



**WEST VIRGINIA
DIVISION OF
JUVENILE SERVICES**

POLICY NUMBER:

151.00

PAGES:

18

CHAPTER:

**Administration and
Management**

REFERENCE AND RELATED STANDARDS:

WV Code §§49-2-803, 49-2-903, 61-8B-10; Prison Rape Elimination Act (PREA), §§115.311, 115.316, 115.333, 115.341, 115.531, 115.352, 115.361, 115.363, 115.367, 115.371, 115.372, 115.377, 115.381, 115.383, 115.386, 115.387, 115.388, 115.393; ACA 3-JDF-3D-06-1 thru 3D-06-10; PbS Standards – Safety #3

SUBJECT: Prison Rape Elimination Act (PREA)

DATE: July 1, 2016

POLICY

The Division of Juvenile Services has zero tolerance for the sexual misconduct of any staff against any resident in its custody or participating in any DJS program. This policy is established to help prevent sexually abusive behavior, educate staff to intervene properly and timely, detect incidents, perpetrators and victims of sexually abusive behavior, investigate reported incidents and discipline and/or prosecute perpetrators. This policy applies to both staff-on-resident and resident-on-resident abuse.

CANCELLATION

This policy has been revised and supersedes Policy 151.00 dated October 1, 2015.

APPLICABILITY

1. This Policy applies to all Division of Juvenile Services' employees, volunteers, professional visitors, contracted staff, community service supervisors, juvenile residents, visitors and others working and/or visiting within facilities operated by or with the youth ordered to the custody of the West Virginia Division of Juvenile Services.
2. Pursuant to West Virginia Code §61-8B-10, any person employed by the Division of Juvenile Services who engages in sexual intercourse or sexual intrusion with a person who is incarcerated in this state is guilty of a felony.
3. Interns, contracted employees and volunteers are required to read this Policy and sign the attached Certificate of Understanding (Attachment #1). The facility will maintain the Certificate of Understanding forms.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	2 of 18

DEFINITIONS

1. **Abusive Sexual Contacts**— Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person without his or her consent, or of a person who is unable to consent or refuse.
2. **Contractors**—any person or corporation, other than an employee of the West Virginia Division of Juvenile Services, who provides services on a recurring basis pursuant to a contractual agreement with the agency.
3. **Division PREA Compliance Manager**—A Central Office staff member who assists the Division PREA Coordinator to closely monitor the Facility PREA Compliance Managers to ensure PREA compliance.
4. **Division PREA Coordinator** – an upper-level management staff member designated by the Division of Juvenile Services with the authority and sufficient time to coordinate the mission, policies and implementation of all PREA standards agency-wide and to oversee compliance with the PREA standards in all of its facilities.
5. **Employee**—any person compensated by the State of West Virginia for work performed to include permanent employment, temporary employment and other employees of the State of West Virginia.
6. **Nonconsensual Sexual Acts**—Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and
 - a. Contact between the penis and the vagina or the penis and the anus including penetration, however slight; or
 - b. Contact between the mouth and the penis, vagina, or anus; or
 - c. Penetration of the anal or genital opening of another person by a hand, finger, or other object.
7. **PREA Compliance Manager** – A facility-level employee designated by the Division of Juvenile Services with sufficient time to coordinate and oversee each facility’s efforts to comply with the PREA standards and to monitor, follow-up and respond to all PREA complaints within the facility in accordance with the PREA standard.
8. **PREA Counselor** – A facility-level employee designated by the Division of Juvenile Services as one who is trained for special counseling of a resident who may have been abused under the definitions of this policy.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	3 of 18

9. **Prison Rape Elimination Act (PREA)**—The Prison Rape Elimination Act of 2012 establishes a zero tolerance standard for the incidence of resident sexual assault and rape; makes prevention of resident sexual assault and rape a top priority in each facility; develops/implements national standards for the detection, prevention, and punishment of prison rape; increase available data and information of the incidence of resident sexual assault and rape; standardizes the definitions used for data collection; increase accountability of juvenile officials who fail to detect, prevent, reduce and punish prison rape; and protects the Eighth Amendment rights of federal, state and local juvenile residents.

10. **Professional Visitor**—any person having access to any of the agency’s facilities, who provides a professional service to residents or employees, including, but not limited to, attorneys, paralegals, paraprofessionals, investigators (other than employees), law enforcement officers, clergy and unpaid interns.

11. **Resident**—any youth committed to the care and custody of the West Virginia Division of Juvenile Services by any court or judicial sanction. This definition includes youth assigned to such programs as day reporting and aftercare services.

12. **Sexual Misconduct**—for the purpose of this policy shall be defined as those definitions defined as nonconsensual sexual acts, abusive sexual contacts, staff sexual misconduct and staff sexual harassment.

13. **Staff Sexual Harassment**—Repeated verbal statements or comments of a sexual nature to a resident by employee, volunteer, official visitor, or agency representative, including:
 - a. Demeaning references to gender or derogatory comments about body or clothing, or
 - b. Profane or obscene language or gestures.

14. **Staff Sexual Misconduct**—Any behavior or act of a sexual nature directed toward a resident by an employee, volunteer, official visitor, or agency representative. Romantic relationships including conversations or correspondence between staff and residents are included. Consensual or nonconsensual sexual acts include:
 - a. Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire, or
 - b. Completed, attempted, threatened, or requested sexual acts, or
 - c. Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	4 of 18

15. **Violation of Privacy Rights of Residents**—this includes, but is not limited to, the act or the attempted act of observing or interfering with a resident’s personal affairs without a reasonable need to do so for the immediate safety and security of the juvenile resident, employees, or others within the facility or ones’ caseload. Violations may include unreasonable intrusive viewing of a residents’ use of shower, toilet, or in areas where residents dress, outside legitimate security or safety needs. Acts that may also be included consist of a person of the opposite sex failing to announce his/her presence when entering a housing unit in a non-emergency or scheduled situation (such as count times, room searches, etc.), reading personal mail or written materials of a resident when not required for safety and security of the facility or the juvenile.
16. **Visitors**—any person having access to any of the agency’s facilities for personal and/or official reasons.
17. **Volunteer**—any person who, by mutual agreement with the agency, provides service without compensation, or who voluntarily assists residents, a facility or the agency in the course of duties without any type of compensation.
18. **Youth-on-Youth Sexual Harassment**- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed to another.

PURPOSE

The West Virginia Division of Juvenile Services has zero tolerance for instances of staff sexual misconduct or resident-on-resident sexual abuse. It is the policy of the West Virginia Division of Juvenile Services to protect, prevent and investigate any reports of sexual misconduct within any of its’ facilities and/or community programs. With this said, it is the intent of this Policy to ensure that:

1. Employees, residents, contractors, volunteers, visitors and other agency employees are informed of the Divisions’ “zero tolerance” philosophy in regards to sexual misconduct.
2. Standard procedures are in place at all facilities, to include community-based programs, to prevent, detect and report sexual misconduct.
3. Victims of sexual misconduct receive prompt and effective response to their physical, psychological, and security needs.
4. Allegations of sexual misconduct receive prompt intervention and investigation upon report.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	5 of 18

5. Sexual conduct between staff and juveniles, volunteers, or contract personnel and juveniles, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.
6. All facilities will have a locked box that a resident can use to report any incident of sexual misconduct anonymously. Complaints can be made via this lock box for which only Central Office staff members will access at least every fourteen (14) days. Additionally, staff and other personnel may use the box to anonymously report other instances, concerns and/or problems, if they so choose.

PREVENTION

Staff are responsible for understanding and participating in the prevention of sexual misconduct, as outlined in this Policy. Staff are also responsible for ensuring that, within seventy-two (72) hours of admission, residents receive and review a Resident PREA Orientation (Attachment #2), from a PREA counselor, if possible. PREA training will be completed by a PREA counselor.

1. Intake Screening

- a. All residents entering a DJS facility are screened as directed by Health Services at that facility. The following steps should be taken:
 - i. Residents with a history of sexual victimization, which have been identified through the intake process (i.e.; from self report, review of available documentation, information from social workers, probation officers, etc.), should be referred to mental health services as soon as possible but no later than 14 days after intake. Staff should notify the Facility Superintendent/Director of the facility as well as the person responsible for the overall security of the facility. Appropriate steps should be taken to keep the individual separated from any known sexual perpetrators and direct monitoring should take place.
 - ii. Residents with a history of sexual predation, which have been identified through the intake process (i.e.; commitment orders, self report, review of available documentation, information from social workers, probation officer, etc.), should be referred to mental health services as soon as possible but no later than 14 days after intake. The Facility Superintendent/Director is to be notified as well as the person responsible for the overall security of the facility. Appropriate steps should be taken to keep the individual separated from any known sexual victims and close monitoring should take place.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	6 of 18

- iii. Any resident, while during the intake process, is suspected of being “At Risk” for victimization or for being a perpetrator, should be dealt with in the same manner as victims and predators are outlined above. They shall be reviewed by mental health services for an assessment of risk, treatment and management needs.
- b. If possible, those at risk for becoming a victim should be assessed for being placed at another facility to include a facility of lesser security, depending on the current offense being charged or sentenced for, particularly if separation from predators can not be accomplished at the current facility.
- c. If a resident returns to DJS custody or is transferred within the Division, and records indicate that the resident has had PREA training within the past six (6) months, only the intake orientation with the PREA counselor is necessary. The resident should be scheduled to attend the next bi-annual PREA training.

2. Facility Operation

- a. All facilities should be assessed for areas in which the risk of staff sexual misconduct and/or resident-on-resident abuse may be successful without detection. Any such areas should be limited for resident movement, placement of surveillance cameras or other safety/security measures taken to ensure safety of both residents and staff.
- b. To ensure that any deficiencies in resident supervision are promptly identified and corrected, facility administrators and supervisors responsible for reviewing critical incidents should examine known areas where sexual abuse has occurred to assess and take corrective action regarding any physical barriers that may have enabled the abuse, any problems with staffing levels in those areas at different times of the day, and any needs for monitoring technology to supplement direct care staff supervision. A review will be conducted at least annually to determine the need for new or additional monitoring technology.
- c. Residents should not be permitted in residential areas of the opposite sex. Staff should be restricted as much as possible from being secluded with residents, especially during times that no other staff are present and/or during times of such activities as showering and sleeping.
- d. Staff will ensure that residents who are limited English proficient (LEP), deaf, and/or disabled residents as well as those residents who have limited reading skills or who are visually impaired understand their rights and responsibilities under PREA and have equal opportunity to participate in or benefit from all aspects of the division’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	7 of 18

- e. The facility prohibits the use of resident interpreters, youth readers or other types of resident assistants except in exigent circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under PREA §115.364 or the investigation of the resident's allegations. All exigent circumstances must be documented.
- f. Each facility will have a minimum of two staff members to serve as PREA counselors.

PREA COUNSELOR DUTIES

1. Complete one-on-one initial resident education within three (3) business days after intake.
2. Conduct comprehensive resident education class semiannually during the months of April and October.
3. All resident education information shall be entered and uploaded, when necessary, into the Offender Information System.
4. Complete initial training for staff, contractor staff and volunteers during orientation.
5. Be available to talk to residents in the event they feel their rights have been violated, and report complaints to the appropriate individuals.
6. Examine each facility PREA complaint. All complaints, whether valid or not, are to be reported to the Division PREA Coordinator.
 - a. If the incident involves resident-on-resident contact, the PREA counselor will gather, document and report facts regarding the incident reported to them. As the information is gathered, it is the responsibility of the PREA counselor to keep their facility chain of command, if appropriate, informed about the details of the incident as well as the Division PREA Coordinator, who will be updated accordingly and the information will be entered into the appropriate database. The PREA counselor is to continue any investigation to its conclusion regardless of whether the alleged victim recants, denies or wishes to not pursue the allegation.
 - b. If the incident involves resident contact with an employee, contractor, visitor or volunteer, the PREA counselor will immediately cease gathering information about the incident and notify the Division PREA Coordinator, and a Division investigator will be assigned.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	8 of 18

FIRST RESPONDERS/REPORTING REQUIREMENTS

1. Any person can essentially be a first responder. A first responder is any person who:
 - a. Witnessed the act of sexual misconduct,
 - b. Witnessed the perpetrator leaving the area of the victim,
 - c. Witnessed the victim immediately following an incident,
 - d. Was the person that the victim felt comfortable reporting the occurrence to, or
 - e. Was the person that received information (confidential or otherwise) that an alleged incident occurred.

2. The first responsibility of a first responder is to separate the victim from the perpetrator. The safety of the victim is the first priority.

3. **Staff/First Responder Requirements**
 - a. All employees, professional visitors, volunteers, contract staff and/or other agency employees that have knowledge of, or is witness to any sexual misconduct, are required to report such as follows:
 - i. All employees, professional visitors, volunteers, contract staff and/or other agency employees are to report any knowledge of any act of sexual misconduct to any staff member available at the time that they become aware of the known or alleged act of sexual misconduct.
 - ii. All Division employees are required to contact the Central Office Administrative Duty Officer and the Facility Superintendent/Director and their facility's PREA counselor when knowledge becomes known to them or they witnessed the act itself.
 - iii. All employees, professional visitors, volunteers, contract staff and/or other agency employees are responsible for reporting any known or alleged acts to the Department of Health and Human Resources (DHHR), Institutional Investigation Unit (IIU) at 1-800-352-6513, however, any time that a suspected event is reported to IIU, the Central Office Administrative Duty Officer and Facility Superintendent/Director are to be contacted also.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	9 of 18

- iv. The first responder, if not a witness, should gather the following information prior to reporting such alleged misconduct. The name of the victim and alleged perpetrator, where the alleged event took place, and how long ago it took place. If the abuse occurred within a time period that still allows for the collection of physical evidence, the scene of the alleged incident should be secured as indicated in Policy 324.00 – Crime Scenes and Physical Evidence Preservation, Attachment #2 –Crime Scene Response Procedures.
 - v. All information regarding any sexual misconduct is to be kept confidential and reporting or revealing any information related to a sexual abuse report is prohibited other than to the extent necessary to make treatment, investigation, and other security and management decisions.
- b. Reporting requirements are mandatory under West Virginia Code §49-2-803 and West Virginia Division of Juvenile Services Policy 335.00 – Facility Child Abuse and Neglect. Any employee failing to report such behaviors, whether alleged or otherwise, will be subjected to disciplinary actions. Failure of volunteers, contract staff, professional visitors and other agency employees to report such behaviors, whether alleged or otherwise, can result in loss of entry to the facility.

4. **Resident Reporting**

- a. Any resident victim or any other resident having knowledge of any sexual misconduct, retaliation for reporting sexual misconduct or staff neglect that contributed to an incident of sexual misconduct has the responsibility to report such knowledge. The following are several ways in which residents may report such knowledge:
 - i. Any resident may report any knowledge of such event to the PREA counselor or any staff person.
 - ii. Any resident may report any such knowledge via resident grievance procedure.
 - iii. Any resident may report any such knowledge anonymously via locked boxes made available in the facility.
 - iv. Any resident may call the Division’s Sexual Abuse toll-free hot-line (1-855-366-0015).
 - v. Any resident may report any incident of sexual abuse on the Resident Satisfaction Survey upon their departure from the facility, if it is available.
 - vi. Any resident may report to Supreme Court Juvenile Justice Commission via United States Mail (pre-addressed envelopes provided with postage pre-paid)

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	10 of 18

- b. Any resident who is a victim of sexual misconduct will receive medical, crisis intervention, mental health treatment and any type of long-term follow-up care as needed from the Division of Juvenile Services. If necessary, victims of sexual assault are referred under appropriate security provisions to a hospital for treatment and gathering of evidence.
 - c. Any resident who is identified as an abuser will be given a mental health evaluation and offered treatment if appropriate within 14 days.
5. **Resident PREA Grievance Procedure** – There is a PREA procedure available to all residents in the custody of the Division of Juvenile Services. These steps could include PREA Counselor, PREA Compliance Manager, and/or the Division Investigative Unit.
- a. Residents are informed of the PREA procedure upon intake at the facility. There is no time limit for the filing of a resident PREA grievance.
 - b. Staff are to report and document any allegation of sexual misconduct whether made verbally, in writing, anonymously or by a third party. Resident-on-resident sexual misconduct is to be reported via incident report in OIS and staff-on-resident sexual misconduct is to be reported via confidential report in OIS before the end of their current shift.
 - c. Residents have several options for reporting a PREA complaint, which includes, but is not limited to:
 - i. PREA Counselor,
 - ii. Any staff member,
 - iii. PREA Compliance Manager,
 - iv. The nurse or mental health practitioner,
 - v. Locked PREA Box,
 - vi. Grievance Box,
 - vii. West Virginia State Police
 - viii. Child Abuse Hot Line (1-800-352-6513),
 - ix. Division’s Sexual Abuse toll-free hot-line (1-855-366-0015),
 - x. DJS Website (www.djs.wv.gov),
 - xi. Supreme Court Juvenile Justice Commission via United States Mail (pre-addressed envelopes provided with postage pre-paid)
 - xii. Anyone they trust, including fellow residents, family members, attorneys, and outside advocates. Anyone shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.
 - xiii. Or emailing DJSPREACoordinator@wv.gov.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	11 of 18

d. PREA Grievance Process

- ii. If a PREA complaint is reported to facility staff, that staff member will forward the complaint to the PREA compliance manager, who will initiate the following procedures:
 - 1) If the incident involves resident-on-resident contact, the PREA counselor will complete an incident report in OIS and keep the PREA Coordinator apprised of the situation as well as others in the facility chain of command, when appropriate.
 - 2) If the incident involves resident contact with an employee, contractor, visitor or volunteer, the PREA counselor will complete a confidential incident report in OIS and notify the Division PREA Coordinator about the incident. The Division PREA Coordinator will assign an investigator.
 - 3) A resident shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
- iii. A resident may submit a written and signed PREA Complaint to be placed in a locked PREA Box located in an easily accessible area. (Any resident who has difficulty writing shall receive assistance in preparing their PREA complaint, if requested.) This box can only be opened by a staff member of Central Office and will be checked at least every two weeks.
- iv. PREA grievances will be processed immediately but no later than 24 hours of retrieval. Final determination regarding the merits of the grievance will be made upon completion of the investigation within 30 days. Extensions may be approved by the Director of Investigations, who will notify the resident in writing of any such extension and provide a date by which a decision will be made.
- v. At the conclusion of the investigation, written notification of the result (substantiated, unsubstantiated or unfounded) will be given to the resident who has made the original allegation by the facility PREA compliance manager if it is a resident-on-resident complaint. For staff-on-resident complaints, the Director of Investigations will provide written notification to the resident.
 - 1) For resident-on-resident allegations, the resident who made the allegation will be informed whenever the Division has learned that the alleged abuser has been indicted/convicted on a charge related to sexual abuse within the facility, and

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	12 of 18

- 2) For staff-on-resident allegations, the resident will be informed whenever the staff member is no longer posted within the resident's unit or facility or has been indicted/convicted on a charge related to sexual abuse within the facility.
- vi. The facility will not discipline a resident for filing a grievance alleging sexual abuse unless the investigation demonstrates that the resident filed the grievance in bad faith.

THIRD-PARTY PREA COMPLAINTS – All complaints filed by a third-party on behalf of residents or former residents will be entered into the OIS System and forwarded to the Division PREA Coordinator.

1. Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.
2. If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also request the alleged victim to personally pursue any subsequent steps in the administrative remedy process.
3. Third-party reporting of sexual abuse, sexual harassment and youth or staff seeking relief against retaliation for reporting the same can also be accomplished by calling the Division's Sexual Abuse toll-free hotline at 1-855-366-0015 or on the Division's website at www.djs.wv.gov
4. If the resident declines to have the request processed on his or her behalf, the agency shall document the resident's decision.

INVESTIGATIONS - All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained according to the established schedule as outlined below:

1. All persons having any knowledge of or reason to suspect that sexual misconduct has taken place, is subject to questioning by person(s) investigating such allegations. Failure to cooperate with the investigation, such as withholding known information, withholding evidence or giving false statements will result in disciplinary action.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	13 of 18

2. All persons having any knowledge, suspicion, or information they received regarding an incident of sexual abuse or sexual harassment that occurred in a facility, retaliation against any resident or staff who reported such an incident, or any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation are required to report immediately.
3. All allegations of sexual misconduct will be taken seriously and investigated thoroughly by trained investigators. Investigations will be conducted in a timely manner and the investigator shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Findings will be reported to the Director of Juvenile Services at the conclusion of the investigation. An investigation will proceed and not be terminated even if the allegation is recanted by the resident or the employee leaves employment with the agency.
4. The investigator for each particular investigation will be selected by the Director of Juvenile Services. The gender of the victim and the gender of the investigator should be taken into consideration when making the selection.
5. If during the internal investigation, it has been determined that a criminal act has or may have occurred, the investigation shall be turned over to outside law enforcement.
6. Protection of witnesses and the victim shall be paramount throughout the investigation process. The Facility Superintendent/Director will ensure that any employee who has an allegation of sexual abuse/harassment against them will not have contact with that resident until the investigation can be completed. The Facility Superintendent/Director will ensure that any resident with an allegation of sexual abuse/harassment against another resident is separated from the other resident and can be transferred to another facility/unit, if deemed necessary.
7. Results of investigations must be reported to the Bureau of Justice Statistics under certain categories: (a) substantiated, (b) unsubstantiated, and (c) unfounded.
8. A copy of all incident reports and related paperwork will be forwarded to the Division's Director of Investigations and retained with the corresponding investigation. DJS will retain all written investigations and as long as the alleged abuser is committed or employed plus five years unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.
9. Any effort to hinder or impede an employee or resident from reporting an incident or retaliation by any employee or resident to any person reporting such activity will be dealt with through the disciplinary process.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	14 of 18

10. For any individual who expresses a fear of retaliation who has participated with or cooperated in an investigation of sexual abuse or sexual harassment against a resident, the Division shall protect that individual against retaliation.

TRAINING

1. Employee Training – The Division’s Training Coordinator shall ensure that a lesson plan is written and implemented that covers the following areas:
 - a. Prevention of sexual misconduct to include: elimination of areas within a facility where residents are permitted that direct surveillance of that area is not covered by direct sight or camera; proper intake screening and assessment; importance of including residents in a prevention program; and, proper supervision of residents.
 - b. Detection of sexual misconduct: what some of the indicators are of this activity occurring and some of the indicators that a person has been victimized.
 - c. Intervention by means of reporting requirements to include how to report, coordination of responding and, if applicable, how to secure a suspected crime scene.
 - d. After effects by means of appropriate counseling and therapy for the victim(s) to include mental health and medical follow-up. Continued protection for victims and witnesses, action plans for further prevention, and dealing with false allegations.
2. All facility PREA Compliance Managers, PREA counselors and Division investigators will receive specialized training as required that will be coordinated through the Division PREA Coordinator.
3. Training on sexual misconduct should be part of orientation for all new employees, residents (See Attachment #2), contract employees, volunteers and all other persons having direct contact with any resident.
4. Training on sexual misconduct should also become a part of annual training for all existing employees, residents, contract employees, volunteers and all other current/on going persons having direct contact with any resident.
5. Resident Training – Resident training/education of sexual misconduct will take place within three (3) business days after intake and should include the following topics:
 - a. Definitions of sexually abusive behavior,
 - b. Prevention/intervention strategies the resident can take to minimize his/her risk of sexual victimization,

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	15 of 18

- c. Self-protection strategies to help the resident recognize signs of sexual predators,
 - d. Methods of reporting an incident of sexual misconduct against oneself, and for reporting allegations of sexually abusive behavior involving other residents,
 - e. Treatment options and programs available to resident victims of sexual abuse,
 - f. Monitoring, discipline and or prosecution of sexual perpetrators, and
 - g. Disciplinary process for those reporting false allegations.
6. In addition to the initial training upon intake, all residents in the Division's custody will receive PREA training biannually, explicitly during the months of April and October. All training for both initial and semi-annual training will be entered into OIS.
 7. Resident Intake – Information will be communicated orally and in writing via the resident handbook to each resident upon arrival at the facility. Residents will be screened within 24 hours of arrival at the facility for a history of 1) potential victimization or 2) sexually assaultive behavior. Such juveniles are identified, monitored, counseled and provided appropriate treatment. Housing assignments will be made accordingly.

REVIEWS

1. A steering committee comprised of The Division Director, Deputy Director, Division Assistant Directors, Legal Department, Field Representative(s) and ad hoc members as deemed appropriate by the Division PREA Coordinator will meet at least annually.
2. Facility Superintendents/Directors with the highest and lowest number of PREA incidents for the previous year will report to the committee meeting.
3. The steering committee will identify problem areas to include:
 - a. Physical plant issues,
 - b. Staffing shortages,
 - c. Staff training deficiencies,
 - d. Resident education,
 - e. Staff negligence,
 - f. Budget constraints,

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	16 of 18

- g. Operations shortcomings, and
 - h. Procedural concerns.
4. The PREA Compliance Manager will conduct a sexual abuse incident review at the conclusion of every resident-on-resident sexual abuse investigation (conducted by facility PREA personnel) within thirty (30) days, unless the allegation has been determined to be unfounded.
 5. The Division PREA Coordinator will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation conducted by the Division Investigators within thirty (30) days, unless the allegation has been determined to be unfounded.
 6. To prevent retaliation, the Division PREA Compliance Manager shall monitor, for at least 90 days following a report of sexual abuse, the conduct or treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. The Division PREA Compliance Manager shall monitor resident disciplinary reports, housing, program changes, negative performance reviews, or reassignments of staff. In the case of residents, such monitoring shall also include periodic status checks. The Division PREA Compliance Manager shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The obligation to monitor shall terminate if it is determined the allegation is unfounded.
 7. A review team will consist of staff from administration, line supervisors, investigators and medical or mental health practitioners. The review team shall:
 - a. Consider whether the finding requires a need to change policy or operational procedures to better prevent, detect, or respond to sexual abuse,
 - 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,
 - 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 increased, and
 - f. Prepare a report of its findings to include recommendations for improvement and submit such report to the Division PREA Coordinator.

Chapter	Subject	Policy #	Page
Administration and Management	Prison Rape Elimination Act (PREA)	151.00	17 of 18

8. If recommendations from the report are unable to be implemented, the reasons shall be documented and attached with the report.

DATA COLLECTION

1. The Division collects accurate, uniform data for every allegation of sexual abuse at the facilities under its control using the PREA Incident Review data from OIS. The PREA Incident Review includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the United States Department of Justice. The Division maintains, reviews, and collects data as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews.
2. The Division PREA Coordinator will review, analyze and use all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of the agency sexual abuse prevention, detection and response policies, practices and training. The Division PREA Coordinator will ensure that all collected data is securely retained.
3. The Division PREA Coordinator will maintain a current link on the Division of Juvenile Services website to provide PREA information to the public.
4. The Division will maintain sexual abuse data collected pursuant to PREA §115.387 for at least 10 years after the date of its initial collection unless Federal, State, or local laws requires otherwise. In addition to the required 10 years, the Division will maintain data on all staff/contractors/volunteers/interns for an additional five years after the staff/contractor/volunteer/intern no longer works or is involved with the Division.
5. The Division PREA Coordinator will submit an Annual Report with redacted material to the Division Director for publication approval for release on the DJS PREA website. Before making aggregated sexual abuse data publicly available, the Division will remove all personal identifiers.

AUDITS AND MONITORING

1. The facility PREA Compliance Manager will complete the Department of Justice PREA Pre-Audit Questionnaire and self-audits via reports required by the Division PREA Coordinator.
2. The Division PREA Coordinator, the Division PREA Compliance Manager and the facility PREA Compliance Managers will monitor all DJS facilities to determine compliance with the national PREA standards.



Reduction/Education/Safety/Planning/Elimination/Compliance/Treatment

West Virginia Division of Juvenile Services Resident PREA Orientation

What is PREA?

The Prison Rape Elimination Act (PREA) is a federal law that prohibits sexual misconduct in correctional settings such as prisons, jails, lockups, juvenile facilities, and Immigration Services/ICE detention facilities. Sexual misconduct under this law includes:

- Resident-on-Resident sexual assault and abuse
- Staff-on-Resident sexual misconduct (sexual/inappropriate relationships with residents)
- Resident-on-Resident and Staff-on-Resident sexual harassment

The Division of Juvenile Services (DJS) is committed to keeping you safe and secure while in our custody. You have the right to be free from sexual abuse, sexual harassment, and retaliation and we have the responsibility to protect you. We have zero tolerance regarding sexual abuse and sexual harassment within our facilities. This means we DO NOT tolerate any level of sexual harassment, misconduct, or sexual assaults within our facilities. EVERY effort will be made to prevent, detect and respond appropriately to all allegations of sexual abuse and sexual harassment. EVERY allegation of sexual abuse and/or sexual harassment will be investigated, EVERY perpetrator will receive the appropriate consequences for their actions, and EVERY victim will be offered the appropriate follow-up services.

PREA applies to any inappropriate sexual relationships between staff and resident whether physical or verbal. You cannot consent to this type of relationship while in DJS custody.

What is consent?

Consent is a voluntary, positive agreement between participants to engage in a specific activity, such as sexual contact. Consensual sexual contact is NOT allowed at any WVDJS facility. It is not up to you to give consent. NO sexual relationships of any kind are allowed. This includes relationships between residents and resident-and employees, volunteers, interns, mentors, contractors, etc. Such relationships will lead to disciplinary action.

PREA, how do I know?

Below are some definitions to help you understand.

Abusive Sexual Contacts (less severe)— Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person without his or her consent, or of a person who is unable to consent or refuse.

Nonconsensual Sexual Acts- Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and Contact between the penis and the vagina or the penis and the anus including penetration, however slight; or Contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by a hand, finger, or other object.

Resident-on-Resident Sexual Harassment- 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 to another.

Staff Sexual Harassment— Repeated verbal statements or comments of a sexual nature to a resident by employee, volunteer, official visitor, or agency representative, including: demeaning references to gender or derogatory comments about body or clothing, or profane or obscene language or gestures.

Staff Sexual Misconduct— Any behavior or act of a sexual nature directed toward a resident by an employee, volunteer, official visitor, or agency representative. Romantic relationships including conversations or correspondence between staff and residents are included. Consensual or nonconsensual sexual acts include: Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire, or completed, attempted, threatened, or requested sexual acts, or occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

If any of the definitions previously mentioned describes an incident that has happened to you, it was a PREA violation. All PREA violations are to be reported immediately. If you are the victim of a sexual assault, request immediate medical attention. Do not shower, brush your teeth, use the restroom or change your clothing as you may destroy valuable physical evidence.

How you can avoid Sexual Assault and sexual abuse?

The only way sexual assault and sexual abuse can be prevented is when a suspect chooses NOT to sexually assault, sexual abuse or sexually harass. However, you may avoid an incident by keeping the following safety guidelines in mind:

- Be aware of situations that make you feel uncomfortable. Trust your instincts. If it feels wrong REPORT IT.
- Don't be afraid to say "NO" or "STOP IT NOW."
- Walk and stand with confidence. Many perpetrators choose victims who look like they won't fight back or appear emotionally weak.
- Avoid talking about sex or being partly dressed. These things may be considered a come on, or make another resident believe that you have an interest in a sexual relationship.
- Do not accept commissary items or other gifts from other residents. Placing yourself in debt to another resident can lead to the belief of repaying the debt with sexual favors.
- Avoid secluded areas. Always stay in plain view of facility staff. If you are being pressured for sex, report it immediately to a staff member.

Staff are always monitoring the behaviors of the residents they supervise. Staff watch for signs that may indicate that some form of sexual abuse / sexual harassment may have occurred or may be occurring. Staff also monitor residents who are at risk for sexual victimization. Some of these behaviors include: Changes in routine, mood or behavior, to include eating, hygiene, and sleeping habits; avoiding staff members or staying too close to staff; staying out of the dining hall, yard or shower areas; irritability or mood swings; requesting housing changes; one resident getting lots of attention from other residents, particular a younger or weaker residents; never having commissary items; and suicide attempts or threats. However, sometimes staff may not notice any changes or be aware of an issue. If you have been involved in a PREA incident, you need to report it immediately.

Reporting: If you've been assaulted or know or have heard about sexual misconduct that may have occurred within the facility report it immediately. You have several options for reporting a PREA complaint, which includes, but is not limited to:

- i. PREA Counselor,
- ii. Any staff member,
- iii. PREA Compliance Manager,
- iv. Request to see the nurse or counselor,
- v. Locked PREA Box,
- vi. Grievance Box,
- vii. WV State Police,
- viii. Child Abuse Hot Line (1-800-352-6513),
- ix. Division's Sexual Abuse toll-free hot-line (1-855-366-0015),
- x. DJS Website (<http://www.djs.wv.gov>),
- xi. Supreme Court Juvenile Justice Commission via United States Mail (pre-addressed envelopes provided with postage pre-paid)
- xii. Report to anyone you trust, including fellow residents, staff members, family members, attorneys, and outside advocates. Anyone shall be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.
- xiii. Or emailing DJSPREACoordinator@wv.gov.

Investigations: All staff, to include the medical and mental health providers, are required to report PREA allegations or know incidents to the Facility Superintendent/Director and the Division's PREA Coordinator immediately. This information will start the investigative process. All residents involved in a PREA incident will be required to participate in an investigation. Your involvement in a PREA complaint could be either as the victim, the perpetrator, the reporter, or a witness. Those individuals who fail or refuse to cooperate or those who otherwise take action to obstruct an investigation, including providing false or misleading information, may be subject to disciplinary actions. False allegations hinder the investigative process and affects everyone involved. Lying during an investigation will not allow the investigators to get to the truth, thus minimizing our ability to hold the perpetrator accountable and provide the needed victim services.

An administrative and/or criminal investigation is completed on **ALL** allegations of sexual abuse and sexual harassment. Information gathered during the investigation will be kept confidential by those involved. Information about you and your PREA complaint will be limited to those individuals within the facility that need to know. These investigations will be conducted by either the facility PREA Compliance Manager, a facility PREA counselor or a Division investigator from Central Office.

Retaliation by staff or other residents due to you reporting an allegation or participating in an investigation as either as the victim, the perpetrator, the reporter, or a witness is prohibited and will also be investigated. Retaliation can occur in many ways including threats, harassment, infractions, loss of privileges, or asking others to harass or intimidate.

The Division's PREA Compliance manager will monitor all substantiated or unsubstantiated PREA investigation for a minimum of 90 days. Those involved in an investigation as the victim, the perpetrator, the reporter, or a witness will have an opportunity to speak with the Division's PREA Compliance manager at a minimum of three times during this 90 day process.

What to expect during the investigative process, our priority is to keep you safe. If the allegation is substantiated, we will keep you separated from the perpetrator throughout your stay, either by unit or facility separation. An investigation may include: a medical exam, a mental health referral and evidence collection. We strive to keep the information you provide as confidential as we can during the investigation. We expect residents whether they are the victim, the perpetrator, the reporter, the witness or otherwise involved to maintain confidently. We will also ensure that victims receive a referral to mental health services for treatment and counseling. It is common for victims of sexual abuse to have feelings of embarrassment, anger, guilt, panic, depression, and fear for several months or years after the incident. Other common reactions include loss of appetite, nausea or stomach aches, headaches, loss of memory and/or trouble concentrating and changes in sleep patterns.

Seek medical support or support from a counselor or other staff person if you need help managing any of these or other reactions.

When you first arrive, you will begin to develop relationships with others, staff and residents. All of this is normal, but there are a variety of relationships that might be harmful. Most staff are here to help you and most of the residents just want to do their time without feeling pressure from other residents. Not all residents will try to sexually abuse or sexually harass you. We have policies and procedures in place to ensure you remain safe. We want this facility to be a safe environment for residents and staff. Facility staff are trained to respond to a sexual threat, assault or harassment. Each report is taken seriously and we make every attempt to protect sexual assault victims from further harm. We will make every effort to ensure all perpetrators are held accountable for their actions.

If you are thinking of sexually assaulting or sexually abusing another resident, you should know:

- An investigation will be conducted by a DJS Investigator and/or law enforcement.
- You will face felony criminal charges.
- If you are found guilty, your time will be increased and you could face life long reporting requirements to Law Enforcement as a registered Sex Offender, after your release from jail or prison.
- Unprotected sex increases your risk of HIV infections, along with exposing you to other sexually transmitted diseases.
- If you have trouble controlling your actions, ask staff for help.