Title: Prison Rape Elimination Act Procedures

Related Policy: FDJJ 1919

I. DEFINITIONS

Agency – The Department of Juvenile Justice.

Agency head - The Secretary of the agency.

Central Communications Center (CCC) – The DJJ unit charged with receiving reports regarding incidents from all DJJ contracted and/or state-operated facilities, offices, and programs and reporting the information to the proper authorities.

Contractor - A service provider who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detention center – A facility primarily used for the temporary confinement of youth who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, residential facility, or other agency.

Direct staff supervision – Supervision by security staff in the same room with, and within reasonable hearing distance of, the youth.

Exigent circumstances - Any 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 used by the agency or a contractor for the confinement of youth.

Facility head - The principal official of a facility.

Florida Central Abuse Hotline - The entity in the Department of Children and Families that receives allegations of child abuse and neglect. Child Protective Investigators conduct investigations of allegations of abuse and neglect.

Full compliance - Compliance with all material requirements of each PREA standard except for minimal 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 who’s 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 as disorders of sex development.

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 licensed 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 act. A “qualified mental health practitioner” refers to a licensed mental health 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 youth by staff to determine whether the individual possesses contraband.

PREA – Prison Rape Elimination Act

PREA Coordinator – Position responsible for developing, implementing, and overseeing the Department’s efforts to comply with the PREA standards in all of its juvenile confinement facilities.

PREA Facility Compliance Manager - Position at each juvenile confinement facility operated by the Department responsible for coordinating the facility’s efforts to comply with PREA standards.

Prison Rape Elimination Act – The United States Department of Justice final rule of national standards to prevent, detect, and respond to sexual abuse and sexual harassment in juvenile facilities; 28 C.F.R. Part 115.

Residential facility - A facility primarily used for the confinement of youth pursuant to the juvenile justice system or criminal justice system.

Secure juvenile facility - A juvenile facility in which the movements and activities of individual youth may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows youth 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.

Security staff - Staff primarily responsible for the supervision and control of youth in housing units, recreational areas, dining areas, and other program areas of the facility.

Sexual abuse by a youth - 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 another person, excluding contact incidental to a physical altercation.

Sexual abuse by a staff member, contractor, or volunteer - Includes any of the following acts, with or without consent of the youth:
(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 contact, 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 paragraphs (1)-(5) of this section;
(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a youth, and
(8) Voyeurism by a staff member, contractor, or volunteer.

Sexual harassment - Includes—
(1) Repeated or unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed toward another;
(2) Repeated or unwelcome verbal comments or gestures of a sexual nature to a youth 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.

Sexual Misconduct – Any act of sexual abuse and/or sexual harassment as defined herein.

Staff – An employee of the Department, an employee of a contracted provider, a person contracted by a contracted provider.

Strip search - A search that requires youth to remove or arrange some or all of their clothing so as to permit a visual inspection of the youth’s breasts, buttocks, or genitalia.

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.
Substantiated allegation (Sustained) - An allegation where the preponderance of evidence of the incident indicates that the incident subject violated existing statutes, rule, or other regulatory guidance.

Unfounded allegation - An allegation where the preponderance of evidence of the incident does not indicate that the incident subject violated existing statutes, rules, or other regulatory guidance.

Unsubstantiated allegation (Not Sustained) - An allegation where the preponderance of evidence of the incident cannot be determined based on a lack of facts or evidence that the incident subject violated existing statutes, rules, or other regulatory guidance.

Volunteer - An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency, state-operated or DJJ contracted facility.

Voyeurism by a staff member, contractor, or volunteer - Observing a youth for a purpose that is unrelated to official duties or where the staff has the intent to abuse, arouse, or gratify sexual desire, such as peering at a youth who is using a toilet in his or her cell to perform bodily functions; requiring a youth to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a youth’s naked body or of a youth performing bodily functions.

Youth - Any person under the supervision or care of the agency.

II. STANDARDS/PROCEDURES

A. Screening for Sexual Abuse and/or Sexual Victimization at Admission

Procedures outlined in this section pertain to information obtained from a youth regarding sexual abuse and/or sexual victimization that occurred prior to their coming to the facility. Instructions for handling reports of sexual misconduct that occur at the facility after the youth has been admitted are outlined in Section C, Reporting an Allegation of Sexual Misconduct.

1. Every time a youth is admitted to secure detention and residential commitment programs they shall be screened for vulnerability to victimization and sexually aggressive behavior prior to room assignment. Room assignments by staff shall ensure a youth’s potential for victimization or predatory risk has been reviewed.

   a. The Department’s screening for Vulnerability to Victimization and Sexually Aggressive Behavior (VSAB) form - RC 8050–2 EXHIBIT A, revised March 2014 shall be used for screening.

      i. For secure detention admissions the VSAB will be completed by the Juvenile Assessment Center (JAC) or Probation intake screener.

         a. If not completed by intake screener, Detention staff will complete prior to room assignment.

      ii. For Residential programs the VSAB will be completed during a youth’s intake process.
b. This form should be completed upon each youth’s admission and placed in the youth’s medical file.

2. At a minimum, staff conducting screening shall attempt to ascertain information about:
   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 youth 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 youth’s own perception of vulnerability; and
   k. Any other specific information about individual youth that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other youth.

3. Youth may not be disciplined for refusal to answer any particular question on the screening instrument or for not disclosing complete information.

4. Lesbian, gay, bisexual, transgender, or intersex youth shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status. A transgender or intersex youth’s own view with respect to his or her own safety shall be given serious consideration. Lesbian, gay, bisexual, transgender or intersex identification or status is not an indicator of likelihood of being sexually abusive. Placement shall be considered on a case-by-case basis whether the placement will ensure the youth’s health and safety, and whether the placement would present management or security problems. Placement and programming assignments for each transgender or intersex youth shall be reassessed at least once every 6 months to review any threats to safety experienced by the youth.

5. The facility shall develop and implement a system that ensures staff working directly with the youth are advised of the status of a youth identified as a risk or as posing a risk to others. The results of the youth vulnerability screening shall be used in making room assignment to ensure vulnerable youth are not assigned a roommate believed to pose a risk. Treatment teams in commitment programs and supervising staff in detention should continually review the youth’s adjustment.

6. Information gathered by the admissions staff shall be entered into the youth case file. Should information be obtained during the screening that could affect the youth’s status (example: admission of sexual assault on others) this information shall also be transmitted to the youth’s JPO and facility case manager for further investigation. Youth responses to questions shall be on a need-to-know basis to ensure that sensitive information is not exploited to the youth’s detriment by staff or other youth.
7. If the youth discloses prior sexual victimization or perpetrated sexual abuse based on the intake screening information, health/mental health screening information or health history information gathered, whether it occurred in a facility setting or in the community, then staff shall ensure the youth is referred for medical and mental health services within 14 days of the screening.

8. If the youth discloses a youth-on-youth abuse or victimization, the program shall make an immediate referral to mental health for a crisis assessment and mental health practitioner will attempt to conduct a mental health evaluation within 60 days of referral of such abuse history and offer treatment when deemed appropriate.

9. Staff shall ensure that any report of sexual abuse obtained during screening be immediately reported to the proper authorities if the abuse has not previously been reported.

10. Medical and mental health practitioners shall obtain informed consent from youth 18 years of age and older before reporting information about prior sexual victimization that did not occur at the facility.

11. The program shall develop and implement an alert system that ensures staff working directly with youth are advised of all status changes immediately.

12. Information gathered from screenings related to sexual victimization or abusiveness shall be strictly limited to medical and mental health practitioners and other staff, as required by Department policy and Federal, State, or local law, to guide treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.

13. When assigning a transgender or intersex youth to a male or female facility, staff shall consider on a case-by-case basis 1) whether a placement would ensure the youth’s health and safety and 2) whether the placement would present management or security problems. Such placements and programming assignments shall be reassessed every six months to review any threats to safety experienced by the youth. Serious consideration shall be given to the youth’s own views with respect to his or her own safety.

14. If a youth is transferred directly from one facility to another for placement and has been determined to be vulnerable or aggressive to sexual abuse, this information will be relayed to the new program, in order to maintain confidentiality, the RC 8050-2 form will be placed in the youth’s medical file.

B. Youth Management and Services

Procedures outlined in this section pertain to the general care and supervision of youth residing in a facility. Services related to sexual misconduct apply to incidents that occurred prior to the youth entering the facility or during the youth’s stay at the facility.
1. Supervision and Monitoring
   a. Overall supervision and monitoring staffing ratio requirements are established by the Department for each facility type. In calculating staffing ratio requirements the following items are taken into consideration:
      i. Generally accepted juvenile detention and correctional/secure residential practices;
      ii. Any judicial findings of inadequacy; findings of inadequacy from Federal investigative agencies or internal or external oversight bodies;
      iii. The composition of the youth population;
      iv. Any applicable State or local laws, regulations, or standards;
      v. Any other relevant factors.
   b. Staffing plans are established for each individual residential and detention center facilities. These plans provide for adequate levels of staffing, and, where applicable, video monitoring, to protect youth against sexual misconduct. In developing appropriate staffing plans and determining the need for video monitoring for the facility the following must be taken into consideration:
      i. Generally accepted juvenile detention and correctional/secure residential practices;
      ii. Any judicial findings of inadequacy; findings of inadequacy from Federal investigative agencies or internal or external oversight bodies;
      iii. All components of the facility’s physical plant (including “blind spots” or areas where staff or youth may be isolated);
      iv. The composition of the youth population;
      v. The number and placement of supervisory staff;
      vi. Institution programs occurring on a particular shift;
      vii. Any applicable State or local laws, regulations, or standards;
      viii. The prevalence of substantiated and unsubstantiated incidents of sexual misconduct; and
      ix. Any other relevant factors.
   c. Staffing ratios are to be adhered to except during limited and discrete exigent circumstances, and shall fully document deviations from the plan during such
circumstances.

d. At a minimum of once a year, the PREA Coordinator in consultation with Department program area staff, shall assess, determine, and document whether adjustments are needed to:
   1) the staffing plan, 2) prevailing staffing patterns, 3) the deployment of video monitoring systems and other monitoring technologies; and 4) the resources the facilities have available to commit to ensure adherence to the staffing plan.

e. Facility or Department supervisors shall conduct and document unannounced rounds to identify and deter staff sexual misconduct at least twice a month. These rounds shall also be conducted during day and night shift hours.

f. Staff is prohibited from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

2. Cross-gender Viewing and Searches

   a. Staff shall not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth’s genital status. If the youth’s genital status is unknown, it may be determined during conversation with the youth, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

   b. Staff shall not conduct cross-gender (opposite sex) strips searches, or cross-gender pat-down searches, except in exigent circumstances. All cross-gender strip searches and cross-gender pat-down searches shall be documented. Please reference FAC63E-7.004 and .013:
      i. All visual body cavity searches must be conducted in accordance with FAC63E-7.013(10)(c).

   c. The facility must be set up to enable youth to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.

   d. Transgender and intersex youth shall be given the opportunity to shower separately from other youth.

   e. Staff of the opposite sex shall announce their presence when entering a youth housing facility or an area where youth are likely to be showering, performing bodily functions, or changing clothing.

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

   a. The facility shall offer medical and mental health evaluations, and as appropriate, treatment
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to all youth who have been victimized by sexual misconduct in any prison, lockup, or juvenile facility.

b. Victims shall also be provided with medical and mental health services consistent with the community level of care.

c. The facility shall offer medical and mental health services to a youth sexual abuser, and as appropriate, treatment consistent with the community level of care.

4. Youth Access to Outside Support Services and Legal Representation

a. Youth shall have access to outside victim advocates for emotional support services related to sexual misconduct. The facility shall post, provide, or otherwise make accessible mailing addresses and telephone numbers (including hotline numbers) of local, state, or national victim advocacy or rape crisis organizations. Such communications shall be available in as confidential a manner as possible.

b. Youth shall have reasonable and confidential access to their attorney or other legal representation, their parents, or legal guardians for reporting of sexual allegations. Youth shall have unimpeded access and means, including written, to submit or report sexual allegations.

c. The Department will attempt to maintain agreements with community service providers to provide youth with confidential, emotional support services related to sexual misconduct.

5. Access to Emergency Medical and Mental Health Services

Youth victims of sexual abuse shall:

a. Receive timely, unimpeded access to on-site and off-site 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;

b. Be offered timely information about and timely access to all lawful pregnancy related medical services.

c. Have access to a victim advocate from a rape crisis center or a qualified staff member from a community-based organization or a qualified agency staff member. A qualified agency staff member or qualified staff member from a community-based organization shall be an individual who has been screened for the appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general;

d. Be offered pregnancy tests and comprehensive information about and timely access to all lawful pregnancy-related medical services; and

e. Be offered tests for sexually transmitted infections as medically appropriate. Evaluation
and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

C. Reporting an Allegation of Sexual Misconduct

Procedures outlined in this section pertain to reporting allegation of sexual misconduct occurring during a youth’s stay in a facility. Instructions for reports of sexual misconduct that occurred prior to the youth’s commitment to the facility are outlined in Section A, Screening for Sexual Abuse and/or Sexual Victimization at Admission.

1. Florida Administrative Code Rule 63F-11, Central Communications Center (CCC), requires that any allegation of sexual misconduct or youth-on-youth sexual activity be reported to the CCC.

2. There is no time limit on when a youth may submit a grievance regarding an allegation of sexual misconduct. Youth shall be provided multiple internal ways to privately report sexual misconduct, retaliation by other youth or staff for reporting sexual misconduct, and staff neglect or violation of responsibilities that may have contributed to such incidents.

3. Facilities must ensure that all youth with disabilities (including, for example, youth who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, developmental, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the Department’s efforts to prevent, detect, and respond to sexual misconduct. The facility must also ensure meaningful access to its efforts to prevent, detect, and respond to sexual misconduct to youth who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The facility may not use youth or staff as interpreters, readers, or other assistance to perform such functions except in limited circumstances where an extended delay in obtaining an effective interpreter/reader/assistant could compromise the youths’ safety, the performance of the first responder duties, or the investigation of the youth’s allegations.

4. Any staff that receives a report of a sexual misconduct or possible sexual misconduct must ensure that it is reported to the abuse registry, local law enforcement if criminal in nature, and the CCC. Reports can be received verbally, in writing, anonymously, and from third parties. All verbal reports shall be documented promptly and reported accordingly. Apart from reporting to designated supervisors or officials and designated state or local service agencies, staff are prohibited from revealing any information related to a sexual misconduct report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions. While victims and complainants may report anonymously, staff who follow up to report the allegations shall not be afforded anonymous status.

5. All staff are required to immediately report any knowledge, suspicion, or information received regarding 1) any incident of sexual misconduct that has occurred in a facility; 2) retaliation
against youth or staff who report sexual misconduct; and 3) any staff neglect or violation of responsibilities that may have contributed to an incident of sexual misconduct or retaliation to the abuse registry, local law enforcement, and the CCC as required by mandatory reporting laws and Department policy.

6. If staff learns that a youth is subject to a substantial risk of imminent sexual misconduct, they shall take immediate action to protect the youth from further harm or threat. Also, if staff learns a youth poses a substantial risk of sexually abusing other youth in the facility, they shall take immediate action to protect other youth from further harm or threat.

7. Medical and mental health practitioners shall be required to report sexual misconduct to designated supervisors and Department officials, the CCC, law enforcement if criminal in nature, and the abuse registry operated by the Department of Children and Families (s.39.201, F.S.). Said practitioners must inform residents at the initiation of services of their duty to report and the limitations of confidentiality.

8. Apart from reporting to designated supervisors or officials, all staff should only reveal information to those individuals who have a need-to-know to make treatment, investigate, or other security and management decisions.

9. Staff will fully cooperate with any law enforcement investigation of sexual abuse.

10. Section 985.701, Florida Statutes, makes certain acts of sexual misconduct between a youth and staff person a felony. A youth’s consent to sexual acts with a staff member is not a defense under this subsection of the law.

11. Youth must be allowed unimpeded access to report any allegation of misconduct or neglect to the abuse registry operated by the Department of Children and Families. Youth 18 years of age or older would call the CCC to report an allegation of abuse or neglect.

12. Youth who are the victim of a sexual abuse shall be provided prompt and appropriate medical and mental health treatment by medical and mental health practitioners after the first responder involvement by medical and law enforcement personnel.

13. Youth should be advised that any person who knowingly and willfully makes a false report to the Florida Abuse Registry or counsels another to make a false report is guilty of a third degree felony per Chapter 39.205, Florida Statutes. Anyone reporting in a good faith shall be immune from any civil or criminal liability.

14. A report of sexual misconduct made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

15. Youth or staff who have reported sexual misconduct shall be provided protection against retaliation. Accommodations will include housing changes and removal of alleged staff or youth from contact with victims. Emotional support services for youth or staff who fear
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retaliation for reporting or cooperating with investigations will be available.

16. At each 90 day period following a report of sexual misconduct, the Department will monitor the conduct or treatment of youth or staff who reported the sexual misconduct and the victims to determine if retaliation is occurring. Items to be monitored include, but are not limited to, youth disciplinary reports, status checks, housing or program changes, or negative performance reviews or reassignment of staff. The obligation to monitor terminates if the allegation is determined to be unfounded.

D. Responding to Abuse Reports

Procedures outlined in this section pertain to responding to abuse incidents occurring during a youth’s stay in a facility.

1. Upon discovery of an incident defined as sexual abuse, staff members are responsible for taking immediate actions to ensure the safety of the victim, and notifying appropriate law enforcement and medical personnel. These actions include, but are not limited to: identifying victim(s), suspect(s), and making every attempt to preserve evidence.

2. Immediate reporting must be made to the CCC, providing as much information and detail as possible about the incident(s) and victim(s), suspect(s) or witnesses. The CCC will make appropriate notification to senior DJJ management who will in turn make subsequent notification to management overseeing the facility where the alleged abuse occurred. Other than making appropriate notification through Department channels, staff should take no further actions other than those directed by law enforcement or first responders.

3. It is essential that the garments/clothing worn by those involved and the scenes where alleged act(s) occurred be protected to ensure that evidence is not further contaminated. This means simply securing any evidence until the arrival of law enforcement. Securing is defined as keeping control over the evidence or scene and documenting any access to or deviation regarding access to that evidence. Staff should not move, touch, or alter the evidence in any way. Staff should not discuss any facts of the incidents with anyone except those directly involved in response or investigation of the incident. All of this information is reportable to law enforcement and subsequent investigators.

4. Upon receipt of notice that any sexual abuse has occurred in the last 72 hours, whether informed by the victim or a third party, take the following actions:
   a. If the incident is reported by the victim
      i. Ensure the victim is safe, has no further contact with the alleged subject (youth or staff), and if medical staff is available, take the victim to medical staff.
      ii. Do not question the youth, other than to obtain basic information such as where the incident occurred and who may be involved.
      iii. Immediately preserve the area where the incident allegedly occurred, including ensuring that bedding, clothing or related material are not disposed of or cleaned up by
staff, and keep those materials secure or free from contamination by anyone else until instructed to do differently by law enforcement.

iv. Immediately notify the facility management
v. Immediately notify law enforcement (911)
vi. Immediately contact the DCF Abuse Registry
vii. Notify the CCC within 2 hours of the incident or learning of the incident
viii. Do not discuss the facts of the incident which anyone except those directly involved in response or investigation of the incident.
ix. If the subject is in the care and custody of the facility, do not notify them of the victim’s report, but take adequate steps to ensure the safety of other youth, and report suspect or subject information to law enforcement upon their arrival.
x. Cooperate fully with law enforcement.

b. Upon receipt of notice that any sexual abuse occurred longer than 72 hours ago, whether informed by the victim or a third party, take the following actions:
i. Ensure the victim is safe, has no further contact with the alleged subject (youth or staff), and if medical staff is available, take the victim to medical staff.
ii. Do not question the youth, other than to obtain basic information such as where the incident occurred and who may be involved.
iii. Immediately notify the facility management
iv. Immediately notify law enforcement (911)
v. Immediately contact the DCF Abuse Registry
vi. Notify the CCC within 2 hours of the incident or learning of the incident
vii. Do not discuss the facts of the incident which anyone except those directly involved in response or investigation of the incident.
viii. Cooperate fully with law enforcement.
ix. If the subject is in the care and custody of the facility, do not notify them of the victim’s report, but take adequate steps to ensure the safety of other youth, and report suspect or subject information to law enforcement upon their arrival.

5. The Facility staff shall notify the alleged victim’s parents or legal guardians; unless there is official documentation showing the parents or legal guardians should not be notified. If the youth is under the custody of DCF, the caseworker shall be notified. If applicable, the youth’s attorney or other legal representative of record shall be notified of the allegation within 14 days of receiving the allegation.

E. Investigations

1. The Department does not conduct criminal investigations for youth-related sexual misconduct reports. Local law enforcement agencies and the Department of Children and Families handle such investigations involving youth in Florida. See section on Responding to Abuse Reports (Section D). The Department conducts administrative investigations and management reviews, separate and apart from any criminal investigations, to identify and misconduct by staff as related to Department regulatory guidance. Staff are expected to cooperate with OIG investigations.
2. Staff in the Office of the Inspector General will be trained on the policies and procedures for the Department related to the handling of sexual misconduct incidents and reports.

3. The Department will ensure that all administrative investigations and reviews are completed for all allegations of sexual misconduct.

4. The facility will conduct a sexual misconduct incident review at the conclusion of every sexual misconduct investigation or administrative review, including those where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. Said review shall ordinarily be conducted within 30 days of the conclusion of the investigation. The review team shall include the facility PREA Facility Compliance Manager, Department program area staff, upper-level management, with input from line supervisors, including medical and mental health officials. The OIG may participate when the incident was investigated by the OIG. If applicable, information regarding administrative investigations resulting from a sexual misconduct incident shall be included in such reviews to include the reasoning behind the credibility assessments.

5. The review team shall:

   a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual misconduct;

   b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

   c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

   d. Assess the adequacy of staffing levels in that area during different shifts;

   e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

   f. Prepare a report of its findings, including but not necessarily limited to items i. through v. above, and any recommendations for improvement and submit such report to the facility head, PREA Coordinator, and PREA Facility Compliance Manager.

6. Recommendations for improvement from the report shall be implemented, or justification provided for not implementing said recommendations.

7. At the conclusion of any law enforcement investigation where a sexual abuse incident has been reported, the victim or victim’s parent(s) or legal guardian(s) should be notified that the investigation is concluded, either by the investigating law enforcement agency or through a
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1. The Hiring

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 1979);

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 or refuse; or

c. Has been civilly or administratively adjudicated to have engaged in the activity described in ii above.

2. The Department shall ask all applicants and staff who may have contact with youth directly about previous misconduct in section F(1) in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of review of current staff.

3. The Department shall consider any substantiated incidents of sexual harassment in determining whether to hire, promote, or contract with anyone.

4. The Department performs a background check prior to hiring any new staff. The Department will make best efforts to contact all prior PREA regulated employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. Background checks shall be conducted every five years for staff.

5. Staff being considered for promotion shall disclose any sexual misconduct and material omission regarding such misconduct, or the provision of materially false information shall be grounds for termination.

6. Unless prohibited by law the Department shall provide information on substantiated allegations of sexual misconduct involving former staff upon receiving a request from any PREA regulated employer for whom such staff has applied to work.

7. Neither the Department nor any other governmental entity responsible for collective bargaining on the Department’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the Department’s ability to remove alleged staff sexual abusers from contact with youth pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. Nothing in this policy shall restrict the
entering into or renewal of agreements that govern:

a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with PREA standards;

b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member’s personnel file following a determination that the allegation of sexual abuse is not substantiated.

G. Staff Training

1. All Florida Department of Juvenile Justice employees must complete training as outlined in FDJJ 1520, Employee Training and Florida Administrative Code Rule 63-H, Staff Training. This curriculum includes training on the agency zero-tolerance of sexual misconduct outlined in this policy. All current employees not trained on agency zero-tolerance of sexual misconduct outlined in this policy must be trained within 6 months of the effective date of this policy.

Each employee is required to take refresher training every two years. The Department will document, through employee signature or electronic verification that employees understand the training they have received. Information on current sexual misconduct policies will be available for staff via the Department’s PREA webpage.

2. Specialized Training – Medical and Mental Health Care - All full and part-time medical and mental health care practitioners who work in Residential or Detention facilities, whether employed by DJJ, contracted by DJJ, or contracted by DJJ providers, must be trained in:

a. How to detect and assess signs of sexual abuse;

b. How to preserve physical evidence of sexual abuse;

c. How to respond effectively and professionally to juvenile victims of sexual abuse; and

d. How and to whom to report allegations or suspicions of sexual abuse.

Medical and Mental Health Care providers will be subject to sexual abuse training similar to DJJ employees. The Department shall maintain documentation that practitioners have received the training reference in this policy either from the agency or elsewhere.

3. Volunteers and Contracted Providers – All volunteers and contracted providers in Residential and Detention facilities must be trained on their responsibilities under the Department’s sexual misconduct prevention, detection, and response policy and procedures, and Florida Administrative Code Rule 63-H, Staff Training.

a. The level and type of training provided to volunteers and contracted provider staff in Residential and Detention facilities is based on the service they provide and level of contact they have with youth, but all volunteers and contractor staff who have contact with youth shall, at a minimum, be notified of the Department’s zero-tolerance policy regarding sexual
misconduct and be informed on how to report such incidents.

i. All DJJ contract/grant provider volunteers, mentors, and interns in Residential or Detention facilities that provide assistance on a continuous basis or at regular intervals or who volunteer 10 hours or more each month (as described in FDDJ Policy 1800P, Background Screening Process) must complete the PREA training as outlined Section G.1.

   a) Upon completion of this course, the individual will sign and date the form provided as part of the course, including a witness signature.

   b) A copy of this form will be retained by the PREA Facility Compliance Manager and the original will be placed with the respective volunteer coordinator.

ii. Contract/grant provider volunteers, mentors and interns in Residential and Detention facilities who assist or interact with youth on an intermittent basis for less than 10 hours a month and are accompanied by a staff member who is always present and has the volunteer/mentor/intern in his or her line of sight, will not have to take the PREA CORE training, but must have completed the PREA Acknowledgement Form (PREA01) - EXIBIT B.

   a) This form is to be signed, dated, and a copy is provided to the PREA Facility Compliance Manager.

iii. The Facility shall maintain documentation confirming that volunteers and contracted provider staff understand the training they have received.

   b. All other contracted providers/volunteers /mentors/interns for the Department of Juvenile Justice will be informed that the Department is committed to complying with the Prison Rape Elimination Act.

H. Youth Training

1. During intake, all youth will be provided with information on the agency’s zero-tolerance policy regarding sexual misconduct, including how to report incidents or suspicions of sexual misconduct.

2. Special accommodations shall be made to ensure all written information about sexual misconduct policies, including how to report sexual misconduct, is conveyed verbally to youth with limited reading skills or who are visually impaired, deaf, or otherwise disabled.

3. Within 10 days of intake, the Department or Private Provider shall provide comprehensive education to youth (either in- person or via video) regarding 1) their rights to be free from sexual misconduct, their rights to be free from retaliation for reporting such misconduct, and 3) the agency’s sexual
misconduct response policies and procedures. Youth currently residing in a facility will be trained within 6 months of the effective date of this policy. Refresher information will be readily available to all youth at all facilities. The Department will retain documentation of youth participation in said training classes.

I. **Bureau of Justice Survey**

1. The PREA requires the Bureau of Justice to conduct an annual survey of the prevalence of sexual violence in correctional facilities. The survey requests information from all a state-operated facilities and a sample of contracted facilities. The survey collects information in the following areas: nonconsensual sex acts, abusive sex acts, staff sexual misconduct, and staff sexual harassment.

2. DJJ and provider staff shall provide all requested information to comply with the report requirements of the PREA in a timely manner.

J. **Audits**

1. The Statewide Department PREA Coordinator will ensure that facilities, including contracted facilities, are audited in compliance with PREA standards.

2. Each year of a three-year period, one-third of all facilities will be audited by an independent organization that falls into one of the three following categories:
   a. A correctional monitoring body that is not part of the Department but that is part of, or authorized by, the State of Florida,
   b. An auditing entity that is within the agency but separate from its normal chain of command, such as an inspector general or ombudsperson who reports directly to the Department’s head or the Governor’s Office;
   c. Other outside individuals with relevant experience.

3. No audit may be conducted by an auditor who has received financial compensation from the agency within the three years prior to the Department’s retention of the auditor, and the Department shall not employ, contract with, or otherwise financially compensate the auditor for three years subsequent to the Department’ retention of the auditor, with the exception of contracting for subsequent audits.

4. Auditors must be certified by the Department of Justice (DOJ) to conduct such audits, and ensure that the auditor, if retained again, has been re-certified every three years.

5. Auditors shall have access to enter and tour all facilities, including those contracted, to review documents, and interview staff and youth to conduct a comprehensive audit.

6. All facility reports shall be published on the Department’s Web site and be readily available to the public.
K. Data Collection

1. The Department shall collect uniform data in the CCC for every allegation of sexual misconduct at its facilities, both state-operated and those with contracted providers. Incident-based sexual misconduct data shall be aggregated at least annually.

2. The PREA Coordinator will review data collected and aggregated in order to assess and improve the effectiveness of the Department’s sexual misconduct prevention, detection, and response policies, practices, and training.

3. The Department will prepare an annual report of sexual misconduct incidents, findings, and corrective actions for all facilities, state and contracted, and the Department as a whole. The report will include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the agency’s progress in addressing sexual misconduct. The report will be reviewed and approved by the Secretary and be made readily available to the public through its website. Information that may present a clear and specific threat to the safety and security of a facility may be redacted, but must indicate the nature of the information redacted.

4. Reports will be maintained in accordance with State of Florida record retention schedules. All data collected will be maintained for at least 10 years after the date of the initial collection.

5. Upon request, the PREA Coordinator will provide all sexual misconduct data collected in the CCC to the Department of Justice no later than June 30 of each year.

III. RESPONSIBILITY AND DUTIES

A. PREA Statewide Coordinator

1. This person is responsible for the statewide oversight of the Department’s implementation and compliance efforts as they relate to PREA standards.

2. This person will ensure facility audits are completed timely and by appropriately certified staff.

3. This person will maintain the Department’s PREA-related Web site to ensure all related information, including audit reports, is current and readily available to the public.

B. PREA Facility Compliance Manager

1. This person is responsible for oversight of their designated facility’s, state-operated or contracted, implementation and compliance efforts as they relate to PREA standards.

2. This person coordinates and communicates on a regular basis with the Department PREA Coordinator as to the facility’s compliance with PREA standards.
3. This person is responsible for hands-on involvement with auditors conducting reviews at their facility and for developing corrective action plans necessary as a result of the audit report.

4. This person is directly responsible for ensuring all PREA training is conducted as required at their facility and that all staff have been properly trained on PREA prior to their interaction with youth at the facility.

5. This person is responsible for ensuring that youth have access to information regarding PREA, the Department’s zero-tolerance policy on sexual misconduct, and that information is readily available to youth if they need to report any incident.

6. This person is responsible for ensuring confidentiality of reported information and monitoring any retaliation that may happen as a result of a reported incident.

IV. ATTACHMENTS

EXHIBIT A - Screening for Vulnerability to Victimization and Sexually Aggressive Behavior (VSAB) – RC 8050

EXHIBIT B - PREA Acknowledgement Form - PREA01