

# FLORIDA DEPARTMENT OF JUVENILE JUSTICE PROCEDURE



**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 Care 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.

**Direct Staff Supervision** – Supervision by direct care 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 Administrator** – The principal official of a facility.

**Florida Abuse Hotline** – The entity in the Department of Children and Families (DCF) that receives allegations of child abuse and neglect. Child Protective Investigators conduct investigations of allegations of abuse and neglect.

**Frisk Search** – A running of the hands over the clothed body of a youth by staff to determine whether the individual possesses contraband.

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**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.

**Juvenile Justice Information System (JJIS)** – The Department’s electronic information system used to gather and store information on youth having contact with the Department.

**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.

**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.

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

**Prison Rape Elimination Act (PREA)** – 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. 42 U.S.C. §15601-15609 and 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 using 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 a secure juvenile facility.

**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;

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- 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 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 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.

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

**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.

**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.

**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:**

1. Each 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) shall be completed in JJIS.
    - i. For secure detention admissions, the VSAB shall be completed in JJIS during the detention screening process by the Juvenile Assessment Center (JAC) or DJJ Probation intake screener.
      - a) If not completed during the detention screening process, Detention staff will complete in JJIS prior to room assignment.
    - ii. For Residential programs, during the intake process, the VSAB shall be completed in JJIS.

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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 question on the screening instrument or for not disclosing complete information.
4. Youth responses to questions shall be on a need-to-know basis to ensure sensitive information is not exploited to the youth's detriment by staff or other youth.
5. The facility shall develop and implement a system that ensures staff working directly with the youth are advised of all status changes of a youth identified as a risk or as posing a risk to others.
6. Staff shall ensure any report of sexual abuse obtained during screening, that has not been previously reported, is immediately reported to the Central Communications Center (CCC), the Department of Children and Families (DCF) Florida Abuse Hotline, and local law enforcement.

**B. Placement of Youth in Housing, Bed, and Program:**

1. The program staff shall use all information obtained using the VSAB to make housing and bed assignments with the goal of keeping all youth safe and free from sexual abuse.
2. 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

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commitment programs and supervising staff in detention shall continually review the youth's assignment.

3. Youth may be isolated from others only as a last resort when less-restrictive measures are inadequate to keep them and other youth safe, and then only until an alternative means of keeping all youth safe can be arranged.
  - a. The facility shall clearly document the basis for the facility's concern for the youth's safety and the reason no alternative means of separation can be arranged.
  - b. Youth in isolation shall not be denied large-muscle exercise and educational programming.
  - c. Youth in isolation shall receive daily visits from medical and mental health practitioners.
4. Lesbian, gay, bisexual, transgender, or intersex youth shall not be placed in housing, bed, or other assignments solely based on such identification or status. Lesbian, gay, bisexual, transgender, or intersex identification or status is not an indicator of likelihood of being sexually abusive.
5. 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 (6) 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.
6. 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.

**C. Youth Management and Services:**

1. Supervision and Monitoring
  - a. Overall supervision and monitoring staffing ratio requirements are established by the Department for each facility type but shall be at least 1:8 during youth waking hours and 1:16 during youth sleeping hours.
  - 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 residential practices;

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- 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 any deviations from the staffing plan shall be fully documented.
- d. At a minimum of once a year, each facility operated or contracted by the Department, and in consultation with the Department's PREA Statewide Coordinator, shall assess, determine, and document whether adjustments are needed to:
- i. The staffing plan;
  - ii. Prevailing staffing patterns;
  - iii. The deployment of video monitoring systems and other monitoring technologies; and
  - iv. The resources the facilities have available to commit to ensure adherence to the staffing plan.
- e. Intermediate-level or higher-level supervisors in Detention or Residential facilities, as indicated on the facility table of organization, 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 are 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.

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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 frisk searches.
- c. All visual body cavity searches must be conducted in accordance with F.A.C. 63G-2.019(11)(e)(8) and F.A.C. 63E-7.107(2)(d).
- d. Transgender and intersex youth shall be given the opportunity to choose the gender of the staff to perform the above-mentioned searches.
- e. Youth must be allowed 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.
- f. The facility shall accommodate a youth's request for exemption from the dress code based on gender identity, unless it is determined that doing so would compromise the safe and secure operation of the program.
- g. Transgender and intersex youth shall be given the opportunity to shower separately from other youth.
- h. 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. Medical and Mental Health Care

- a. If the youth discloses prior sexual victimization or staff, based on intake screening information, suspects or discovers the youth has perpetrated sexual abuse, 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 intake screening.
- b. 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. The VSAB will be reviewed by program staff periodically throughout a youth's stay, specifically after any PREA-related incident where the youth has remained in the facility.



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- c. 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.

**4. 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 to all youth who have been victimized by sexual misconduct in any prison, lockup, or juvenile facility.
- b. The evaluation and treatment of 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. Victims shall also be provided with medical and mental health services consistent with the community level of care.
- d. 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.
- e. Be offered timely information about and timely access to all lawful pregnancy related medical services which includes pregnancy testing.
- f. 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.
- g. 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 by mental health practitioners.

**5. 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. Youth and victim advocate communications shall be confidential.
- 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.

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- c. Each Detention and Residential facility will attempt to maintain agreements with community service providers to provide youth with confidential, emotional support services related to sexual misconduct. The facility will maintain copies of agreements or documentation showing attempts to enter into such agreements.

6. 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 access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFE) or Sexual Assault Nurse Examiners (SANE) where possible. If a SAFE or SANE cannot be made available, the examination can be performed by other qualified medical practitioners; and
- 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.
  - i. Each facility will attempt to maintain a Memorandum of Understanding (MOU) with a local rape crisis center that has certified Sexual Assault Nurse Examiners or Sexual Assault Forensic Examiners or maintain documentation that attempts were made to enter into an MOU.

D. Reporting an Allegation of Sexual Misconduct:

- 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. The person making the report shall provide basic information such as the date and time of the incident, where the incident occurred, the supervising staff, and who may be involved. 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.
- 2. There is no time limit on when a youth may report 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.

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3. Facilities must ensure 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 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, contractor(s), or volunteer(s) who receives a report of a sexual misconduct or possible sexual misconduct must ensure that it is reported to the Department of Children and Families Florida Abuse Hotline, 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, contractors, and volunteers 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 Florida Abuse Hotline, local law enforcement if criminal in nature, 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 Florida Abuse Hotline 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 shall only reveal information to those individuals who have a need-to-know to develop treatment plans, investigate, or make other security and management decisions.
9. Staff will fully cooperate with any law enforcement investigation of sexual abuse.

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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 Florida Abuse Hotline operated by the Department of Children and Families. Youth 18 years of age or older would call the CCC or local law enforcement to report an allegation of abuse or neglect.
12. Youth shall be advised that any person who knowingly and willfully makes a false report to the Florida Abuse Hotline or counsels another to make a false report is guilty of a third-degree felony in accordance with Chapter 39.205, Florida Statutes. Anyone reporting in a good faith shall be immune from any civil or criminal liability.
13. 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.
14. Youth, staff, contractor(s), or volunteer(s) 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 retaliation for reporting or cooperating with investigations will be available.
15. For at least 90 days following a report of sexual misconduct, the facility administrator or designee will monitor the conduct or treatment of youth or staff who reported the sexual misconduct and the victims to determine if retaliation is occurring and shall act promptly to remedy any such retaliations. Items to be monitored include, but are not limited to, youth disciplinary reports, status checks, housing or program changes, negative performance reviews, or reassignment of staff. The facility shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The obligation to monitor terminates if the allegation is determined to be unfounded.
16. Upon receiving an allegation that a youth was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility where the alleged abuse occurred and shall also notify the CCC, the Florida Abuse Hotline, and local law enforcement.

**E. Responding to Abuse Reports:**

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 and separating victim(s), suspect(s), and making every attempt to preserve evidence.
2. 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 shall not move, touch, or alter the evidence in any way. Staff shall not discuss any

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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.

3. 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 the date and time of the incident, where the incident occurred, the supervising staff, and who may be involved. Do not request youth to write a statement.
    - 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 Florida Abuse Hotline.
    - vii. Notify the CCC within two (2) hours of the incident or learning of the incident.
    - viii. Do not discuss the facts of the incident with anyone except those directly involved in response or investigation of the incident.
    - ix. If the suspect 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.
    - xi. Within seven (7) days of the reported event, the youth's VSAB shall be reviewed and updated by the youth's case manager or the facility mental health provider.
  - 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 the date and time of the incident, where the incident occurred, the supervising staff, and who may be involved. Do not request youth to write a statement.

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- iii. Immediately notify the facility management.
  - iv. Immediately notify law enforcement (911).
  - v. Immediately contact the DCF Florida Abuse Hotline.
  - vi. Notify the CCC within two (2) hours of the incident or learning of the incident.
  - vii. Do not discuss the facts of the incident with 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.
  - x. Within seven (7) days of the reported event, the youth's VSAB shall be reviewed and updated by the youth's case manager or the facility mental health provider.
4. The facility staff shall notify the alleged victim's parents or legal guardians; unless there is official documentation showing the parents or legal guardians shall 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. Youth over 18 years of age must provide informed consent prior to any notifications.
  5. If a juvenile court retains jurisdiction over the alleged victim, the youth's attorney or other legal representative of record shall be notified of the allegation within 14 days of receiving the allegation. Youth over 18 years of age must provide informed consent prior to any notifications.
  6. Each Detention Center and Residential facility will develop a Facility Coordinated Response for all PREA-related incidents that outlines facility personnel responsibilities in the event of an incident.

**F. Investigations:**

1. The Department does not conduct criminal investigations for youth-related sexual abuse reports. Local law enforcement agencies and the Department of Children and Families handle such investigations involving youth in Florida. The Department conducts administrative investigations and management reviews, separate and apart from any criminal investigations, to identify any misconduct by staff as related to Department regulatory guidance. Staff are expected to cooperate with Office of the Inspector General (OIG) investigations.
2. The OIG staff will be trained on Department policies and procedures related to the handling of sexual misconduct incidents and reports.
3. The Department will ensure administrative investigations and reviews are completed for all allegations of sexual misconduct and all administrative investigations by the OIG shall follow OIG guidelines governing PREA investigations.

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4. The Department and/or agency being audited shall demonstrate that it has attempted to gain compliance from local law enforcement that conducts criminal investigations of sexual abuse with requirements (a) through (e) of standard 28 C.F.R. Part 115.321.
5. The PREA Statewide Coordinator will conduct a sexual misconduct incident review at the end 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 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.
6. 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 shall be deployed or augmented to supplement supervision by staff; and
  - f. Prepare a report of its findings, including but not necessarily limited to items a. through e. above, and any recommendations for improvement and submit such report to the DJJ Regional Director for the appropriate branch (Residential or Detention), the facility administrator and the PREA Facility Compliance Manager.
7. Recommendations for improvement from the report shall be implemented, or justification provided for not implementing said recommendations.
8. Following an investigation into a youth's allegation of sexual misconduct occurring in a facility, the facility shall inform the victim or victim's parent(s) or legal guardian(s) by letter as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
  - a. Following a youth's allegation that a staff member has committed sexual abuse against the youth, the youth will be informed (unless the allegation is unfounded) whenever:
    - i. The staff member is no longer posted within the youth's unit.

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- ii. The staff member is no longer employed at the facility.
  - iii. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility.
  - iv. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- b. Following a youth's allegation that he or she has been sexually abused by another youth, the alleged victim will be informed whenever:
- i. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility.
  - ii. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- c. All such notifications or attempted notifications shall be documented.

**G. Hiring and Promotion Decisions:**

1. The Department does not hire, promote, or contract with anyone who:
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile, facility, or other institution (as defined in 42 U.S.C 1997);
  - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt, or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
  - c. Has been civilly or administratively adjudicated to have engaged in the activity described in c. 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 (5) years for staff.
5. Staff 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.



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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.

**H. 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's zero-tolerance of sexual misconduct outlined in this policy.

Each employee is required to take refresher training every two (2) 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 on the Department's PREA webpage.

Direct Care staff shall be trained in how to conduct cross-gender pat searches, and searches of transgender and intersex youth, in a professional and respectful manner, and in the least intrusive manner possible.

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, will be expected to complete either the PREA medical mental health training available in SkillPro or a suitable training that has been previously approved by the [PREA Resource Center](#). This specialized training will include the following:
  - 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.

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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. Volunteer and Contractor Training – All volunteers and contracted providers in Residential and Detention facilities who have contact with youth must be trained on their responsibilities under the Department’s sexual misconduct prevention, detection, and response policy and procedures – FDJJ 1919 and FDJJ 1520.
  - a. The level and type of training provided to volunteers and contractor is based on the service they provide and level of contact with youth. Volunteers and contractors who perform services on a continuous basis or at regular intervals, or who volunteers 10 hours or more each month, must complete the PREA training prescribed for all full-time employees. The course is available on the Department’s Learning Management System (Course FDJJ 110).
  - b. Volunteers and contractors who perform services or interact with youth for less than 10 hours a month and/or accompanied by a staff member who is always present and has the volunteer or contractor in his/her line of sight, will not be required to take the Course FDJJ 110, but shall read the FDJJ Course for Volunteers and sign the PREA Acknowledgement to document their understanding of the training received this course is available on the Department’s PREA web page at <http://www.djj.state.fl.us/partners/prison-rape-elimination-act-prea/training-tools/volunteer-training>.
    - i. The facility shall maintain documentation confirming that volunteers and contractors understand the training they have received, in accordance to contract language and FDJJ 1520.
    - ii. A copy of the documentation shall be retained by the PREA Facility Compliance Manager and the original will be placed with the respective volunteer coordinator.

**I. 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 contract Provider shall provide comprehensive education to youth (either in-person or via video) regarding 1) youths’ rights to be free from sexual misconduct, 2) youths’ rights to be free from retaliation for reporting such misconduct, and 3) the agency’s sexual misconduct response policies and procedures. Refresher information will be readily available to all youth at all facilities. The Department will retain documentation of youth participation in said training classes.

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**J. Audits:**

1. The Department's PREA Statewide Coordinator will ensure 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 (3) 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 (3) years subsequent to the Department's 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 the auditor, if retained again, has been re-certified every three (3) 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 website 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 Statewide 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's PREA Statewide Coordinator 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 the agency's website. Information that may present a clear and specific threat to

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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 Statewide 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 website 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 related to PREA standards.
2. This person coordinates and communicates on a regular basis with the Department's PREA Statewide 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 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.