Resident Management, Services, Cross-Gender Searches, Transgender Residents

Limits to Cross-Gender Viewing and Searches

Standard 115.315 provides extensive guidance regarding the conduct of searches. Cross-gender **strip** and visual body cavity searches are prohibited except in **exigent circumstances** or when performed by **medical practitioners**. Cross-gender **pat-down searches** are prohibited except in **exigent circumstances**. **Facilities** should document and justify all such searches.

In addition, **facilities** cannot search or physically examine a **transgender** or **intersex resident** solely to determine the **resident's** genital status. The **agency** must also train **staff** to conduct cross-gender **pat-down searches** and **pat-down searches** of **transgender** and **intersex residents** in a professional and respectful manner.

The standard also requires **facilities** to implement policies and procedures that allow **residents** to shower, change clothes, and perform bodily functions without **staff** members of the opposite gender viewing them, absent **exigent circumstances** or instances when the viewing is incidental to routine cell checks. These policies and procedures also require **staff** members of the opposite gender to announce their presence when entering a housing unit or an area where **residents** are likely to be showering, performing bodily functions, or changing clothing.

DOJ provides further guidance for this standard by noting that the prohibition against **staff** viewing **residents** of the opposite sex includes **staff** members that monitor cameras (p. 40). The DOJ addresses many concerns related to the housing and treatment of **transgender** and **intersex residents** (pp. 55-59).

Evidence Protocol and Forensic Medical Examinations

Standard 115.321 requires **agencies** that are responsible for investigating allegations of **sexual abuse** to follow uniform evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The **agency** must offer all **residents** who experience **sexual abuse** access to forensic medical examinations (whether on-site or at an outside **facility**) without cost to the **resident**. Examinations are to be performed by Sexual Assault Nurse Examiners (SANEs) if possible, or by a qualified **medical practitioner**. A victim advocate is to be made available to accompany the victim through examinations and investigatory interviews.

The DOJ notes that this standard applies to both criminal and administrative investigations. There is significant information and discussion about the use of rape crisis centers and the activities and training of victim advocates in the standards overview (pp. 71-75).

Access to Emergency Medical and Mental Health Services

Standard 115.382 requires that **resident** victims of **sexual abuse** in custody receive timely, unimpeded access to emergency medical treatment and crisis intervention services as directed by **medical** and **mental health practitioners**. This access includes information about and access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate. All services are to be provided without financial cost to the victim.

The DOJ provides clarification on the meaning of key terms within the standard within the standards overview (pp. 145-146).

Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

Standard 115.383 states that the **facility** is to offer medical and mental health evaluations (and treatment where appropriate) to all victims of **sexual abuse** that occurs in any **prison**, **jail**, **lockup**, or **juvenile facility**. The evaluation and treatment should include follow-up services, treatment plans, and (when necessary) referrals for continued care following a transfer or release. These services should be provided in a manner that is consistent with the level of care the **resident** would receive in the community, and should include pregnancy tests and all lawful pregnancy-related medical services where applicable. All services are to be provided without financial cost to the victim.

The DOJ states that the standard is intended to encompass individuals who were victimized while in another **facility** (p. 148), but does not encompass **residents** who committed a sex offense in the community or **staff** who have abused **residents** (p. 151). The language "shall be offered tests" in the standard is meant to make clear that victims are not required to undergo such testing—only that such testing is offered when appropriate (p. 149).

Resources

- Arizona Department of Juvenile Corrections. *Secure Facility Vulnerability Assessment.* (http://www.azdjc.gov/FactsNews/PREA/851C072D.pdf)
- Oregon Youth Authority Youth Safety Follow-Up Surveys. (http://www.oregon.gov/OYA/prea/prearesources.shtml)
- Transgender Law and Policy Institute with the National Center for Transgender Equality. *Handbook for Understanding Transgender Americans.* (http://www.ithaca.edu/sacl/lgbt/docs/basicresources/understandingtrans/)
- The Project on Addressing Prison Rape. *Policy Guide: LGBTI Policies* [draft on file with The Project on Addressing Prison Rape. Email nic@wcl.american.edu for more information.]