

## **I. Policy:**

The Prison Rape Elimination Act of 2003 (PREA) is a federal law that supports the elimination, reduction, and prevention of sexual abuse in adult and juvenile facilities as well as community correction programs.

Pursuant to PREA, the National Standards to Prevent, Detect, and Respond to Prison Rape: Final Rule were posted to the Federal Register on June 20, 2012 and became law on August 20, 2012.

The standards apply to all facilities operated by the Juvenile Department, and they are required to comply with PREA standards.

### **Zero Tolerance**

The Department mandates zero tolerance towards any form of conduct that meets the definition of sexual abuse or sexual harassment. The safety and well-being of all referred juveniles is paramount, and the Department must extend all efforts to prevent, detect, and respond to such conduct.

Further, the Department and its operated facilities must comply with all applicable PREA standards adopted by the United States Department of Justice (DOJ).

The Department achieves zero tolerance through the following:

#### **A. Prevention Planning**

##### **1) PREA Coordinator/PREA Compliance Manager**

The Department has designated the Compliance Manager to serve as the PREA Coordinator. The Compliance Manager's primary responsibility is to ensure that the Department's compliance with applicable laws and standards and has the sufficient time and authority to develop, implement, and oversee the Department's efforts to comply with the PREA standards in all of its facilities.

The Assistant Superintendent or designee serves as the PREA compliance manager for each Department operated facility and has the sufficient time and authority to coordinate the facility's efforts to comply with PREA standards.

##### **2) Contracting with Other Entities for the Confinement of Residents**

All new and renewed contracts with residential placements include that entities' obligation to adopt and comply with PREA standards.

##### **3) Supervision and Monitoring**

###### *Staffing Plan*

The Department ensures that all of the facilities it operates develop, implement and document a facility specific staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring, to protect residents against sexual abuse. The following must be taken into consideration:

- a. Generally accepted juvenile detention and correctional/secure residential practices;
- b. Any judicial findings of inadequacy;
- c. Any findings of inadequacy from Federal investigative agencies;
- d. Any findings of inadequacy from internal or external oversight bodies;

- e. All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated);
- f. The composition of the resident population;
- g. The number and placement of supervisory staff;
- h. Institution programs occurring on a particular shift;
- i. Any applicable State or local laws, regulations, or standards;
- j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- k. Any other relevant factors.

Deviations from the staffing plan are only permitted during limited and discrete exigent circumstances. The facility documents each deviation from the plan and the reason for the deviation during such circumstances.

At least once each year, the Superintendent of each Department operated facility must, in consultation with the PREA coordinator, assess, determine, and document whether adjustments are needed to the staffing plan; prevailing staffing patterns; deployment of video monitoring systems and other technologies; and resources available to commit to ensure adherence to the staffing plan.

### *Ratios*

The facility maintains supervision staff ratios as required by [TAC Chapter 343](#) (secure) and [TAC Chapter 355](#) (non-secure) which are currently 1:12 during program (waking) hours and 1:24 during non-program (sleeping) hours.

Effective October 1, 2017, PREA standards require the Department's secure facilities to maintain supervision staff ratios of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which must be fully documented.

### *Unannounced Rounds*

Each secure Department operated facility conducts and documents monthly unannounced rounds on all shifts by intermediate and higher level staff (managers, Assistant Superintendent(s), Superintendent) to identify and deter staff sexual abuse and sexual harassment.

- a. The rounds are conducted in a random manner so that days and times are different in order that staff cannot anticipate the occurrence of the rounds.
- b. The rounds are documented in either the supervisor's log or other documentation.
- c. Staff are prohibited from alerting other staff members that these rounds are occurring.

### 4) Limits to Cross-Gender Viewing and Searches

Resident searches are conducted in accordance with [TAC 343.260](#) (secure) or [TAC 355.470](#) (non-secure) and each Department operated facility's policies and procedures.

- a. Cross gender pat-down searches and strip searches of any resident are prohibited in all Department operated facilities.
- b. Anal or genital body cavity searches are only performed by a medical practitioner and only when there is documented probable cause justifying the search.
- c. No staff member of the opposite gender views residents during showering, performing bodily functions, and changing clothes.
- d. A staff member of the opposite gender announces his or her presence when entering a resident housing unit in each Department operated facility.
- e. A transgender or intersex is not searched or physically examined to determine his/her genital status, nor is he/she referred to medical staff for that sole purpose.
- f. A transgender or intersex resident is asked which gender staff member he/she prefers to conduct pat-down searches and viewing.

- g. Staff members conduct searches on all residents, including transgender and intersex residents, in a professional and respectful manner while maintaining facility safety and security.

#### 5) Residents with Disabilities and Residents who are Limited English Proficient

The Department takes appropriate steps to ensure that residents with disabilities or who are limited English proficient have an equal opportunity to participate in or benefit from all aspects of the Department's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. These steps include providing access to:

- a. Interpreters; and
- b. Written materials provided in formats or through methods that ensure effective communication.

When interpreters are needed:

- a. The Department takes steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; and
- b. The Department does not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety.

#### 6) Hiring and Promotion Decisions

The Department does not hire or promote anyone who may have contact with residents, and does not enlist the services of any contractor who may have contact with residents, who:

- a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
- b. 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 refuse; or
- c. Has been civilly or administratively adjudicated to have engaged in the activity described in number 2 above.

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

Before hiring new employees who may have contact with residents, the Department:

- a. Performs a criminal background records check through the DPS Fingerprint Applicant Services of Texas (FAST);
- b. Consults the central child abuse registry maintained by TDFPS, and all newly hired employees have been cleared by the registry; and
- c. Consistent with Federal, State, and local law, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

For any contractor who may have contact with residents:

- a. The Department performs a criminal history search through the DPS Fingerprint Applicant Services of Texas (FAST) prior to enlisting the services of any contractor; and
- b. The central child abuse registry maintained by TDFPS is consulted prior to enlisting the services any contractor.

The Department conducts periodic criminal background records checks of current employees and contractors who may have contact with residents as the FAST system maintains an ongoing criminal background history of any applicant and alerts the Department of any new record or event.

The Department asks applicants and employees who may have contact with residents directly about previous misconduct described in the first paragraph of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees.

The Department also imposes upon employees a continuing affirmative duty to disclose any such misconduct. Material omissions regarding such misconduct, or the provision of materially false information, must be grounds for termination.

Unless prohibited by law, the Department provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

#### 7) Upgrades to Facilities and Technologies

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Department considers the effect of the design, acquisition, expansion, or modification upon the Department's ability to protect residents from sexual abuse.

When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Department considers how such technology may enhance its ability to protect residents from sexual abuse.

### B. Responsive Planning

#### 1) Evidence Protocol and Forensic Medical Examinations

The Department follows a uniform evidence protocol that is developmentally appropriate for youth based upon the most recent edition of "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" when investigating allegations of sexual abuse.

Where evidentiary or medically appropriate, the Department transports residents who experience sexual abuse to a hospital, clinic, or emergency room that can provide for a medical examination by a Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), or other qualified medical practitioner.

The Department makes available to the resident who experiences sexual abuse a victim advocate from the Victim Intervention Program/Rape Crisis through the Parkland Health and Hospital System.

If requested by the resident who experiences sexual abuse, the victim advocate will accompany and support the resident through the forensic medical examination process and investigatory interviews and must provide emotional support, crisis intervention, information, and referrals.

#### 2) Policies to Ensure Referrals of Allegations for Investigations

The Department ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

- a. The Department refers allegations to the Dallas County Sheriff's Office as it is the designated law enforcement agency to conduct investigations of any potentially criminal behavior that stems from a sexual abuse or sexual harassment allegation that occurs in any Department operated facility.
- b. The Department completes either a TJJD Internal Investigation Report or a PREA Allegation Investigation Report on any allegation of sexual abuse and sexual harassment that occurs in a Department operated facility
- c. TJJD may also conduct an investigation of any sexual abuse or sexual harassment allegation that occurs in a Department operated facility in accordance with [TAC Chapter 350](#).

## C. Training and Education

### 1) Employee Training

The Department trains all employees who may have contact with residents on the following:

- a. Its zero-tolerance policy for sexual abuse and sexual harassment;
- b. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- c. Residents' right to be free from sexual abuse and sexual harassment;
- d. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- e. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
- f. The common reactions of juvenile victims of sexual abuse and sexual harassment;
- g. How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents;
- h. How to avoid inappropriate relationships with residents;
- i. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents;
- j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and
- k. Relevant laws regarding the applicable age of consent.

All new employees who may have contact with residents are required to receive PREA training which is provided in the Department's JSO and JPO Academy.

Each employee will be provided with refresher PREA related training at least every two years to ensure that all employees know the Department's current sexual abuse and sexual harassment policies and procedures. An employee will receive additional training if the employee is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.

The Department provides and makes readily available to all employees current sexual abuse and sexual harassment policies.

The Department documents employees' written verification that they understand the training they have received.

### 2) Volunteer and Contractor Training

The Department ensures that all volunteers and contractors who have contact with residents have been trained on and understand their responsibilities under the Department's zero tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

The Department does not allow volunteers or contractors direct unsupervised access to residents of its facilities. The Department documents volunteers' and contractors' written confirmation that they understand the training they have received.

### 3) Resident Education

During the admission process, residents receive information explaining, in an age appropriate fashion, the Department's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Within ten (10) calendar days of admission, the Department provides comprehensive age-appropriate education to residents either in person or through video regarding:

- a. their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and
- b. Department policies and procedures for responding to such incidents.

If a resident is transferred to a different Department operated facility, he/she is provided the resident education again.

The Department provides resident education in formats accessible to all residents, including those who:

- a. are limited English proficient,
- b. are deaf, visually impaired, or otherwise disabled, and
- c. have limited reading skills.

The Department maintains documentation of resident participation in these education sessions.

In addition to providing such education, the Department ensures that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

#### 4) Specialized Training: Investigations

Department staff members who investigate allegations of sexual abuse have received specialized training in conducting such investigations in confinement settings including:

- a. techniques for interviewing juvenile sexual abuse victims,
- b. proper use of *Miranda* and *Garrity* warnings,
- c. sexual abuse evidence collection in confinement settings, and
- d. criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Department maintains documentation that the staff members have completed the required specialized training.

#### 5) Specialized Training: Medical and Mental Health Care

The Department ensures that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

- a. how to detect and assess signs of sexual abuse and sexual harassment;
- b. how to preserve physical evidence of sexual abuse;
- c. how to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment;  
and
- d. how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

All medical practitioners that provide services in Department operated facilities are employees of Parkland Health and Hospital System.

All mental health practitioners that provide services in Department operated facilities are employees of the Department and receive training in accordance with § 115.331.

### D. Screening for Risk of Sexual Victimization and Abusiveness

#### 1) Obtaining Information from Residents

Within seventy-two (72) hours of the resident's admission to a Department operated facility, the Department uses an objective screening instrument to obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon another resident. Periodically throughout the resident's confinement, information from the screening instrument is used to reassess housing and programming assignments.

At a minimum, attempts are made to obtain the following information:

- a. prior sexual victimization or abusiveness;

- b. any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
- c. current charges and offense history;
- d. age;
- e. level of emotional and cognitive development;
- f. physical size and stature;
- g. mental illness or mental disabilities;
- h. intellectual or developmental disabilities;
- i. physical disabilities;
- j. the resident's own perception of vulnerability; and
- k. any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

This information is ascertained through conversations with the resident during the admission process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files.

The information obtained in the screening is recorded on the PREA Behavioral Screening Form and uploaded into TechShare which is the Department's case management system.

The Department has appropriate controls to ensure that sensitive information obtained by the screening is not exploited to the resident's detriment by staff or other residents.

## 2) Placement of Residents in Housing, Bed, Program, Education, and Work Assignments

The Department uses all information obtained in paragraph D1 to make housing, bed, program, education, and work assignments for residents with the goal of keeping all residents safe and free from sexual abuse.

The Department does not place a resident in isolation as a means of protection unless it is only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. During any period of isolation, the Department will allow the resident:

- a. daily large muscle exercise, and any legally required educational programming or special education services;
- b. daily visits from a medical or mental health care clinician; and
- c. access to other programs and work opportunities to the extent possible.

If a resident is isolated, the facility must clearly document:

- a. The basis for the facility's concern for the resident's safety; and
- b. The reason why no alternative means of separation can be arranged.

Every thirty (30) days, the facility must afford each resident placed in isolation a review to determine whether there is a continuing need for separation from the general population.

For each transgender or intersex resident, the Department:

- a. determines on a case-by-case basis when assigning a resident to a facility for male or female residents and when making other housing and programming assignments. The determination takes into consideration whether the placement would ensure the resident's health and safety, and whether the placement would present management or security problems.
- b. reassesses placement and programming assignments at least twice each year to review any threats to safety experienced by the resident;
- c. gives serious consideration to the resident's own views with respect to his/her own safety when making housing and programming assignments.

d. gives the opportunity for the resident to shower separately from other residents.

## E. Reporting

### 1) Resident Reporting

Residents may privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents by:

- a. using the facility's grievance process;
- b. calling TJJD's twenty-four (24) hour toll-free number (877-786-7263); and
- c. telling any staff member or volunteer who are then required to report the incident to TJJD or to the appropriate government agency and law enforcement.

The Department accepts verbal and written reports made anonymously or by third parties and promptly documents any verbal reports. Anonymous and third party reports may be submitted by calling TJJD's twenty-four (24) hour toll-free number (877-786-7263).

Department staff members may also privately report sexual abuse and sexual harassment of residents by calling TJJD's twenty-four (24) hour toll-free number (877-786-7263).

Information on how to report alleged sexual abuse and sexual harassment is posted in all of the public and secure areas of the Department's operated facilities accessible to all residents, staff, and the public.

### 2) Exhaustion of Administrative Remedies

The Department investigates all allegations of sexual abuse and imposes no time limits on when a resident may submit a grievance regarding such an allegation.

Residents are not required to use the facility's grievance process to report an allegation of sexual abuse.

Any allegation of sexual abuse reported by resident using the grievance process is immediately assigned for investigation and referred to the appropriate oversight and law enforcement agencies.

Staff members who investigate allegations of sexual abuse are impartial and are not the subject of the allegation.

Disciplinary action may be taken against a resident who submits a grievance related to alleged sexual abuse that has been demonstrated to be in bad faith (intentionally dishonest).

### 3) Resident Access to Outside Support Services and Legal Representation

The Parkland Victim Intervention Program/Rape Crisis is the designated outside victim advocate for all of the Department's operated facilities. Information regarding the program including the toll free hotline is made available and posted in all facilities. The Department enables reasonable communication between residents and the outside victim advocate in as confidential manner as possible.

Residents are informed that Texas law requires that any report of abuse, neglect, or exploitation made to a facility staff member, volunteer, intern, or counselor must be reported to TJJD or to the appropriate government agency and law enforcement.

No Department operated facility detains persons solely for civil immigration purposes.

All Department operated facilities provide residents with reasonable and confidential access to their attorneys or other legal representation and reasonable access to parents or legal guardians.



#### 4) Third-Party Reporting

The Department provides methods for third party reports of sexual abuse and sexual harassment to be submitted by either:

- a. contacting any staff member who is then required to report the incident to TJJD or to the appropriate government agency and law enforcement; or
- b. calling TJJD's twenty-four (24) hour toll-free number (877-786-7263).

The Department distributes publicly information on how to report allegations of sexual abuse and sexual harassment.

### F. Official Response Following a Resident Report

#### 1) Staff and Agency Reporting Duties

All Department staff members are required to immediately report to their designated supervisors, the appropriate government agency, and law enforcement any knowledge, suspicion, or information they receive regarding:

- a. an incident of sexual abuse;
- b. an incident sexual harassment;
- c. retaliation against residents or staff who reported such an incident; and
- d. any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The reporting requirement applies to incidents that occur in any residential facility, not just those that are operated by the Department.

The reporting requirement includes staff members who are mental health practitioners, and they are required to inform residents at the initiation of services of their duty to report and the limitations of confidentiality.

In addition to the reporting requirements above, the Department also requires all staff members comply with any applicable mandatory child abuse reporting laws found in [Chapter 261 of the Texas Family Code](#).

Department staff members are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

Upon receiving any allegation of sexual abuse, the Superintendent or his or her designee will promptly report the allegation to:

- a. the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified;
- b. the alleged victim's caseworker instead of the parents or legal guardians if the alleged victim is under the guardianship of the child welfare system.
- c. the juvenile's attorney or other legal representative of record within fourteen (14) days of receiving the allegation if a juvenile court retains jurisdiction over the alleged victim.

The Department and its operated facilities assign all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the designated facility investigator.

#### 2) Agency Protection Duties

When the Department learns that a resident is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the resident.

#### 3) Reporting to Other Confinement Facilities

All Department staff members must immediately notify their designated supervisors, the appropriate government agency, and law enforcement upon receiving an allegation that a resident was sexually abused while confined at another facility not operated by the Department.

The Superintendent or his or her designee of the facility that received the allegation must notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and must also notify the appropriate investigative agency.

Such notification must be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation.

The Department must document that it has provided such notification.

The Superintendent or Department office that receives such notification must ensure that the allegation is investigated in accordance with these standards.

#### 4) Staff First Responder Duties

Upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report is required to:

- a. Separate the alleged victim and abuser;
- b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; and
- c. If the abuse occurred within a time period that still allows for the collection of physical evidence:
  - 1) request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  - 2) ensure that the alleged abuser does not take any actions that could destroy physical evidence.

#### 5) Coordinated Response

The Department maintains a written plan to coordinate the actions taken among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.

#### 6) Preservation of Ability to Protect Residents from Contact with Abusers

The Department will not enter into any agreement that limits its ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

#### 7) Agency Protection Against Retaliation

The Department strictly prohibits any form of retaliation by a resident or staff member who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

To help protect against retaliation, the Department:

- a. designates certain staff members to monitor the person who reported the allegation and the alleged victim to determine whether retaliation is occurring;
  - 1) the alleged victim will be monitored by a designated Psychology staff member;
  - 2) the resident (non-victim) who reports sexual abuse or sexual harassment will be monitored by a designated Psychology staff member; and
  - 3) The staff member who reports sexual abuse or sexual harassment will be monitored by his or her direct supervisor unless that supervisor is named in the allegation. In this case, another supervisory level staff member will be assigned to conduct the monitoring;

- b. employs multiple measures to protect residents and staff from retaliation, such as changes in housing assignments, removal of alleged abusers from contact with victims, and emotional support services for residents or staff who fear retaliation;
- c. monitors the conduct or treatment of an alleged victim or resident who reports sexual abuse or sexual harassment for signs of retaliation including items such as disciplinary or progress reports, point sheets, and housing or program changes;
- d. monitors the conduct or treatment of a staff member who reports sexual abuse or sexual harassment investigation for signs of retaliation including items such as negative performance reviews or reassignment;
- e. acts promptly to remedy any retaliation;
- f. includes periodic status checks in the case of residents;
- g. takes appropriate measures to protect any other individual who cooperates with the investigation who expresses a fear of retaliation; and
- h. continues to monitor for retaliation for at least ninety (90) days following a report of sexual abuse unless the allegation is unfounded;

#### 8) Post-Allegation Protective Custody

The Department does not use segregated housing to protect a resident who is alleged to have suffered sexual abuse.

### G. Investigations

#### 1) Criminal and Administrative Agency Investigations

The Department conducts prompt, thorough, and objective investigations into allegations of sexual abuse and sexual harassment, including third-party and anonymous reports.

When there is an allegation of sexual abuse, the Department uses investigators who have received special training in sexual abuse investigations involving juvenile victims.

Department investigators of sexual abuse and sexual harassment allegations are required to:

- a. gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
- b. interview alleged victims, suspected perpetrators, and witnesses; and
- c. review prior complaints and reports of sexual abuse involving the suspected perpetrator.

The Department will not terminate an investigation:

- a. solely because the source of the allegation recants the allegation; and / or
- b. due to the departure of the alleged abuser or victim from the employment or control of the facility or Department.

When the quality of evidence appears to support criminal prosecution, the Department will conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

Department investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and it is not determined by the person's status as resident or staff.

The Department does not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

Administrative investigations must:

- a. include an effort to determine whether staff actions or failures to act contributed to the abuse; and

- b. be documented in written reports that include:
  - 1) a description of the physical and testimonial evidence,
  - 2) the reasoning behind credibility assessments, and
  - 3) investigative facts and findings.

Substantiated allegations of conduct that appears to be criminal must be referred for prosecution. Criminal investigations of allegations of sexual abuse and sexual harassment that occur in Department operated facilities are conducted by the Dallas County Sheriff's Office.

The Department retains all administrative investigation reports for as long as the alleged abuser is incarcerated or employed by the Department, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.

When an outside agency conducts an investigation into an allegation of sexual abuse, Department staff members must cooperate with the outside investigators. Department management staff will attempt to remain informed about the progress of the investigation.

## 2) Evidentiary Standard for Administrative Investigations

An administrative investigation into an allegation of sexual abuse or sexual harassment requires no standard higher than a preponderance of the evidence in determining whether the allegation is substantiated.

## Reporting to Residents

The Department's reporting requirements below apply until the resident is released from its custody. The Department maintains documentation of all such notifications or attempted notifications.

Following an investigation into a resident's allegation of sexual abuse suffered in a Department operated facility, the Department informs the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If the Department did not conduct the investigation, it will request the relevant information from the investigative agency in order to inform the resident.

Following a resident's allegation that a staff member has committed sexual abuse against the resident, the Department subsequently informs the resident (unless the agency has determined that the allegation is unfounded) whenever:

- a. the staff member is no longer posted within the resident's housing unit;
- b. the staff member is no longer employed at the facility;
- c. the Department learns that the staff member has been indicted on a charge related to the sexual abuse; or
- d. the Department learns that the staff member has been convicted on a charge related to the sexual abuse.

Following a resident's allegation that he or she has been sexually abused by another resident, the Department subsequently informs the alleged victim whenever:

- a. the Department learns that the alleged abuser has been indicted on a charge related to the sexual abuse; or
- b. the Department learns that the alleged abuser has been convicted on a charge related to the sexual abuse.

## H. Discipline

### 1) Disciplinary Sanctions for Staff

All staff members are subject to disciplinary sanctions up to and including termination for violating the Department's sexual abuse or sexual harassment policies.

Termination of employment is the presumptive disciplinary sanction for staff members who have engaged in sexual abuse.

Disciplinary sanctions for violations of Department policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff members with similar histories.

The Department reports to law enforcement (unless the activity was clearly not criminal) and to any relevant licensing bodies the following:

- a. all terminations of employment for violations of Department sexual abuse or sexual harassment policies, and
- b. resignations by staff members who would have been terminated from employment if not for their resignation.

## 2) Corrective Action for Contractors and Volunteers

The Department prohibits any contractor or volunteer who engages in sexual abuse from contact with residents and reports the abuse to law enforcement (unless the activity was clearly not criminal) and to relevant licensing bodies.

If a volunteer or contractor violates Department sexual abuse or sexual harassment policies but does not engage in sexual abuse, the Department takes appropriate remedial measures and considers whether to prohibit further contact with residents.

## 3) Interventions and Disciplinary Sanctions for Residents

A resident may be subject to disciplinary sanctions for engaging in sexual abuse only when:

- a. there is a criminal finding of guilt or an administrative finding that the resident engaged in resident on resident sexual abuse; and
- b. the discipline is determined pursuant to a formal disciplinary process.

Any disciplinary sanction must be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.

The disciplinary process must consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

The Department does not impose isolation as a disciplinary sanction.

The Department offers resident abusers counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. The Department may require participation in such interventions as a condition of access to behavior based incentives, but not as a condition to access to general programming or education.

The Department may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

The Department may not discipline a resident if the resident made a report of sexual abuse in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

## I. Medical and Mental Care

### 1) Medical and Mental Health Screenings; History of Sexual Abuse

Within 14 days of the screening completed in accordance with subsection D1 of this section, Department staff members must ensure that a resident is offered a follow-up meeting with:

- a. a medical or mental health practitioner when the screening indicates that the resident has experienced prior sexual victimization regardless of the setting; and
- b. a mental health practitioner when the screening indicates that the resident has previously perpetrated sexual abuse regardless of the setting.

Any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff members, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by law.

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

### 2) Access to Emergency Medical and Mental Health Services

The Department ensures that resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders must take preliminary steps to protect the victim and must immediately notify the appropriate medical and mental health practitioners.

The Department ensures that resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

The Department provides treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

### 3) Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

The Department offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

The evaluation and treatment of such victims must include, as appropriate:

- a. follow-up services,
- b. treatment plans, and
- c. when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

The Department provides such victims with medical and mental health services consistent with the community level of care.

The Department offers pregnancy tests to resident victims of sexually abusive vaginal penetration while incarcerated. If pregnancy results, residents are provided timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

The Department offers tests for sexually transmitted infections as medically appropriate to resident victims of sexual abuse while incarcerated.

The Department provides treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The Department attempts to conduct a mental health evaluation of all known resident-on-resident abusers within sixty (60) days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

## J. Data Collection and Review

### 1) Sexual Abuse Incident Reviews

The Department conducts an incident review at the within 30 days of the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded.

The sexual abuse review team (SART) for each Department operated facility must include, at a minimum, the following individuals:

- a. Superintendent;
- b. PREA compliance manager;
- c. a shift supervisor;
- d. the designated investigator; and
- e. a Psychology staff member assigned to the facility.

The SART:

- a. considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- b. considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
- c. examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- d. assesses the adequacy of staffing levels in that area during different shifts;
- e. assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- f. prepares a report of its findings, including but not necessarily limited to determinations made pursuant to numbers 1 through 5 of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager

The Superintendent and PREA compliance manager serve as the co-chairs of the SART. The PREA compliance manager is responsible for preparing and maintaining a report for every SART meeting.

The Department operated facility where the incident occurred must implement the SART's recommendations or must document its reasons for not doing so.

## 2) Data Collection

The Department collects accurate, uniform data for every allegation of sexual abuse at its operated facilities using a standardized instrument and set of definitions and aggregates the data at least once per year. The Department also maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

The Department's incident-based data collection instrument is developed to include the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the DOJ.

The Department also obtains incident-based and aggregated data from each facility operating under contract with the Department.

## 3) Data Review for Corrective Action

The Department reviews sexual abuse data collected and aggregated pursuant in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- a. identifying problem areas;
- b. taking corrective action on an ongoing basis; and
- c. preparing an annual report of its findings and corrective actions for each facility it operates, as well as the Department as a whole.

## 4) Data Storage and Publication

The Department ensures that all sexual abuse data it collects is securely retained.

The Department ensures that all sexual abuse data is stored for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

The Department makes all aggregated sexual abuse data, from facilities it operates and facilities under contract with the Department readily available to the public at least once per year through its website.

The Department removes all personal identifiers before making the data available.

## K. Audits of PREA Standards

The Department conducts audits pursuant to 28 CFR §§115.401 - 115.405.

## **II. Definitions:**

Agency: the unit of a State, local, corporate, or non-profit authority of DOJ, with direct responsibility for the operation of any facility that confines inmates, detainees, or resident, including the implementation of policy as set by the governing, corporate, or nonprofit authority. For the purposes of this chapter, the term agency is synonymous with the Dallas County Juvenile Department or Department.

Contractor: a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Direct staff supervision: security staff are in the same room with, and within reasonable hearing distance, of the resident.

Employee: a person who works directly for the agency or facility.

Exigent circumstances: a set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.



Facility: a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or a set of buildings) that is used by an agency for the confinement of individuals.

Full compliance: compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming: a person whose appearance or manner does not conform to traditional societal gender expectations.

Intersex: a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to disorders of sex development.

Juvenile: any person under the age of eighteen (18), unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility: a facility that is primarily used to confine juveniles pursuant to the juvenile justice system or criminal justice system.

Medical practitioner: a health professional, who by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner: a mental health professional, who by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search: a running of the hands over the clothed body of a resident by an employee to determine whether the individual possesses contraband.

Resident: any person confined or detained in a juvenile facility.

Secure juvenile facility: a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be considered to be a secure juvenile facility. Secure facilities operated by the Department are the Detention Center, Dallas County Residential and Drug Treatment Programs, and Medlock Treatment Center.

Security staff: employees primarily responsible for the supervision and control of residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Sexual abuse: includes sexual abuse of a resident by another resident; and sexual abuse of a resident by a staff member, contractor, or volunteer.

Sexual abuse by another resident includes any of the following acts, 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:

- 1) Contact between the penis and the vulva or the penis and the anus, including penetration however slight;
- 2) Contact between the mouth and the penis, vulva, or anus;
- 3) Penetration of the anal or genital opening of another person, however, slight, by a hand, finger, object, or other instrument; and
- 4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any person, excluding contact incidental to a physical altercation.

Sexual abuse by a staff member, contractor, or volunteer includes:

- 1) Contact between the penis and the vulva or the penis and the anus, including penetration however slight;
- 2) Contact between the mouth and the penis, vulva, or anus;
- 3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 4) Penetration of the anal or genital opening, however, slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 5) Any other intentional touching, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to official duties or where the staff member contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 6) Any attempt threat, or request by a staff member, contractor or volunteer to engage in the activities described in numbers 1 – 5 directly above;
- 7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident; and
- 8) Voyeurism by a staff member contractor, or volunteer.

Sexual harassment: includes repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and repeated verbal comments or gestures of a sexual nature to a resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Staff: employees.

Strip search: a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Substantiated allegation: an allegation that was investigated and determined to have occurred.

Transgender: a person whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth.

Unfounded allegation: an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation: means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

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.

Volunteer: an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Voyeurism by a staff member, contractor, or volunteer: an invasion of privacy of a resident by staff for reasons unrelated to official duties, such as peering at a resident who is using the toilet in his or her cell to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body, or of a resident performing bodily functions.