- J. Employees shall ensure inmates are able to shower, perform bodily functions, and change clothing without non-medical personnel of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances or when such viewing is incidental to routine cell checks, which includes viewing via video camera.
- K. Current employees shall receive PREA refresher training every two (2) years to ensure they are familiar with the division's sexual abuse and sexual harassment policies and procedures. In years in which employees do not receive refresher training, SCDC shall provide refresher information on current sexual abuse and sexual harassment policies via pamphlets, vignettes, or handouts during training or while on the job.
- L. All contract employees, and NFSS shall also be familiar with SCDC **ZERO-TOLERANCE** position regarding sexual abuse and sexual harassment. These individuals shall be trained on their responsibilities regarding prevention, detection, and response.
1. Their level and type of training provided shall be based on the services provided and their level of contact with inmates; however,
  2. All NFSS who have contact with inmates shall be notified of the Division's **ZERO-TOLERANCE** policy regarding sexual abuse and sexual harassment and informed how to report such incidents; and
  3. All such training shall be documented on the PREA Contractor, Intern, Volunteer, and Vendor, Training Acknowledgement Form [Attachment-B](#).
- M. Prior to conducting a PREA investigation, all investigators shall receive specialized training which shall include, but not be limited to:
1. Conducting investigations in confinement settings;
  2. Interviewing techniques for sexual abuse victims;

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3. Proper use of *Garrity* warnings;
  4. Sexual abuse evidence collection and the criteria; and
  5. The criteria and evidence required to substantiate a case for administrative action or prosecution referral.
    - a. This training shall be documented and maintained in the Training Academy;
    - b. The training may be received through the National Institution of Corrections (**NIC**); and
    - c. Completion of the training shall be documented with a certificate of completion.
- N. Specialized training shall be offered periodically through the Training Academy to employees designated as PREA Advocates.
- O. Full and part-time medical personnel shall receive specialized training to include, but not limited to:
1. How to detect and assess signs of sexual misconduct;
  2. How to preserve physical evidence of sexual abuse;
  3. How to respond effectively and professionally to victims of sexual misconduct; and
  4. How and to whom to report allegations or suspicions of sexual misconduct.

#### IV. Inmate Education

- A. Inmates entering SCDC shall receive verbal and written information concerning sexual abuse (**PREA**) during the new arrival orientation, (**Note: The written information shall be given upon arrival as a part of the Inmate Handbook [electronic or manual editions]**). The orientation information shall address the following topics and shall be documented in each inmate's institutional file. (ACA: 4-4281-1, 1-Core-4D-13)
1. Prevention;
  2. Self-Protection;
  3. Reporting Sexual Assaults/Protection from Retaliation;
  4. Treatment and Counseling;

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5. SCDC **ZERO-TOLERANCE** for Sexual abuse or Sexual harassment;
  6. Use of the PREA Tip Line; and
  7. Consequences of False Allegations.
- B. Appropriate steps shall be taken to insure inmates with disabilities (i.e. deaf or hard of hearing, blind or have low vision or those who have intellectual, psychiatric or speech disabilities) and inmates with limited English proficiency have an equal opportunity to participate in or benefit from all aspects of the Division's efforts to prevent, detect, and respond to sexual abuse and harassment. (PREA: 115.16)
- C. SCDC shall not rely on inmate interpreters, inmate readers or other types of inmate assistants (except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety), in the performance of first-response duties or the investigation of the inmate's allegations.
1. When addressing inmates with "Limited English Proficiency" (LEP) employees may contact the following agencies:
    - a. Shelby County Government Office of Multicultural and Hispanic Affairs; or
    - b. LEP Language Line Assistance (877) 245-0386. (Shelby Client # 518215)
    - c. Tennessee Association of Professional Interpreters and Translators (TAPIT): <http://www.tapit.org>;
    - d. "I-Speak" flashcards are available on the United States Department of Justice at: <http://www.usdoj.gov/crt/cor/PUBS/ISpeakCards2001.pdf>.
- D. Inmates with hearing impairments shall have unimpeded access to any of the "Purple Communication Devices" located in the W-Building Visitation Office or via the Video Visitation Inmate Portal.
- E. Within seven (7) calendar days of arrival at SCDC, all inmates shall be provided comprehensive education through the viewing of the PREA education video.
1. The PREA education video shall inform the inmates of their rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents;
  2. The PREA education video shall also include the SCDC policies and procedures for responding to such allegations; and

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3. The inmate's participation in the orientation and education sessions listed in the above sections of policy shall be documented and placed in the Inmate's Institutional file and OMSe file.
- F. SCDC PREA Compliance Office shall ensure that information is continuously and readily available using materials such as poster, handbooks, etc.
1. At a minimum, the inmate reporting posters identifying the hotline numbers shall be posted in all housing units and areas where inmate traffic occurs;
  2. Posters for third party reporting (i.e. family and friends) shall be posted in all visitation areas and facility entry buildings.
- G. All materials provided to inmates on the subject of sexual misconduct and any lesson plans used during inmate orientation on this topic shall be approved by the PREA Coordinator.

**V. Prevention**

- A. As set forth in [Shelby County Division of Corrections Administrative Policies and Procedures, Policy # 339, "PREA Risk Assessments and Accommodation Strategies"](#), all inmates shall be screened and assessed upon admission to SCDC for their risk of being a victim of sexual abuse or their likelihood of committing sexual abuse. (ACA: 4-4281-2)
1. All other inmates that have not been screened shall be assessed during their annual security review. As a result of these screenings, inmates shall be assigned a PREA classification;
  2. The PREA Accommodation Strategy Team shall make appropriate housing assignments based upon the inmate's PREA classifications.
- B. **Opposite Gender Announcements** (PREA: 115.13[d])
1. Employees, and NFSS, of the opposite gender, whether assigned to the unit or not, shall make the following announcement upon their arrival in a housing unit: "Male/Female in housing unit".
    - a. If at any time the employee leaves and returns to the housing unit, the proceeding announcement shall be repeated;
    - b. The announcement is only required when an opposite gender employee, or NFSS enters a housing unit where there is not already another opposite gender employee present; and



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2. Supporting the victim through the forensic medical examination and investigatory interview; and/or
  3. Providing emotional support, crisis intervention, information and referrals.
- H. SCDC shall always be responsible for providing a PREA Advocate support to a victim of sexual abuse. This shall not be the responsibility of the SCSO.
- I. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, SCDC shall consider the effect of the design, acquisition, expansion, or modification upon the Division's ability to protect inmates from sexual abuse. This consideration must be documented in written form and maintained in the PREA Compliance Office, approved by the Director/designee.
- J. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, SCDC shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse. This consideration must be documented in the PREA Compliance Office, approved by the Director/designee.

**VI. Data Collection and Monitoring**

- A. IAU investigators shall report allegations of sexual abuse or sexual harassment they investigate on their monthly reports, along with the dispositions of same. A copy of the completed investigative packet shall be provided to the PREA Compliance Office upon disposition of the case.
- B. In accordance with [Shelby County Division of Corrections Administrative Policies and Procedures, Policy # 338, "Sexual Abuse Response Team"](#), the Sexual Abuse Response Team designated by the Director/designee shall review all sexual abuse and sexual harassment incidents, regardless of the finding, within thirty (30) calendar days of the conclusion of the investigation. The SART Chairperson may grant an additional fifteen (15) calendar days extension in exigent circumstances.
- C. SCDC IAU and PREA Compliance Office shall ensure that data collected pursuant to § 115.87 are securely retained.
- D. SCDC shall make all aggregated sexual abuse data readily available to the public at least annually through SCG website or other means. All personal identifiers shall be removed before this information is made available to the public
- E. SCDC shall maintain sexual abuse data collected pursuant to § 115.87 for at least ten (10) years after the date of the initial collection unless Federal, State, or local law requires otherwise.

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- I. **Hiring and Promotion Decisions** (PREA: 115.17)
  - A. SCDC shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any NFSS who may have contact with inmates who:
    1. Has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility, or other institution (**as defined in 42 U.S.C. 1997**);
    2. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
    3. Has been civilly or administratively adjudicated to have engaged in the activity described in number "2" of this section.
  - B. SCDC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any NFSS who may have contact with inmates.
  - C. Before hiring new employees who may have contact with inmates, SCDC shall:
    1. Perform a criminal background records check; and
    2. Consistent with Federal, State, and local law, make its best effort 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.
  - D. In accordance with [Shelby County Division of Corrections Administrative Policies and Procedures, Policy #118 "Background Investigations"](#), employees may be subject to a full background investigation or criminal records review at any interval during their employment with SCG and/or SCDC; however, a random criminal records review shall be performed every five (5) years.
  - F. Employees, who may have contact with inmates, shall complete an Annual PREA Acknowledgement form – [Attachment A](#).
    1. SCDC PREA Compliance Office shall ensure the PREA Acknowledgement Form is completed by all required by December 31<sup>st</sup> of each year and electronically filed in the individual training file;
    2. It shall be the responsibility of the PREA Compliance Office to ensure any positive responses on the Annual PREA Acknowledgement Form are forwarded to the IAU for review; and

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3. The following must be adhered to for employees in SCG/SCDC recognized bargaining units:
  - a. The questions on the Annual PREA Acknowledgement Form – [Attachment A](#), shall be asked of the of the employee by an IAU Investigator or Training Supervisor only;
  - b. The IAU Investigator or Training Supervisor must ask the employee if they would like the questions read to them or if they prefer to read form for themselves and answer each question;
  - c. If required, the questions shall be read or asked in a confidential manner in a private setting;
  - d. Bargaining Unit employees shall be afforded the opportunity of having a union representative present when the questions are asked; however, they may choose to forgo the presence of a union representative; and
  - e. Employees shall be provided *Garrity* upon request and a *Garrity Right Form* shall be completed (**Garrity rights can only be issued by an IAU Investigator.**)
- G. Applicants and employees who are being considered for promotional opportunities, who may have contact with inmates, shall be required to complete the Annual PREA Acknowledgement form.
- H. SCDC imposes a continuing affirmative duty to disclose any such misconduct outlined herein to all employees.
- I. Employees, who omit or falsely report information regarding such conduct, shall be subject to corrective action, up to and including termination.
- J. Contract employees, interns, volunteers, and vendors, who omit or falsely report information regarding such conduct, shall be prohibited from providing any further services with SCDC.
- K. Unless prohibited by law, SCDC shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee, or NFSS upon receiving a request from an institutional employer for whom such individual has applied to work.