

 <p style="text-align: center;"><b>WEST VIRGINIA DIVISION OF JUVENILE SERVICES</b></p>	<p><b><u>POLICY NUMBER:</u></b></p> <p style="text-align: center; font-size: 2em;"><b>324.00</b></p>	<p><b><u>PAGES:</u></b></p> <p style="text-align: center;">5</p>
<p><b><u>CHAPTER:</u></b> Institutional Operations</p>	<p><b><u>REFERENCE AND RELATED STANDARDS:</u></b> WV Code Chapter §49-2-903; Prison Rape Elimination Act (PREA), §§115.321, 115.322 and 115.364</p>	
<p><b><u>SUBJECT:</u> Crime Scene and Physical Evidence Preservation</b></p>		
<p><b><u>DATE:</u> July 1, 2016</b></p>		

**PURPOSE**

It is the policy of the West Virginia Division of Juvenile Services to ensure the preservation, control, and disposition of all crime scenes and physical evidence obtained in connection with a violation of law is accomplished in a timely and proper manner. This applies to any crime scene in which a law enforcement agency is the primary investigator or any instance of PREA-related allegations. At a minimum, procedures shall address preservation of life, chain of custody, evidence handling, and location and storage requirements.

**CANCELLATION**

This Policy has been revised and supersedes Policy 324.00 dated October 1, 2015.

**APPLICABILITY**

This Policy applies to all Division of Juvenile Services' facilities and centers.

**PROCEDURES**

1. **Securing a Crime Scene** - Prior to securing any crime scene, the first priority is the preservation of life. All victims shall be treated as if they can be revived. The guidelines to be followed when securing a crime scene are:
  - a. Ensure the scene is safe from any continued threat.
  - b. Ensure that the alleged victim(s) and aggressor(s) are physically separated.
  - c. Call medical staff to the scene; call EMS if deemed necessary.

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- d. All unaffected units will be locked down until released by the Facility Superintendent/Director or designee.
- e. Secure all other residents in an area outside the crime scene. They should all be strip searched one at a time. They should be kept separated until questioned; however, if that is not feasible, they will be kept as quiet as possible until they can be processed by investigator(s). All residents should be directly supervised at all times.
- f. Documentation of each person's location should be noted as soon as possible.
- g. The West Virginia State Police is the law enforcement agency with primary jurisdictional authority to investigate serious crimes which take place at a facility.
- h. The crime scene should be kept secure with little or no persons permitted through the scene. Several quality photographs will be taken of all angles of the crime scene. The crime scene will remain sealed and a log kept of all persons who have entered or exited the scene via a Crime Scene Ingress/Egress Log (Attachment #1). The scene shall remain sealed until such time as the investigating officer (State Police) releases the scene.
- i. No attempt will be made to collect evidence except by a law enforcement agency. DJS Staff may collect evidence only to secure a crime scene from continued threat.

## 2. **Preservation of Physical Evidence**

- a. In known crime scenes, law enforcement will collect, label and package all evidence at the scene. However, some evidence that was overlooked or not considered evidence until later may be collected by DJS staff.
- b. It shall be the responsibility of the facility/center staff to ensure that all physical evidence obtained is preserved, controlled, and processed in a proper manner.
- c. Staff will follow the Crime Scene Response Procedures (Attachment #2). This response plan is used to coordinate all responders involved.
- d. In the event DJS staff would need to collect evidence, staff shall ensure the following procedures shall be adhered to:
  - i. Each person that has had possession of the evidence collected will document said evidence on a Chain of Custody form (Attachment #3).

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- ii. Current Handling of the Evidence-Evidence will be maintained in the same state that it was confiscated. If possible, photographs shall be taken of the evidence prior to collection and a full photo taken after confiscation.
  - iii. Appropriate Location and Storage Requirements-Evidence is to be locked in an area not accessible to juveniles with a limited number of staff having access to the evidence storage cabinet. Only the Facility Superintendent/Director, Shift Supervisor/Lead Officer and Hearing Officer should have access to the evidence. Evidence too large for the evidence locker shall be locked in an area where there is little possibility that any person could modify or change the evidence.
  - iv. Evidence Locker/Cabinet Access Log – A log shall be kept in the evidence locker/cabinet of any item placed in or taken out of the Evidence Locker/Cabinet Log (Attachment #4).
  - v. Evidence/Property Seizure Receipt (as part of the Chain of Custody form Attachment #3), shall be utilized for documentation purposes.
- e. Any time that evidence is given to or taken by law enforcement, the law enforcement officer shall sign the Evidence/Property Seizure Receipt so as to have record of who took possession of the evidence.

### 3. Documentation of Events

- a. Staff will provide the names and contact information of all contractors, visitors, and other persons for the investigating law enforcement agency.
- b. Any and all staff and contracted staff having any knowledge of or witnessing any crime or serious incident at any facility are required to complete an incident report and cooperate with any inquiry or investigation taking place as a result of such incident.

### 4. PREA Responsive Planning

- a. The Division's Investigative Unit is responsible for conducting administrative sexual abuse investigations involving staff-on-resident sexual abuse in accordance with DJS Policy 111.00, Investigative Unit. The investigations will follow guidelines consistent with a National Sexual Abuse Protocol or similarly comprehensive and authoritative protocol. Resident-on-resident sexual abuse allegations will be investigated by the facility PREA counselors, with oversight by the facility PREA compliance manager.

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- b. If a resident discloses prior sexual victimization or abusiveness at any time, staff will report the abuse according to DJS Policy 335.00-Facility Child Abuse and Neglect. For residents over the age of 18, staff shall obtain informed consent from the resident during intake prior to reporting the abuse to the Investigative Unit and other individuals and staff to include on-site/off-site medical staff and others providing care and treatment who have a need to know.
- c. Victims of sexual abuse will have timely, unimpeded access to emergency medical treatment, crisis intervention services, and victim advocacy. The nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
- d. Any resident reported or believed to have been sexually assaulted shall be immediately referred to the on-site health care staff for an appropriate evaluation to determine the need for emergency care. The resident shall be sent to a hospital for further examination, treatment, and collection of forensic evidence if the incident occurred within the time limits determined by medical staff but no later than 72 hours. When on-site health care staff is unavailable, the resident shall be transported to the hospital for treatment as required by DJS Policy 413.00, Medical Care and Emergency Medical Procedures. The first responders will take steps to protect the victim.
- e. Examinations are conducted by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs). When SANEs or SAFEs are not available, a qualified medical practitioner performs forensic medical examinations and is documented by the facility. Forensic medical examinations and treatment services are offered without financial cost to the resident in accordance with DJS Policy 413.00, Medical Care and Emergency Medical Procedures.
- f. The facility will:
  - i. Enter into a memorandum of understanding (MOU) with the local rape crisis center or community service providers that are able to provide residents with access to outside victim advocates for emotional support services related to sexual abuse and all efforts to secure a MOU are documented.
  - ii. Provide, post, or otherwise make accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, for local, state, or national victim advocacy or rape crisis organizations; and for persons detained solely for civil immigration purposes, immigrant services agencies.

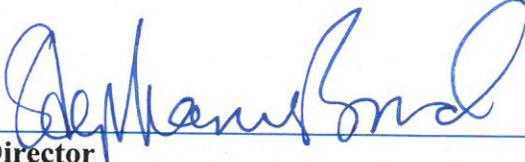
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- g. Facility Superintendents/Directors will maintain copies of agreements for attempts to enter into a memorandum of understanding (MOU) with community service providers. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential manner as possible.
  - h. The Facility Superintendent/Director will ensure that all resident victims of sexual assault will receive the same level of care as if they were in a community setting. All victims will be immediately referred for outside medical testing and evaluation. Upon release from any facility, the community resource coordinator will provide the youth with follow-up referrals for services in the community.
  - i. The Facility Superintendent/Director will provide the resident access to external medical and mental health victim services for sexual abuse incidents upon request from:
    - i. the resident,
    - ii. Sexual Assault Nurse Examiners (SANEs)/Sexual Assault Forensic Examiners (SAFEs), or
    - iii. Health Care staff.
5. Each facility will have in place an operational procedure to ensure the standards and practices of this policy are followed.

**RIGHTS RESERVED**

The Director reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

**APPROVED:**

  
 \_\_\_\_\_  
**Director**

7/1/16  
 \_\_\_\_\_  
**Date**



## Crime Scene Response Procedures

Person(s) responsible	Action
1st Responder	Separate the alleged victim and perpetrator.
1st Responder	Notify security staff Note: Only if 1st responder is not security staff
1st Responder	Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
1st Responder (Sexual Assault Incident only)	Request that the alleged victim not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating. <b>Note:</b> If the 1st Responder is a non-direct care staff member, he or she is required to instruct the victim not to take any actions that could destroy physical evidence and they immediately notify direct care staff.
1st Responder	Immediately contact the shift supervisor on duty and notify Control Room Operator.
Control Room Operator	Notify the following immediately as dictated by incident for Sexual assault or other emergency situation(s).  Facility Director/Superintendent Medical Staff Mental Health Staff Division PREA Coordinator (Sexual Assault Incident only) Administrative duty officer Local Child Advocacy Center (Sexual Assault Incident only) West Virginia State Police
Medical Staff and/or Victim Services	Assessment of the victim's acute medical needs and notify the Facility Director of the allegation of sexual assault and assessment. Medical will immediately offer victim services.
Medical Staff and/or Mental Health (Sexual Assault Incident only)	Explanation of the need for a forensic medical exam and offering the victim the option of undergoing one.
Medical Staff and/or Mental Health (Sexual Assault Incident only)	Offering the presence of a victim advocate or a staff member to be present during the exam (Mental Health Staff or Staff member that the youth trusts). (The local CAC will have an advocate present at the hospital.)

Mental Health Staff	Provide crisis intervention counseling if requested/needed
Mental Health Staff (Sexual Assault Incident only)	If victim requests an outside advocate, notify the outside victim advocate according to the MOU establish by the agency.
WVSP and/or Local CAC (Sexual Assault Incident only)	Interview the victim and any witnesses.
WVSP and/or local Law Enforcement	Collect Evidence and control custody of evidence.
Facility Leadership	Provide for any special needs the victim may have.
1st Responder	Complete an Incident Report.
Facility Leadership	Immediately report incident to DHHR Child abuse Hotline 1-800-352-6513 (mandated reporting).
Facility PREA Compliance Manager (Sexual Assault Incident only)	Ensure that the PREA Review is initiated and an IR is entered into OIS Database within 24 hours of the incident occurring or within 24 hours of first knowledge of the incident.
PREA Compliance Manager (Sexual Assault Incident only)	Within ten (10) business days provide a detailed report to the Agency PREA Coordinator as required by WVDJS Policy 151.00
PREA Coordinator (Sexual Assault Incident only)	Within thirty (30) days convene the PREA Incident Review Team as required by WVDJS Policy 151.00



**DIVISION OF  
JUVENILE SERVICES**

**Chain of Custody Record**

Facility: \_\_\_\_\_ Resident's Name: \_\_\_\_\_ DJS#: \_\_\_\_\_  Item not found on/with resident  
 IR#: \_\_\_\_\_ Item Seized by: \_\_\_\_\_ Signature: \_\_\_\_\_  
 Date Found: \_\_\_\_\_ Time Found: \_\_\_\_\_ Location Found: \_\_\_\_\_  
 Description of Evidence: \_\_\_\_\_

Description of Container: \_\_\_\_\_  No container

Final Disposition:  Returned to Owner  Destroyed  Other – Explain \_\_\_\_\_  
 Submitted to Law Enforcement Agency Date: \_\_\_\_\_ Time: \_\_\_\_\_ Agency Name: \_\_\_\_\_  
 Officer Name (Print): \_\_\_\_\_ Officer Signature: \_\_\_\_\_

**Chain of Custody**

Relinquished from (print)	Relinquished from (Signature)	Date	Time	Description of Container (Check box if same as above)	Received by (Print)	Received by (Signature)
				<input type="checkbox"/>		
				<input type="checkbox"/>		
				<input type="checkbox"/>		
				<input type="checkbox"/>		



