



July 7, 2008

National Prison Rape Elimination Commission
1440 New York Avenue, NW, Suite 200
Washington, D.C., 20005-2111

RE: Adult Prisons and Jails Standards

Dear Commissioners:

Thank you for the opportunity to comment on the National Prison Rape Elimination Commission (NPREC) Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails. We believe the comprehensive reform standards and checklists will help significantly reduce the occurrence of sexual abuse in adult facilities nationwide. However, we also believe the Standards could be substantially improved by adding additional considerations for inmates under the age of 18 held in adult prisons and jails.

On any given day, nearly 10,000 youth under the age of 18 are detained in adult jails and prisons in the United States.¹ Juvenile populations housed in adult institutions are particularly vulnerable to sexual exploitation and physical assault.² According to the U.S. Department of Justice Bureau of Justice Statistics, in 2005 and 2006, 21 percent and 13 percent (respectively) of the victims of inmate-on-inmate sexual violence in jails were youth under the age of 18, despite the fact that only one percent of all jail inmates are juveniles.³ Given these harsh statistics, the Standards for Adult Prisons and Jails should be strengthened to explicitly address the needs of youth populations in adult facilities.

Our organizations have extensive experience working to improve the conditions of confinement for youth held in juvenile and adult facilities. The Campaign for Youth Justice is a national campaign dedicated to ending the practice of trying, sentencing, and incarcerating youth in the adult criminal system. The Youth Law Center is a public interest law firm that works to protect children in the nation's foster care and juvenile justice systems from abuse and neglect, and to ensure that they receive the necessary support and services to become healthy and productive adults. The Center for Children's Law and Policy (CCLP) is a public interest law and policy organization focused on reform of juvenile justice and other systems that affect troubled and at-risk children, and protection of the rights of children in those systems. While each of our organizations oppose the practice of housing youth in adult facilities because adult facilities are inherently dangerous to children and inappropriate for a variety of developmental reasons, nonetheless, we recognize that some jurisdictions do hold youth in adult facilities and juveniles need particular protections in these situations. While banning the practice of housing youth in adult facilities may be outside of the scope of the NPREC standards, we do believe the standards can be strengthened with respect to young inmates.

In the attached document there are several suggestions for minor additions or modifications to the Standards so that they account for the special needs of inmates under age 18. Many of the suggestions incorporate language from the recently-released Standards for Juvenile Facilities so that the protections for youth in adult facilities more closely mirror the protections provided to their peers in juvenile facilities. Youth in any facility deserve protection from sexual abuse, and the revisions we suggest to the current Adult Draft Standards will ensure that youth receive that protection when they are confined in adult prisons and jails.

Thank you for your efforts on drafting a set of comprehensive standards that will help to reduce sexual assault in facilities across the country. We will be happy to elaborate further on any areas, or answer any questions you may have. Please feel free to contact me at narya@cfyj.org or (202) 558-3580 if I can provide any further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Neelum Arya". The signature is written in a cursive, flowing style.

Neelum Arya

¹ *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, Campaign for Youth Justice, p. 4, available at http://www.campaign4youthjustice.com/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf. (November 2007) and Beck, A.J., & Harrison, P.M. (2006, May). Prison and jail inmates at midyear 2005. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

² Coalition for Juvenile Justice, See *Childhood on Trial: The Failure of Trying and Sentencing Youth in Adult Criminal Court*, 45-47 (2005); Bureau of Justice Assistance, *Juveniles in Adult Prisons and Jails* (2000).

³ *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, Campaign for Youth Justice, p. 4, available at http://www.campaign4youthjustice.com/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf. (November 2007)

Standard Statement or Discussion PDF Page Where It Appears	Concern(s)	Suggested Revision <u>Underlining</u> indicates the suggested action to take, or suggested language to be added. Strikethrough indicates language suggested for removal.
COMPLIANCE GUIDE: Audit pp. 8-9	The Audit requirements only state that agency heads must certify full compliance, but for those not in full compliance, there is no requirement to certify an action plan to come into compliance.	After the last sentence of the second paragraph under subsection “Audit,” <u>add</u> this sentence: “If the facility head cannot certify that his or her facility(ies) has met the requirements of the checklists, the head must be able to certify that he or she has developed an action plan to meet the requirements and is taking steps to achieve full compliance.”
GLOSSARY: Action Plan p. 10	The definitions do not include an entry for “action plan,” a term used frequently in the document.	A suggested definition of “action plan” could come from Compliance Checklist 3 (PDF p. 46): “An action plan sets benchmarks for achieving full compliance with the PREA standards, includes strategies for overcoming staff resistance to change, and develops a communication plan to inform all staff, inmates, other stakeholders, and the community about the strategies and goals for achieving full compliance.”
GLOSSARY: Allegations p. 10	The definition of the parties who can receive and those who can make allegations to trigger an official response is too narrow.	Amend the definition to read: “Information related to sexual abuse that is provided to a staff member or volunteer <u>agency personnel, facility staff, medical or mental health practitioners, or law enforcement.</u> Allegations include tips and grievances. An allegation triggers the agency’s official response, which includes the initiation of an investigation. Allegations can be made by <u>anyone, including staff, observers, victims, witnesses, victim’s acquaintances,</u> and family members who have evidence or suspicion that sexual abuse has occurred.”
GLOSSARY: Certification of Compliance p. 10	The definition mentions progress since “the second audit or any subsequent audits,” which does not make sense because the agency might not have ever been audited before.	Amend the second sentence of the definition of “Certification of Compliance” to read: “Where full compliance has not been reached, the statement describes progress toward compliance since <u>the agency’s implementation of its initial action plan or the agency’s response to its prior audit(s),</u> as well as the agency’s <u>updated, current</u> action plan to achieve compliance, with concrete and specific benchmarks.”
GLOSSARY: Full compliance p. 11	The definition says that full compliance means consistent application of the PREA standards “for a sustained period of time,” which is too ambiguous.	Add this definition: “Full compliance is achieved when a facility conforms to 100% of the standards for a period of at least 1 year. On any standard to which the facility does not conform, facility staff and administrators should develop a corrective action plan.”
GLOSSARY: Garrity warning p. 11	The phrases “Garrity warning” and “Garrity-type warning” appear nowhere in the Standards and appear only once in a checklist.	Because of the length of the definition and the Standards’ non-usage of the term, this item clutters the GLOSSARY unnecessarily. The terms should be incorporated into existing Standards or removed from the GLOSSARY.

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GLOSSARY: Mandatory Reporting Laws	Since many adult facilities will be unfamiliar with the child abuse reporting laws also applicable in cases of sexual assault, there needs to be a new definition of “mandatory reporting laws” added to the glossary.	<ul style="list-style-type: none"> • <u>Add</u> “Mandatory reporting laws” to the GLOSSARY and <u>Add</u> this as its definition (drawn from SD-1 Discussion, PDF p. 35): “State laws that mandate reporting to outside agencies for abuse perpetrated on certain vulnerable groups (e.g., youth, the mentally ill, mentally or physically disabled, or the elderly).” • <u>Add</u> a note with the definition to inform the reader that a summary of child abuse and neglect mandatory reporting responsibilities that are applicable in each state is available from the Child Welfare Information Gateway: http://www.childwelfare.gov/systemwide/laws_policies/statutes/mandall.pdf.
GLOSSARY: <i>Miranda</i> warning p. 12	See the concern above for “Garrity warning.” Like Garrity, <i>Miranda</i> is not mentioned in the Standards, and only once in a checklist.	Because of the length of the definition and the Standards’ non-usage of the term, this item clutters the GLOSSARY unnecessarily. The term should be incorporated into existing Standards or removed from the GLOSSARY.
GLOSSARY: Privileged communication p. 13	The definition contains a lengthy description of the “three kinds of privilege,” but those terms (identifying the kinds of privilege) are not used anywhere in the Standards.	Each time the Standards make reference to a privileged or confidential communication, they also specify the extent and conditions of the privilege or confidentiality. There is no need to add “three types” to the definition of Privileged communication because the Standards do not identify privilege according to type. Therefore, <u>remove</u> the last sentence of the definition.
GLOSSARY: Inmate-on-inmate sexually abusive contacts & Inmate-on-inmate sexually abusive penetration p. 14	The definition of “sexually abusive contacts” and “sexually abusive penetration” currently requires coercion “by threats of violence.” Other types of abusive coercion should qualify.	<ul style="list-style-type: none"> • <u>Amend</u> the first sentence of the definition of “inmate-on-inmate sexually abusive contacts” to read: “Touching ... without penetration by an inmate of another inmate without the latter’s consent, or with an inmate who is coerced into sexual contact by threats of violence <u>of harm, physical or otherwise</u>, or with an inmate who is unable to consent or refuse.” • <u>Amend</u> the first sentence of the definition of “inmate-on-inmate sexually abusive penetration” to read: “Penetration by an inmate of another inmate without the latter’s consent, or with an inmate who is coerced into sexually abusive penetration by threats of violence <u>of harm, physical or otherwise</u>, or with an inmate who is unable to consent or refuse.”
GLOSSARY: Staff-on-inmate sexual harassment p. 14	The definition requires “repeated” verbal statements or comments to constitute harassment, but in some cases, a single statement or comment may constitute	<u>Remove</u> the word “repeated” before “verbal statements or comments” in the definition of “staff-on-inmate sexual harassment.” <u>RATIONALE</u> for removal of “repeated”: <ul style="list-style-type: none"> ○ Inmates may be more likely than free persons to tolerate verbal

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(Continuation of Suggestion for GLOSSARY: Staff-on-inmate sexual harassment)	harassment.	abuse that comes from someone with authority because in a confinement setting they are expected to obey authority without first judging its propriety or fairness. If an inmate works up the nerve to report harassment, he/she should not have to wait for a second occurrence before it is stopped. She/he may later be unwilling to renew a complaint because of her/his fear of consequences, or may become acclimated to the harassment and accept it as part of the power imbalance that exists between staff and inmates.
GLOSSARY: Sight and sound separation from adults	There is currently no definition that explains the federal rules regarding the need to keep youth under the age of 18 separate from adult inmates.	Add a new definition, "Sight and sound separation from adults": "To protect youth from abuse, inmates under the age of 18 should be out of clear visual contact and direct oral communication with other inmates who are adults, in accordance with The Juvenile Justice and Delinquency Prevention Act, 42 U.S.C.A. § 5633(a)(12) & (13)."
GLOSSARY: Verification of compliance	See the previous concern with "statement of compliance" above.	Same <u>amendment</u> recommended as for "statement of compliance" above.
GLOSSARY: Vulnerable Populations	There is no definition for this term, although it is used as a key phrase in the classification section and other related provisions.	Add new definition for "vulnerable population": "Includes all inmates who have not yet been classified, all inmates who are isolated from the general population, and all inmates who are from traditionally vulnerable populations, such as gay, lesbian, bisexual, and transgender inmates, as well as those inmates likely to be perceived as gay, lesbian, bisexual, and transgender; deaf or speech- or sight-impaired inmates; inmates with mental or physical disabilities; inmates with limited English proficiency; inmates with past histories of sexual abuse; youth under the age of 18 and those who appear young; and inmates who are physically weak; and those inmates who, according to judgment calls based on experience in a given facility and populations, are likely to be vulnerable for any reason."
SA-2: Annual audit and certification DISCUSSION p. 16	The auditor is required to have evidence of whether the agency has met the standards. Unlike the parallel juvenile standard, compliance does not require evidence from "every facility."	Amend the last sentence of the first paragraph of the Discussion to read: "In order for such certification to be meaningful, it must be based primarily on the conclusions of a competent, independent auditor who has documented evidence that <u>every facility within</u> the agency has met these standards or has a plan to meet these standards"
SA-3: Internal Assessment and planning for ... compliance ... STATEMENT & DISCUSSION p. 17	The publication requirement in the last sentence of the Statement allows a broad publication exemption to protect the "safety and security of the facility."	• End the Statement with this <u>shortened</u> final sentence: "The agency head must approve internal assessments and action plans, submit them to the legislature, and publish them, provided they do not contain information that, if made public, would jeopardize the safety and security of the facility. "

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(Continuation of Suggestion for SA-3: Internal Assessment and planning for ... compliance ...)		<ul style="list-style-type: none"> • In the Discussion, <u>add</u> the portion removed from the Statement and <u>clarify</u> it to read: “The agency head must submit to the legislature and publish the internal assessments and action plans. In instances where those documents contain information that, if made public, would jeopardize the safety and security of the facility or individuals at the facility, those portions (and only those portions) of the documents that put the facility or individuals in jeopardy may be redacted. However, in no case may this provision entirely excuse the agency head from responsibility for submission and publication of the documents, including those that may be partially redacted.”
PP-1: Inmate Safety DISCUSSION p. 18	<ul style="list-style-type: none"> • The second sentence says staff will identify aggression, but unlike the parallel Juvenile standard, it does not call for them to intervene. • The Discussion does not mention the identification of vulnerable groups as part of sight and sound supervision. • Unlike the parallel juvenile standard, the Discussion does not state explicitly that technology may not substitute for supervision. 	<ul style="list-style-type: none"> • <u>Amend</u> the second sentence of the Discussion to read: “It enables staff to identify <u>and intervene after inappropriate</u>, aggressive or coercive inmate behavior before it escalates to sexual abuse, <u>to identify and protect inmates who may be more likely to be victimized</u>, to identify signs of inappropriate staff relationships developing with inmates before they become abuse, to respond immediately to prevent or end incidents of abuse by inmates or staff, and, where an incident does occur, to take the necessary steps to respond to it.” • <u>Amend</u> the last sentence of the Discussion to read: “(RFID) should be used to monitor staff and inmate movement and location, <u>though such use of technology is never an appropriate substitute for adequate, engaged staff supervision of inmates.</u> and (S)upervisory staff should monitor interactions between line staff and inmates in isolated areas.
PP-2: Heightened protection for vulnerable inmates DISCUSSION p. 19	<ul style="list-style-type: none"> • Unlike the parallel Juvenile standard, the Discussion does not prohibit blanket policies for identification of vulnerabilities. • The Discussion does not state that vulnerable populations should be treated differently than those committing infractions. 	<ul style="list-style-type: none"> • <u>Add</u> paragraph, which comes from Juvenile PP-2 Discussion (PDF p. 18 of Juvenile Standards): “Some facilities have blanket policies of placing lesbian, gay, bisexual and transgender (LGBT) inmates in segregated housing or isolation. Facilities should not have blanket rules about how to handle LGBT inmates; rather they should make individualized determinations about how to ensure the safety of each resident.” • <u>Amend</u> the last sentence of the Discussion: “Vulnerable inmates housed in protective custody should have regular access to ... programs available to general population inmates, <u>and should not be subjected to the same disciplinary environment as inmates who have committed infractions.</u>”
PP-3: Restriction on cross-gender supervision	The Discussion devotes an entire paragraph to the establishment of a legally sound	<u>Add</u> this sentence to the Standard Statement: “The agency has a legally sound policy regarding strip, visual body cavity, and physical body cavity

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STATEMENT p. 19	search policy, but that concern is nowhere reflected in the Standard Statement.	searches, and the policy states that such searches are warranted only by articulable, reasonable suspicion and are conducted only by specially trained, authorized personnel.”
PP-4: Language Access DISCUSSION p. 20	<ul style="list-style-type: none"> • Discussion calls for information to be conveyed, but doesn’t say it should be meaningful. • Unlike the Juvenile Standards, Discussion leaves out language needs of inmates’ families. 	<ul style="list-style-type: none"> • <u>Amend</u> second sentence of the Discussion: “Language or other communication barriers can seriously impair staff’s ability to keep inmates safe from sexual abuse if staff is unable to <u>meaningfully</u> convey essential information to certain inmates.” • <u>Add</u> a sentence from the PP-4 Juvenile standard to the end of the Discussion: “<u>Especially for inmates under age 18</u>, facilities should consider the same issues with regard to communicating with inmates’ families, bearing in mind that the families’ language capabilities may differ from those of the inmates.”
PP-5: Staff qualifications STATEMENT p. 21	Staff screening includes criminal history, but does not include domestic and child abuse or neglect screening, which appear in the Juvenile Standards.	<u>Amend</u> the second sentence of the Statement to read: “Agency hiring and promotion decisions must take into consideration any criminal history, <u>any history of engaging in domestic violence or child abuse or neglect</u> , any history of engaging in sexual abuse, and any other previous conduct that suggests a likelihood of engaging in sexual abuse.”
PP-7: Use of appropriate monitoring technology STATEMENT & DISCUSSION p. 22	<ul style="list-style-type: none"> • The Juvenile Standard Statement language is better because it calls for technology to be a supplement for <i>direct</i> supervision. • The phrasing of the Discussion opening is directed more at ensuring punishment rather than at ensuring prevention. 	<ul style="list-style-type: none"> • <u>Amend</u> the Statement to read: “The agency uses video security monitoring systems and other cost-effective and appropriate technology to support <u>supplement</u> the <u>direct supervision of inmates and the agency’s</u> its sexual abuse prevention, detection, response, and monitoring efforts. • <u>Amend</u> first sentence of Discussion to read: “Video security monitoring systems and other technology are invaluable tools for eliminating and punishing sexual abuse in some facilities <u>for preventing, detecting, and responding to sexual abuse.</u>”
RP-1: Coordinated response team DISCUSSION p. 23	The Juvenile Standards ensure that the sexual assault response team includes a member trained to or experienced with working with youth. The Adult Standard Discussion here does not.	<u>Add</u> to the Discussion that the coordinated response team should include a youth sexual assault expert when the victim of the reported assault is an inmate under the age of 18.

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RP-6: MOU with outside law enforcement agencies. STATEMENT & DISCUSSION p. 35	<ul style="list-style-type: none"> • The MOU Statement does not mention an agreement with the agency responsible for child abuse investigations. • The details of the MOU Discussion are similarly lacking. 	<ul style="list-style-type: none"> • <u>Add</u> this sentence, which comes from the parallel Juvenile Standard, to the Statement: “The agency also maintains a written MOU with any designated state or local services agency that has the authority to conduct investigations related to the sexual abuse of children within confinement facilities.” • <u>Add</u> these sentences, which (with slight alterations) come from the parallel Juvenile Standard, to the Discussion: “Additionally, agencies will need to establish similar MOUs with the designated state or local services agency that has the authority and jurisdiction to initiate its own separate investigation into any allegation of sexual abuse <u>of a youth</u> in a facility. The MOU should outline the requirements and protocol for communication between the services agency and the juvenile justice<u>corrections</u> agency regarding the investigation, and explicitly address the extent and limitations of any information sharing, and timing of each agency’s investigation.”
RP-8: Agreements with forensic medical examiners STATEMENT & DISCUSSION p. 26	<ul style="list-style-type: none"> • Because it is essential (as recognized in the Discussion) that agency practitioners receive copies of the medical examiner’s documentation, the Standard Statement should include that requirement. • The Discussion says that, if requested, the independent examiners will provide copies of records for victims, but victims (esp. inmates under the age of 18) are unlikely to spontaneously request such a document without knowing they can ask for one. 	<ul style="list-style-type: none"> • <u>Add</u> this sentence from the Discussion into the Standard Statement: “It is critical that any agreement include a requirement that agency medical and/or mental health practitioners receive any documentation from the independent examiner related to the victim’s treatment, including any recommendations for continued care.” • <u>Replace</u> the last sentence of the Discussion with this language: “Additionally, the agreement should specify that the independent examiners inform the victim that he or she can be provided with copies of the records relating to the victim’s treatment, including any recommendations for continued care, and then inquire in an age-appropriate manner about whether the victim wants to be provided with such copies.”
TR-1: Staff and volunteer training DISCUSSION p. 27	<ul style="list-style-type: none"> • Discussion does not specify that staff must be trained before working with inmates, although that is part of Checklist 21(d). • Discussion says agency must develop training program, but does not mention staff & volunteer acknowledgements, although they are part of Checklist 21(h). 	<ul style="list-style-type: none"> • <u>Add</u> after what is currently the first sentence of the draft standards: “Staff members are prohibited from working with inmates before they demonstrate knowledge of the agency’s sexual abuse policies and procedures.” • <u>Add</u> after what is currently the second sentence of the draft standards: “Staff and volunteers are required to sign an acknowledgement that they have been received training about and have a clear understanding of agency policies, practices, and protocols, including the provisions of the

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(Continuation of Suggestion for TR-1: Staff and volunteer training)	<ul style="list-style-type: none"> Finally, the training program does not mention refresher/ continuing training, which is part of Checklist 21 (i), (j), & (p). 	agency’s MOUs.” <ul style="list-style-type: none"> <u>Add</u> after what is currently the third sentence of the draft standards: “In addition, the agency must provide refresher training following any changes in law or policy, and annually conduct continuing training for all staff members, including discipline-specific advances or changes for relevant staff.”
TR-2: Visitor awareness of agency’s zero-tolerance policy & TR-3: Inmate notification of agency’s zero-tolerance policy STATEMENTS p. 27	Both of the Standard Statements for TR-2 & TR-3 focus on the notification of the existence of a zero-tolerance policy rather than a clear understanding of how to report violations of the policy. The Discussion for TR-2 states that “it is important that they <i>understand</i> ” the policy, but the Standard Statements do not reflect that. TR-2 & TR-3 also do not note the importance of language access for visitors and inmates.	<ul style="list-style-type: none"> <u>Rephrase</u> TR-2 Statement: “Through communication that is appropriate and meaningful to the audience, all visitors on official business to a facility acquire a clear understanding of the agency’s zero-tolerance policy regarding sexual abuse and how to report violations of the policy. They are required to sign an acknowledgment that they understand... [followed by the last sentence of the current TR-2 Statement].” <u>Rephrase</u> TR-3 Statement: “During the intake process, through communication that is appropriate and meaningful to the audience, all inmates acquire a clear understanding of the agency’s zero-tolerance policy regarding sexual abuse and how to report violations of the policy.”
TR-3: Inmate notification ...during intake DISCUSSION p. 28	<ul style="list-style-type: none"> There is no mention of informing (during intake) how to access medical & mental health services, as there is in Juvenile Standards. The presentation requirements do not mention accommodations for LEP, sight-, hearing-, or speech-impaired inmates. 	<ul style="list-style-type: none"> <u>Add</u> to first sentence of first paragraph of the Discussion: “... how to protect oneself against sexual abuse, and how to report an incident, <u>and how to access medical and mental health services</u>, as soon as possible upon entering the facility.” <u>Add</u> after second sentence of second paragraph of Discussion an additional, new sentence: “Regardless of the means of presentation, it must make accommodations to meet the needs of young inmates, LEP and sight- or hearing-impaired inmates, and those inmates with learning or developmental impairments.”
TR-4: Resident education on sexual abuse DISCUSSION p. 28	Unlike the parallel Juvenile Standard, this Discussion of inmate education contains no cautionary statements about the needs of inmates with limited literacy skills.	<ul style="list-style-type: none"> <u>Add</u> after first sentence of second paragraph of Discussion, this line adapted from Juvenile Standards on this same issue: “Many inmates have limited or no literacy skills at all, and, therefore, all educational materials for inmates should always be presented both verbally and in a written format that is easily understood by the entire population.” <u>Add</u> another sentence at the same location in the second paragraph of the Discussion: “Regardless of the means of delivery, the education must meet the needs of young inmates, LEP and sight- or hearing-impaired inmates, and those inmates with learning or developmental impairments.”

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TR-5: Specialized training... DISCUSSION pp. 29-30	<ul style="list-style-type: none"> • The <i>Investigations</i> subsection of Discussion does not mention training for investigators dealing with youth (inmates under age 18). • The <i>Medical and Mental Health</i> subsection does not mention training for practitioners working with youth (inmates under the age of 18). • There is no training on confidentiality required by law in the <i>Data Collection</i> subsection. 	<ul style="list-style-type: none"> • <u>Add</u> these lines to <i>Investigations</i> immediately prior to what is currently the last sentence of that subsection in the Discussion: “For those dealing with parties (victims, witnesses, or others) under age 18, sexual abuse investigators should also receive specialized training in forensic interviewing of youth, effective strategies for communicating with youth, and how to handle the unique emotional needs of young victims of sexual abuse. For example, young victims are less likely to understand the investigator’s role or feel comfortable describing the details of the abuse to an authority figure, especially if the victim feels threatened.” • <u>Add</u> these lines to <i>Medical and Mental Health Care</i> after what is currently the first sentence of that subsection of the Discussion: “Practitioners treating victims under the age of 18 should be trained and experienced in working with children and young victims of sexual abuse. They should also be knowledgeable about the unique developmental and psychosocial needs of confined youth.” • <u>Amend</u> the subsection so that it mirrors the more comprehensive <i>Data Collection</i> subsection of the Juvenile Standards: “Finally, those with data collection responsibilities require special training so that they understand the importance of and will comply strictly with agency policies on recording and protecting information that is confidential by law or, if not confidential by law but left unprotected, could endanger victims, witnesses, and alleged abusers.”
CL-1: Initial screening upon arrival at the facility DISCUSSION p. 30	The screening/assessment staff at an adult facility likely have little experience in screening children for vulnerability; moreover, the vulnerability of youth in adult facilities should not be left to individualized determinations.	Add this sentence immediately prior to what is currently the last line of the Discussion: “All inmates under the age of 18 are presumed to be vulnerable during intake screening.”
CL-2: Classification assessment DISCUSSION p. 30	The classification will affect education assignments, but that is not mentioned.	<u>Amend</u> last sentence of first paragraph of Discussion: “For instance, classification must dictate not only housing unit assignments, but also bed assignments, and program, <u>education</u> , and work assignments.”

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CL-3: Inmate Management Plans STATEMENT & DISCUSSION p. 32	<ul style="list-style-type: none"> • The Statement should make clear that management plans must ensure youth are housed separately from adults. • The Discussion should reinforce that youth are housed separately from adults. 	<ul style="list-style-type: none"> • <u>Add</u> a second sentence to Statement: “Inmate management plans ensure that inmates under the age of 18 are housed separately from the general population in accordance with the ‘sight and sound separation’ requirements of The Juvenile Justice and Delinquency Prevention Act, 42 U.S.C.A. § 5633(a)(12) & (13).” (This mirrors the “status offender” differentiated housing language from the Juvenile Standards.) • <u>Add</u> this sentence immediately prior to what is currently the last line in the Discussion: “In addition to other protections for potentially vulnerable inmates, inmates under the age of 18 must never be assigned to share housing or bed assignments with inmates age 18 or older.”
RE-1: Inmate reporting DISCUSSION p. 33	<ul style="list-style-type: none"> • The strategies for encouraging inmates to report abuse do not include providing access to writing instruments, as they do in the Juvenile Standards. • There should be separate mention of the legally-required reporting to agencies charged with investigating child abuse. 	<ul style="list-style-type: none"> • <u>Amend</u> second sentence of second paragraph of discussion: “...for example, placing locked drop boxes in common areas for inmates to drop reports, requests, or grievances (<u>and providing opportunities for inmates to have access to the paper and writing implements needed to register a written complaint</u>) and installing dedicated phones or programming existing phones...” • In the middle of second paragraph of Discussion, following “...which has agreed to receive reports and act on them (RP-5).” <u>Add</u> these two sentences: “In jurisdictions where corrections agencies with inmates under the age of 18 are already required by law to have clearly defined relationships with specific governmental entities, the agency could decide to enable inmates under 18 to report directly to those entities. In jurisdictions where corrections agencies are not required by law to have such relationships, the agency could satisfy this requirement by allowing inmates under 18 to report directly to a designated state or local services agency with which the agency maintains an MOU.”
RE-3: Third party reporting DISCUSSION p. 34	<ul style="list-style-type: none"> • Discussion does not stress that agencies should use multiple strategies to encourage third parties to report. 	<ul style="list-style-type: none"> • <u>Add</u> from the RE-1 Discussion these lines to begin the RE-3 Discussion: “Agencies should use a number of strategies to encourage third parties to report sexual abuse. These can include, for example, placing locked drop boxes in waiting or common areas for third parties to drop reports, requests, or grievances and installing dedicated phones or programming existing phones with toll-free hotline numbers to internal affairs departments, offices of professional responsibility, or similar internal investigative departments.”

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(Continuation of Suggestion for RE-3: Third party reporting)	<ul style="list-style-type: none"> • The various suggestions for making information on reporting available should not suggest that one strategy is enough by using the conjunction “or.” 	<ul style="list-style-type: none"> • <u>Amend</u> the second sentence of the Discussion to read: “For example, the information could be available by phone, <u>or</u> on a website, as <u>and should be</u> part of a presentation to visitors about the agency’s zero-tolerance policy, or <u>and</u> in brochures, flyers, or on posters in visiting areas.”
SD-1: Staff duty to report sexual abuse DISCUSSION p. 35	<ul style="list-style-type: none"> • Discussion does not include youth among vulnerable groups. • The requirements of [SD-2: Facility head duty to report sexual abuse] in the Juvenile Standards (see PDF p. 36 of Juvenile Standards) are entirely absent from the Adult Standards. 	<ul style="list-style-type: none"> • <u>Amend</u> first sentence of last paragraph of Discussion: “... administrators should consider and abide by any relevant state laws that grant privilege ... or mandate reporting to outside agencies for abuse perpetrated on certain vulnerable groups (e.g., <u>youth</u>, the mentally ill, mentally or physically disabled, or the elderly).” • Immediately prior to the last sentence of the SD-1 Discussion in the Adult Standards, <u>import</u> the contents of what is called [SD-2: Facility head duty to report sexual abuse] in the Juvenile Standards: “For example, upon receiving any allegation of sexual abuse of an inmate under the age of 18, the facility head must report the allegation to the agency head (if applicable), the juvenile court that handled the victim’s case or to the victim’s judge of record, and a designated state or local services agency, in accordance with applicable state or local mandatory child abuse reporting laws. The guidelines for reporting to designated state or local service agencies under mandatory child abuse reporting laws must be outlined in an MOU with the agency (RP-6). The MOU should describe the process by which those agencies will conduct investigations into the abuse and how their investigations are to be coordinated with other administrative or criminal investigations that may be going on concurrently. In addition, <i>even if the inmate under the age of 18 has been prosecuted in the adult system</i>, the facility head must also report the allegation to the parents or legal guardians of the victim unless the facility has official documentation showing they should not be notified, such as when parental rights have been terminated, or when notifying the parents or legal guardian would place the victim in specific identifiable danger. If parental rights have been terminated and the victim is involved in the child welfare system, the facility head must also notify the victim’s caseworker.”

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SD-2: Staff duty to protect ... victims and preserve evidence STATEMENT p. 36	The Standard Statement should be clearer that in order to protect a victim, the victim should be separated from the abuser.	<u>Amend</u> the Standard Statement: "Upon learning that an inmate has been sexually abused, staff is required to take steps to protect the safety of the victim, <u>including separating the victim from the abuser</u> ; seal and preserve any crime scene(s), and inform the victim..."
AD-1: Agency duty to protect against retaliation STATEMENT & DISCUSSION pp. 36-37	<ul style="list-style-type: none"> • Because minimizing disruption to the inmate's life is crucial to encourage inmates to report abuse when they know they'll later need protection, this requirement belongs in the Standard Statement. • Discussion needs to mention that protecting the inmate from retaliation should include minimizing any disruption to inmate's education, which is especially important for inmates under the age of 18 who must be provided an education according to applicable state laws. 	<ul style="list-style-type: none"> • <u>Add</u> these sentences to the Standard Statement: "Protection against retaliation begins immediately and continues for as long as necessary. Facility officials make every reasonable effort to minimize disruptions to an inmate's life while providing the protection that the inmate requires." • <u>Amend</u> last sentence of Discussion: "While addressing the situation may require a housing transfer, facility officials should make every reasonable effort to minimize the disruption caused to the inmate's daily life, including changes in housing assignment, access to programs, <u>education</u>, and other privileges (PP-1 and PP-2)." • NOTE: The word "other" is removed because after adding "education," the phrase "other privileges" makes education sound like a privilege instead of a requirement for youth.
IN-1: Investigations STATEMENT p. 37	The Statement needs to be clearer about the required communication abilities of the investigator.	<u>Amend</u> the Statement to read: "Investigations into allegations of sexual abuse are prompt, thorough, objective, fair, and conducted by investigators who have received special training in sexual abuse investigations <u>and have developed, in particular, skills for communicating with the vulnerable populations.</u> "
DI-2: Disciplinary sanctions for inmates STATEMENT p. 39	The Standard Statement should direct that sanctions not only consider disciplinary history, but also medical history.	<u>Amend</u> the second sentence of the Standard Statement: "Sanctions are comparable and proportional to the type of violation committed, <u>and they are appropriate in light of the inmate's disciplinary and medical history.</u> "
MM-2: Medical and mental health screenings – history of sexual victimization STATEMENT & DISCUSSION pp. 40-41	<ul style="list-style-type: none"> • The Standard Statement implies that inmates should only be asked about their history during their introduction to the facility. • The Discussion does not mention requiring the confidentiality of health records, which is a separate point than which staff can handle them. 	<ul style="list-style-type: none"> • <u>Amend</u> the first sentence of the Standard Statement to read: "Inmates are to be asked whether they have a history of sexual victimization during medical and mental health reception, and intake screenings, <u>and medical assessments.</u>" • <u>Add</u> after what is currently the last line of the Discussion: "Agencies should protect the confidentiality of residents' medical and mental health records, ensuring that only those who need to know or those with the legal authority to access such information are able to do so."

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MM-3: Detection STATEMENT & DISCUSSION p. 41	<ul style="list-style-type: none"> • The Standard Statement says consent is required before practitioners report, which is incorrect for inmates under the age of 18. • The Discussion should make mention that practitioners should know the requirements of applicable mandatory reporting laws before encountering a victim. 	<ul style="list-style-type: none"> • <u>Amend</u> the first sentence of the Standard Statement to read: “If medical practitioners detect signs of potential sexual abuse ..., they are required to ... report their suspicions unless the inmate tells them not to report, <u>and in cases where the victim is under the age of 18 and reporting of child abuse is required by law, the practitioner must report regardless of consent</u> (TR-4, TR-5, and SD-1).” • <u>Amend</u> the second sentence of the Discussion: “They should know their reporting and treatment responsibilities prior to encountering a patient whom they suspect has been sexually abused, <u>including their responsibilities under mandatory reporting laws,</u> and they should also be trained in how to obtain informed consent from inmates <u>age 18 or older</u> before reporting sexual abuse (TR-5).”
MM-4: Medical and mental health care for sexual abuse victims DISCUSSION pp. 41-42	<ul style="list-style-type: none"> • The Discussion for provision of medical care to females mentions pregnancy testing but not emergency contraception. 	<ul style="list-style-type: none"> • <u>Amend</u> the Discussion so that female victims are provided not only with pregnancy testing but also with emergency contraception to prevent pregnancy. <u>RATIONALE</u> for adding emergency contraception: The Statement says the Standard ensures treatment “consistent with and equivalent to community standards of care,” and “community” medical facilities treating rape victims who were not in jail or prison would certainly be providing them with emergency contraception to prevent pregnancy. NOTE: Add a corresponding “emergency contraception” box to Compliance Checklist 41, which covers MM-4.
DC-2: Data storage, retention, protection, and destruction STATEMENT p. 44	The publication requirement that appears in the Discussion is not included in the Standard Statement, but it should be.	<u>Add</u> this sentence to the Standard Statement: “All aggregate data is published online annually and is readily available to the public, and the agency provides access to incident-based data through a nonburdensome process.”

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Compliance Checklist 3: Internal Assessment & Planning (SA-3) pp. 46-47	SA-3 Standard Statement (PDF p. 17) requires that agency internal assessments and action plans be submitted to the Legislature and published. Neither requirement appears in Checklist 3.	<ul style="list-style-type: none"> • <u>Add</u> to Checklist 3(1): “Have the internal assessment and action plan been published?” • <u>Add</u> to Checklist 3(1): “Have the internal assessment and action plan been submitted to the Legislature?” • <u>Add</u> to Checklist 3(2): “Have the follow-up assessment and follow-up action plan been published?” • <u>Add</u> to Checklist 3(2): “Have the follow-up assessment and follow-up action plan been submitted to the Legislature?”
Compliance Checklist 4: Inmate Safety (PP-1) p. 48	Checklist 4(k) allows for the staff who supervise inmates to be monitored by a supervisor “and/or” technology, although the standard PP-1 Discussion (PDF p. 18) says technology may not be a complete substitute for supervisory monitoring.	<ul style="list-style-type: none"> • <u>Remove</u> “or” from the “and/or” conjunction used in Checklist 4(k) to make clear that the standard does not allow the use of technology alone to supervise staff interaction with inmates. • <u>Revise</u> 4(k) to read: “Are staff members who supervise inmates isolated from the general population monitored by supervisors, <i>and when available at the facility</i>, also by monitoring technology such as RFID or video security monitoring systems?”
Compliance Checklist 5: Heightened Protection for Vulnerable Inmates (PP-2) p. 49	<ul style="list-style-type: none"> • Checklist 5(L) does not provide for full access to educational opportunities for separately-housed vulnerable inmates. • Checklist 5(m) allows for monitoring by supervisors “and/or” technology. • Although PP-2 Discussion (PDF p. 19) provides that separately-housed vulnerable inmates must have full access to mental health svcs., the Checklist does not. • The Checklist does not ask whether vulnerable inmates who are separately-housed are subjected to a different environment than those inmates who are being isolated for disciplinary infractions. • The Checklist does not ask whether the facility ensures sight and sound separation for inmates under the age of 18. 	<ul style="list-style-type: none"> • <u>Add</u> “and educational” before “and recreational opportunities” in 5(L) so that it reads “Are vulnerable inmates ... housed separately ... able to participate fully in the work assignments, programs, <u>and educational</u> and recreational opportunities available in the facility?” • For the same reasons listed for Checklist (4)(k) above, <u>remove</u> the “or” from the “and/or” conjunction in Checklist 5(m). • <u>Add</u> to Checklist 5 another question: “Do vulnerable inmates who are housed separately from the general population have full access to mental health services?” • <u>Add</u> to Checklist 5 another question: “Do vulnerable inmates who are housed separately from the general population live in a different environment than the one experienced by inmates who are being isolated because of disciplinary infractions?” • <u>Add</u> to Checklist 5 another question: “Are inmates under the age of 18 sight and sound separated from inmates age 18 or older in accordance with The Juvenile Justice and Delinquency Prevention Act, 42 U.S.C.A. § 5633(a)(12) & (13)?”
Compliance Checklist 6: Restrictions on Cross-Gender Supervision (PP-3)	<ul style="list-style-type: none"> • It is not clear either from the checklist or the standards how this policy will be implemented for transgender inmates. 	<ul style="list-style-type: none"> • The cross-gender supervision requirements need to be <u>clarified</u> to specify how they apply to transgender inmates and what the implementation protocol will be to avoid strip searches for determining

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<p>p. 50</p> <p>(Continuation of Suggestion for Compliance Checklist 6: Restrictions on Cross-Gender Supervision (PP-3))</p>	<ul style="list-style-type: none"> • The Checklist does not mention the PP-3 Discussion (PDF pp. 19-20) requirement that the facility have a legally-sound policy for searches. The Discussion section is clear about these requirements but not the Checklist. • Checklist 6(d) requires same-gender supervision when an inmate is being transported one-on-one, but not for other one-on-one supervision circumstances. 	<p>the biological sex of inmates (prohibited by PP-3 Discussion, PDF p. 20).</p> <ul style="list-style-type: none"> • <u>Add</u> to Checklist 6 another question using the language of the PP-3 Discussion: “Does the agency have a legally sound policy regarding strip, visual body cavity, and physical body cavity searches, which prevents such searches except on the basis of articulable, reasonable suspicion that the inmate is concealing contraband or weapons in a manner that cannot be detected by a pat-down search alone?” • <u>Add</u> a question to Checklist 6 using the language of the PP-3 Discussion (PDF pp. 19-20): “Does the agency preclude nonmedical staff members from being isolated one-on-one with inmates of the opposite gender out of sight of cameras, other staff, or other inmates?”
<p>Compliance Checklist 7: Language Access (PP-4)</p> <p>p. 50</p>	<p>The Checklist deals exclusively with whether staff know how to communicate and the agency policy specifies how to communicate. It does not ask whether any needs-based communication actually occurs.</p>	<p><u>Add</u> a question to Checklist 7: “Are agency policies and information about how to report sexual abuse actually translated for LEP inmates and otherwise provided in an accessible format to deaf, speech-, or sight-impaired inmates, as well as inmates with limited reading ability?”</p>
<p>Compliance Checklist 8: Staff qualifications (PP-5)</p> <p>p. 51</p>	<ul style="list-style-type: none"> • The Checklist at 8(a) – <i>second bullet</i> asks whether the agency screens job applicants for a history of sexual abuse, but not a history of domestic or child abuse. • PP-5 Discussion (PDF p. 21) says the agency must ask job applicants to sign waivers of their legal rights to file suit because of reference checks, and if they do not, immediately disqualify them from consideration. The Checklist does not include either of these requirements. 	<ul style="list-style-type: none"> • <u>Amend</u> Checklist 8(a) – <i>second bullet</i> to read: “Any history of engaging in sexual, domestic, or child abuse; crimes against children; or failure to protect children.” This language more closely mirrors Checklist 8(a) from the Juvenile standards. • <u>Add</u> a question to Checklist 8: “To the extent permitted by state law, does the agency ask job applicants to sign waivers stating that they waive all of their legal rights to claim libel, defamation, or slander regarding the information given during reference checks.” • <u>Add</u> a question to Checklist 8: “For any job applicant refusing to sign a legal waiver of rights regarding information given during reference checks, has the applicant been immediately excluded from consideration, to the extent permitted by law?”
<p>Compliance Checklist 9: Integrated information systems (PP-6)</p> <p>p. 52</p>	<ul style="list-style-type: none"> • PP-6 Discussion (PDF p. 21) calls for the agency’s integrated data system to include medical and mental health information collected by outside practitioners, but the Checklist does not. 	<ul style="list-style-type: none"> • <u>Add</u> a question to Checklist 9: “Does the agency’s integrated information system include, when appropriate, information gathered by medical and mental health practitioners, including information collected by outside providers?”

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(Continuation of Suggestion for Compliance Checklist 9: Integrated information systems (PP-6))	<ul style="list-style-type: none"> • PP-6 Discussion states that if the agency does not maintain an electronic database, it must at the very least maintain the same information in spreadsheet format, but the Checklist does not. • PP-6 Discussion calls for information on every inmate to be available through the agency database, but the Checklist does not address this requirement. 	<ul style="list-style-type: none"> • <u>Add</u> a question to Checklist 9: “If the agency lacks the resources to obtain and support an automated database system, does it, at the very least, use a spreadsheet or other similar tool to integrate the same information that would be entered into an automated system?” • <u>Add</u> a question to Checklist 9: “Does the agency’s integrated information system include data for the entire inmate population?”
Compliance Checklist 10: Use of appropriate monitoring technology (PP-7) pp. 51-52	The Checklist does not include the cautionary statement from PP-7 that technology should not substitute for actual supervision of staff and inmates.	<u>Add</u> a question to Checklist 10: “Does the agency use technology only as a supplement, but not as a substitute, for actual, in-person supervision of staff and inmates?”
Compliance Checklist 11: Coordinated response team (RP-1) p. 53	The Checklist is bereft of protections and services for youth. The phrase “age-appropriate” needs to appear in several places. To the right, underlining within quotes indicates additions.	<ul style="list-style-type: none"> • <u>Add</u> another question to Checklist 11: “If the victim chooses to undergo a forensic medical exam, are the exam materials and instruments used by either the off-site provider or the facility medical staff age-appropriate for victims?” • <u>Amend</u> Checklist 11(f): “Does the victim receive <u>age-appropriate</u> crisis intervention counseling before and after undergoing the forensic medical exam?” • <u>Amend</u> Checklist 11(g): “Does the victim receive <u>age-appropriate</u> information about accessing available mental health and victim services?” • <u>Amend</u> Checklist 11(j): “Does the agency’s response plan address how to meet any special needs a victim may have (e.g., <u>youth</u>, LEP, deaf, speech-, or sight-impaired, mentally ill, mentally or physically disabled)?”
Compliance Checklist 12: evidence protocol (RP-2) pp. 53-54	<ul style="list-style-type: none"> • Forensic examiners are not required to tailor their questioning so that it is appropriate for youth. • Forensic exams are not required under the evidence protocol checklist to use age-appropriate equipment and procedures. • The evidence integrity section requires prisons, but not jails, to know how to properly transfer evidence. (Likely an oversight.) 	<ul style="list-style-type: none"> • <u>Amend</u> Checklist 12(e): “During forensic medical exams, do examiners obtain medical forensic histories by asking victims <u>age-appropriate</u> questions about the following? ...” • <u>Amend</u> Checklist 12(f): “Does the facility ensure that forensic medical exams are only performed using the proper, <u>age-appropriate</u> equipment and supplies? ...” • <u>Amend</u> Checklist 12(i) – <i>second bullet</i> so that the checks to the right indicate that the standard is applicable not only to prisons, but also to jails.

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Compliance Checklist 14: Reporting to other confinement facilities (RP-4) p. 55	The Checklist requires that the facility heads know how to contact other facilities, but it does not require them to actually forward complaints received about other facilities or investigate complaints received from other facilities.	<ul style="list-style-type: none"> • <u>Add</u> a question to Checklist 14: “When the facility receives an allegation that an inmate has been sexually abused while incarcerated at another facility, does the facility head notify the head of the facility where the alleged abuse occurred?” • <u>Add</u> a question to Checklist 14: “When the facility head receives a report of sexual abuse occurring at his or her facility from another facility or agency, does the facility head ensure an investigation of the allegation at his or her facility?”
Compliance Checklist 15: Agreement with outside agencies (RP-5) p. 56	Checklist 15(g) requires that agreements with outside agencies specify laws granting privilege and confidentiality, but not laws limiting privilege, such as mandatory child abuse or neglect reporting laws.	<u>Amend</u> Checklist 15(g): “Do all agreements specify any laws, rules, and/or regulations relevant to the service being provided, including laws granting privilege and agency rules governing confidentiality for disclosures about sexual abuse made to community service providers, <u>as well as laws limiting privilege, such as mandatory child abuse or neglect reporting laws?</u> ”
Compliance Checklist 18: Agreements with forensic medical examiners (RP-8) p. 58	Checklist 17(c) states that the MOU must include the required equipment and supplies necessary for the exam, but does not state that this includes age-appropriate equipment.	<u>Amend</u> Checklist 18(c): “Does the MOU state the required <u>age-appropriate</u> equipment and supplies necessary for the exam?” [NOTE: Although use of age-appropriate materials is part of an earlier-suggested emendation to Checklist 11, the requirement for age-appropriate exam materials needs to be in the MOU to give examiners advance notice of the equipment expected.]
Compliance Checklist 20: Topic requirements for all staff, volunteer, and inmate training and education (TR-1, TR-4) pp. 60-61	<ul style="list-style-type: none"> • The training does not include any specific components addressing the unique needs of children. However, the juvenile standards have a Checklist 20 question (q) that will remedy this deficiency if included in the adult standards. • Checklist 20(u) states that abuse may only be reported with victim’s consent, but this is not necessarily true in cases with juvenile victims. 	<ul style="list-style-type: none"> • <u>Amend</u> Compliance Checklist 20(p) to include youth: “Does the training teach staff to communicate sensitively and effectively with inmate victims of different <u>ages</u>, races, ethnicities, cultural or religious backgrounds, genders, sexual orientations, and/or inmates with different abilities?” • <u>Add</u> Juvenile Compliance Checklist 20(q) [PDF p. 60 of Juvenile Checklists] to the Adult Compliance Checklist 20, so the Adult Checklist 20 contains the following additional question: “Does the training include information on adolescent emotional, physical, and sexual development?” • <u>Amend</u> Adult Checklist 20(u): “Does the training make clear that medical and mental health practitioners may only report sexual abuse disclosed by an inmate with that inmate’s informed consent, <u>except where the victim is under the age of 18 and applicable mandatory reporting laws require practitioners to report abuse even if the victim does not consent?</u>”

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<p>Compliance Checklist 24: Specialized training (TR-5)</p> <p>pp. 64-65</p>	<ul style="list-style-type: none"> • Checklist 24 does not require that classification staff or investigators have knowledge or experience communicating with youth victims of abuse. The parallel juvenile provisions include such requirements. • Similar requirements for medical and mental health practitioners are missing from Checklist 24. 	<ul style="list-style-type: none"> • Under Checklist 24, “<i>Training requirements for classification staff,</i>” <u>add</u> this question: “Is classification staff trained in effective communication strategies for working with youth?” • Under Checklist 24, “<i>Training requirements for investigators,</i>” <u>add</u> this question: “Are investigators trained in how to conduct a forensic interview of young victims of sexual abuse?” • Also under Checklist 24, “<i>Training requirements for investigators,</i>” <u>add</u> this question: “Are investigators trained in effective communication strategies for interviewing youth?” • <u>Amend</u> Checklist 24(n) to read: “Are investigators trained in how to communicate sensitively and effectively with inmate victims of different <u>ages</u>, races, ethnicities, cultural or religious backgrounds, genders, sexual orientations, and/or inmates with different abilities?” • <u>Amend</u> Checklist 24(p): “Are medical and mental health practitioners trained in how to assess and treat immediate medical and mental health needs of victims of sexual abuse, <u>with specific consideration for the unique needs of youth under the age of 18?</u>” • <u>Amend</u> Checklist 24(r): “Are medical and mental health practitioners trained in how to secure informed consent from inmates before reporting sexual abuse, <u>keeping in mind that applicable law may require them to report abuse of an inmate under the age of 18 regardless of whether consent is obtained?</u>” • <u>Amend</u> Checklist 24(s): “Assuming inmates give medical or mental health practitioners consent to report sexual abuse, <u>and in cases where reporting is required by applicable law because the victim is under the age of 18,</u> are practitioners trained in how and to whom to report?”
<p>Compliance Checklist 26: Classification assessment (CL-2)</p> <p>pp. 67-68</p>	<ul style="list-style-type: none"> • The Classification Assessment requirements in Checklist 26(a) do not include suicide risk or emotional & psycho-social development. • Checklist 26 lists assessment factors but does not include a requirement that staff know how to weight the factors. 	<ul style="list-style-type: none"> • <u>Add</u> two more <i>bullets</i> under Checklist 26(a): <ul style="list-style-type: none"> ○ Suicide Risk ○ Level of emotional and psycho-social development • After 26(b), requiring a consistent classification instrument, <u>add</u> the following question: “Is classification assessment staff trained in how to weigh each factor when determining an inmate’s potential to be sexually victimized or abusive?”

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Compliance Checklist 27: Inmate management plans (CL-3) p. 69	The matters that are required for inmate management plans, according to 27(a), do not include educational assignments.	<ul style="list-style-type: none"> • <u>Add</u> one more <i>bullet</i> under Checklist 27(a): <ul style="list-style-type: none"> ○ Education assignments
Compliance Checklist 28: Inmate Reporting (RE-1) p. 70	<ul style="list-style-type: none"> • Checklist 28 does not ensure that juvenile inmates are informed of the agency's duty to report sexual abuse, although such a provision is included in the juvenile standards. • Although the checklist says residents must be notified that they may report abuse verbally or in writing, there are no provisions specifically addressing inmates with special needs. 	<ul style="list-style-type: none"> • <u>Add</u> a question to Checklist 28: "Are inmates under age 18 notified of the facility's duty to report to a designated state or local services agency, the juvenile court or the resident's judge of record, the resident's caseworker in the child welfare system, if applicable, and to the victim's family absent documentation showing the family should not be notified?" • <u>Add</u> a question to Checklist 28: "Are special accommodations made to ensure that inmates with special needs (e.g., LEP, deaf, speech-, or sight-impaired, mentally ill, mentally or physically disabled, and those with limited literacy or writing abilities) may report any abuse, verbally and in writing, through both internal or external channels?"
Compliance Checklist 29: Outside confidential support services for inmates (RE-2) p. 71	<ul style="list-style-type: none"> • Checklist makes provisions for confidential communications between inmates and victim advocates and counselors, but no provision for communications with legal representation. • Checklist 29(f) does not ensure that staff explain to juvenile inmates the limits of confidentiality for disclosures they make to outside parties. 	<ul style="list-style-type: none"> • <u>Add</u> a question to Checklist 29: "Are inmates provided unimpeded access to their attorneys or other legal representation, in settings where communications cannot be overheard?" • <u>Amend</u> Checklist 29(f): "Does staff explain to inmates the rules governing confidentiality that apply for disclosures of sexual abuse made to outside advocates or counselors, <u>including when appropriate the limits of confidentiality for juvenile victims because of applicable reporting laws?</u>"
Compliance Checklist 30: Third party reporting (RE-3) p. 71	The Checklists contains nothing about whether third party reports are investigated, although this requirement is part of the RE-3 Standard Statement (PDF p. 34).	<u>Add</u> a question to Checklist 30: "Does the agency investigate all third party reports and document the course of those investigations?"
Compliance Checklist 34: Investigations (IN-1) p. 74	The Checklist does not contain a provision to ensure that reported abuses of youth are investigated through to completion, regardless of whether the victim recants.	<u>Add</u> a question to Checklist 34: "Are all investigations of sexual abuse of inmates under age 18 carried through to completion, regardless of whether the victim decides to recant his or her allegation?" [This question comes directly from the parallel Juvenile standards on this topic.]

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Compliance Checklist 38: Access to medical and mental health services (MM-1) p. 77	The Checklist does not mention among the specialized training required of practitioners any experience with the unique needs of youth.	<ul style="list-style-type: none"> • <u>Amend</u> Checklist 38(a): “Has the agency notified inmates of how to access <u>age-appropriate</u> medical and mental health services if they have experienced sexual abuse?” • <u>Add</u> a follow-up question below Checklist 38(e): “When victims are under age 18, are those inmates treated by qualified medical and mental health practitioners who have experience working with children and have undergone specialized training, including sensitivity and cultural competence training, for treating young sexual abuse victims?”
Compliance Checklist 40: Detection (MM-3) p. 78	Checklist 40(c) asks whether the agency has notified inmates that their consent is required before abuse is reported, but this is not necessarily true for young victims.	<u>Amend</u> Checklist 40(c): “Has the agency notified inmates <u>ages 18 and older</u> that medical practitioners must obtain their informed consent before they can report sexual abuse disclosed to them by inmates, <u>but made clear to inmates below age 18 that applicable law may require practitioners to report abuse regardless of whether consent is obtained?</u> ”
Compliance Checklist 41: Medical and mental health care for sexual abuse victims (MM-4) p. 78	<ul style="list-style-type: none"> • Checklist 41(1)(a) – <i>second bullet</i> asks whether consent for treatment preceded the provision of treatment, but no consent is required in the parallel provisions of the Juvenile standards. • Special training required for forensic medical examiners in 41(1)(f) fails to include a requirement of special training for those treating youth. 	<ul style="list-style-type: none"> • <u>Amend</u> Checklist 41(1)(a) – <i>second bullet</i> to read: “<u>Where the victim is age 18 or older</u>, obtain consent for treatment from the victim.” • <u>Amend</u> Checklist 41(1)(f): “If the victim consents to a forensic exam <u>or consent is not required according to applicable law because of the victim’s youth</u>, is the exam performed by a specially educated and clinically prepared forensic medical examiner who is not employed by the agency?” • <u>Amend</u> Checklist 41(1)(g): “If the victim consents to a forensic exam <u>or consent is not required according to applicable law because of the victim’s youth</u>, is he or she offered the services of the mental health practitioner on the response team or a victim advocate throughout the exam process?” • <u>Add</u> a follow-up question below Checklist 41(1)(f): “If the victim is below age 18, is the exam performed by a specially educated and clinically prepared forensic medical examiner who is not employed by the agency and who has experience working with children, including knowledge of their unique needs as victims?”
Compliance Checklist 42: Incident based data collection (DC-1) pp. 80-82	• The documentation requirements of Checklist 42(e) do not include reported threats to the victim of the incident from other inmates – only threats from the perpetrator of the particular incident and	• <u>Add</u> one more <i>bullet</i> under Checklist 42(e): <ul style="list-style-type: none"> ○ Threats to the victim from other inmates, regardless of whether they were involved during the incident, to discourage a report or retaliate because of a report of the incident.

Checklist No. & Standard ID PDF Page Where It Appears	Concern(s)	Suggested Revision <u>Underlining</u> indicates the suggested action to take, or suggested language to be added. Strikethrough indicates language suggested for removal.
(Continuation of Suggestion for Compliance Checklist 42: Incident based data collection (DC-1))	threats or rewards from staff. • The documentation under Checklist 42(L) & (m) include changes [after abuse] to custody, classification, and housing, but not services and education. • The requirement to document the provision of pregnancy testing at 42(g) is not listed as applicable to either prisons or jails.	• <u>Add</u> one more <i>bullet</i> under both Checklist 42(L) & 42(m): <ul style="list-style-type: none"> ○ Any changes to his/her programs, education, or services provided • <u>Amend</u> Checklist 42(g) – <i>sixth bullet</i> so that two checks appear to the right of “Pregnancy testing,” making it applicable to both prisons and jails.
Compliance Checklist 43: Aggregate Data (DC-1) p. 82	Checklist 43(a) asks whether the agency annually aggregates Checklist 1 data. The agency is responsible for aggregating Checklist 42 data. (typo)	<u>Amend</u> Checklist 43(a) to read: “At least annually, does the agency aggregate all of the data from checklist <u>43</u> above?”
Compliance Checklist 44: Data storage, retention, prevention, and destruction (DC-2) p. 83	DC-2 Discussion (PDF p. 44) requires aggregate data to be posted & accessible online, unique identifiers to be removed from all data provided, and the agency’s operating presumption to be that information should be provided when requested by the public. None of these provisions appear in Checklist 44.	• <u>Add</u> a follow-up question below Checklist 45(c), which requires publishing, to require online access to info: “Is the published aggregate data available online and updated online at least annually?” • <u>Add</u> a question to Checklist 45: “In accordance with applicable law, are unique identifiers removed when data are provided?” • <u>Add</u> a question to Checklist 45: “Does the agency’s record of dispositions for public information requests demonstrate that the agency’s operating presumption is to grant requests for information, unless there is a significant countervailing interest that cannot be overcome?” [This question employs the language of DC-2 Discussion (PDF p. 44)]