



Administrative Policies and Procedures: 18.8

Subject:	Zero-Tolerance Standards and Guidelines for Sexual Abuse and Sexual Harassment Incidents and Prison Rape Elimination Act (PREA)
Authority:	TCA: 37-1-601 et. Seq.; 37-1-403; 37-5-105 (3), 37-5-106, 37-1-615, 39-13-501, 39-13-506, 39-13-522, 39-13-527; 39-15-210; Prison Rape Elimination Act of 2003 (PREA , P.L. 108-79).
Standards:	COA: PA-CR 1.01, PA-CR 1.02, PA-CR-1.05, PA-RPM 2 PREA Standards: § 115.331, §115.332, § 115.387; ACA: 4-JCF-3A-02, 4-JCF-3D-02, 4-JCF-3D-03-09, 4-JCF-4 C-50, 4-JCF-6D-06
Application:	To All Department of Children's Services Employees, Contractors, Volunteers and Contract Agencies with more than fifty percent delinquent youth population.

Policy Statement:

The Department of Children's Services (DCS) shall be committed to a zero-tolerance standard for all forms of sexual abuse/harassment within its Youth Development Center facilities and Contract Agencies that provide congregate care for children/youth in compliance with the Prison Rape Elimination Act (**PREA**) of 2003 and shall be committed to reducing the risk of sexual abuse and sexual harassment through implementation of the **PREA** as outlined in *Public Law 108-79*.

Purpose:

The purpose of this policy is to provide guidelines for DCS's zero-tolerance for all forms of sexual abuse and sexual harassment, and the implementation of **PREA** to provide a safe, humane, and appropriately secure environment free from threat of sexual abuse/harassment is provided for all children/youth that live in congregate care settings primarily used for the placement of juveniles pursuant to the juvenile justice system.

Procedures:

A. Designation of PREA Coordinators and/or PREA Compliance Managers	<ol style="list-style-type: none"> DCS designates an upper-level, Statewide PREA Coordinator (SPC) with sufficient time, resources, and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities and contract providers that meet the PREA requirement. The DCS SPC monitors PREA requirements and provides oversight for all applicable state-owned facilities and contract agencies. See <u>Protocol for Statewide PREA Coordinator</u> for detailed information on responsibilities. DCS/Contract Agencies designates a PREA Coordinator with sufficient time and authority to develop, implement and oversee DCS' efforts to comply with the PREA standards in a Youth Development Center facility and Contract Agencies (herein referred to as congregate care settings, YDC/Agency or DCS/Agency, as
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	<p>applicable).</p> <p>3. When a Contract Agency operates more than one (1) facility, each facility designates a PREA Compliance Manager with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.</p> <p>Note: PREA Compliance Manager duties may be the responsibility of the PREA Coordinator when the Contract Agency operates only one (1) facility.</p>
<p>B. Assessment Process for Children/Youth Placed in Congregate Care or a Youth Development Center</p>	<ol style="list-style-type: none"> 1. During the intake process, DCS form CS-0946, Prison Rape Elimination Act (PREA) Risk Assessment is administered to all children/youth within seventy-two (72) hours of admission to a YDC/Agency. 2. Once the risk assessment is completed, DCS form CS-1236, Safe Housing Assessment, is used to determine the appropriate housing assignment for the child/youth placed in a congregate care setting. 3. DCS form CS-1237, Safe Housing Re-Assessment, is completed for children/youth in a congregate care setting at the following time intervals: <ul style="list-style-type: none"> ◆ Every ninety (90) days while in the congregate care setting; ◆ Within two (2) days of any occurrence that would require a room assignment change; and ◆ At least seven (7) days prior to a transfer to another congregate care setting. 4. Designated staff develops appropriate treatment interventions that include further assessments or screenings by a mental health professional for identified children/youth prior to assigning the child/youth to a program, education, or work to decrease the risk of sexual victimization/perpetration. 5. If further screenings or assessments indicate a child/youth has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, designated staff ensures that the child/youth is offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening. 6. If the victimization occurred while the child/youth was confined at another congregate care setting, the head of the congregate care setting that received the allegation promptly, within seventy-two hours, notifies the head of the congregate care setting where the alleged abuse occurred and reports the abuse incident directly to DCS Child Abuse Hotline at 1-877 237-0004. 7. Medical and mental health practitioners obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting unless the resident is under the age of eighteen (18). 8. If the screening indicates that a child/youth has previously perpetrated sexual abuse/harassment, whether it occurred in an institutional setting or in the community, designated staff ensure that the child/youth is offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake

	screening.
C. Children/Youth Education	<ol style="list-style-type: none">1. During the intake process, children/youth receive information explaining, in an age-appropriate fashion, the YDC/Agency's zero tolerance policy regarding sexual abuse/harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.2. Written and verbal information on PREA is provided and explained to children/youth within forty-eight (48) hours of arrival at a YDC/Agency and includes, but is not limited to:<ul style="list-style-type: none">◆ DCS' zero-tolerance policy regarding PREA;◆ Prevention/Intervention;◆ Self-protection and how to avoid risk situations;◆ Consequences for engaging in any type of sexual activity while at the facility;◆ How to safely report sexual abuse such as:<ul style="list-style-type: none">• Reporting the abuse incident directly to DCS Child Abuse Hotline at: 1-877 237-0004.• Reporting the abuse incident to YDC/Agency personnel (e.g., Superintendent, Director, nurse, line staff, therapist, security personnel, teacher, or physician).• Filing a formal grievance as outlined in DCS policy 24.5-DOE Youth Grievance Procedures for youth in a YDC or as outlined in the Contract Provider Manual for children/youth in contract agency facilities. The YDC/Agency does not require the child/youth to use any informal grievance process in an attempt to resolve with staff an alleged incident of sexual abuse. When filing a grievance against staff, children/youth DO NOT have to submit the grievance to the staff member who is the subject of the complaint. Children/youth reporting sexual abuse and sexual harassment have the right to remain anonymous.• Submitting a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred.• Reporting the abuse incident to their John L. Attorney or Guardian ad Litem.◆ How to obtain medical and mental health treatment and counseling to include but not limited to:<ul style="list-style-type: none">• Children/youth are offered tests for sexually transmitted infections as medically appropriate.

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	<ul style="list-style-type: none">• Treatment services and forensic medical examinations are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.• Children/youth victims of sexual abuse while incarcerated are offered timely information about and access to emergency services in accordance with Tennessee state law and PREA Standard 115.382 (c) 1.• Female victims, as applicable, are offered pregnancy tests;<ul style="list-style-type: none">○ If pregnancy tests are positive, such victims receive timely and comprehensive information about timely access to all lawful pregnancy related medical services. <p>3. PREA information is covered in the Youth Handbook in a YDC or contract agencies.</p> <p>4. Appropriate provisions are made as necessary for children/youth who are limited English proficient, have disabilities (including those who are deaf or hard of hearing, those who are blind or have low vision), and those with low intellectual, psychiatric, or speech disabilities. The YDC/Agency does not rely on child/youth interpreters except in urgent circumstances where safety may be compromised.</p> <p>5. All YDC/Agency children/youth are required to sign DCS form CS-0939, Youth Acknowledgement and Notification of Prison Rape Elimination Act (PREA) to acknowledge they have been notified and informed of PREA and on how to report incidents of sexual abuse.</p> <ul style="list-style-type: none">a) Copies of the signed form is sent to the child/youth's parent(s)/legal custodian, family service worker, andb) The original signed form is maintained in the child/youth's case file and is uploaded into TFACTS. <p>6. If children/youth in a YDC request to consult with an attorney, access to an attorney is completed in accordance with DCS policy 24.12, Access to Legal Counsel for Youth in a Youth Development Center. The Guardian ad Litem is contacted for children/youth in contract agencies.</p> <ul style="list-style-type: none">◆ The YDC/Agency maintains documentation on file of child/youth participation in PREA education sessions. <p>7. The applicable YDC/Agency staff document PREA activities and efforts for educating and informing children/youth in TFACTS.</p>
<p>D. Reporting Allegations</p>	<p>1. Duty to Report – Tennessee Code Annotated 37-1-403 and 37-1-605 Pursuant to <i>TCA 37-1-403</i> and <i>37-1-605</i>, any person who has knowledge of or is called upon to render aid to any child/youth who is being sexually abused, sexually assaulted or sexually harassed has the duty to report such abuse.</p>

2. **All allegations of sexual abuse are reported to the DCS Child Abuse Hotline 1-877-237-0004.**
3. Failure to comply with “duty to report” requirements result in disciplinary action up to and including termination and/or criminal charges. Refer to DCS policy [4.9 Employee Disciplinary Actions and Mediation Process](#).
4. All YDC/Agency staff report immediately and according to policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a YDC/Agency facility, whether or not it is a part of the agency; retaliation against children/youth or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Refer to DCS policy [4.20, Workplace Harassment](#) for guidelines and procedures on workplace harassment or retaliation.
5. All YDC/agency staff shall be prohibited from revealing, other than to the extent necessary, any information related to a sexual abuse report to anyone, apart from reporting to designated supervisors and designated services agencies to make treatment, investigation and other security and management decisions.
6. Third parties are permitted to assist children/youth in filing a grievance relating to allegations of sexual abuse and to file such requests on behalf of the children/youth. Third parties include but are not limited to: fellow residents, staff members, family members, attorneys, and outside advocates. Children/Youth have the right to decline assistance from third parties which is documented.
7. Retaliation or negative consequences for reporting sexual abuse/harassment or cooperating with sexual abuse/harassment investigations is not tolerated and may result in disciplinary action up to and including termination.
8. For a period of ninety (90) days following a report, the agency monitors the treatment of child/youth or staff that made a report and the child/youth that were reported to be abused to identify attempts at retaliation or negative consequences and act immediately to remedy any such actions. Monitoring should include, but is not limited to:
 - ◆ Child/youth disciplinary reports, housing, or program changes;
 - ◆ Negative performance reviews or staff reassignments; and
 - ◆ Periodic status checks of children/youth.
9. The YDC/Agency continues monitoring beyond ninety (90) days if evidence indicates a continued need.
10. If any individual involved in a report expresses fear of retaliation, the YDC/Agency takes appropriate measures to protect the individual that includes segregated housing, as applicable, if voluntarily requested by the individual.

	<ol style="list-style-type: none"> 11. The YDC/Agency's responsibility to monitor terminates if the allegation is unfounded. 12. Children/youth may report allegations of sexual abuse/assault to local law enforcement agencies and may remain anonymous upon request. 13. The YDC/Agency develops a method of communication for specific persons to notify for abuse/sexual abuse reporting. 14. The YDC/Agency ensures that the name of the person or persons reporting the allegation is kept confidential. 15. The credibility of an alleged victim, suspect or witness is assessed on an individual basis and is not determined by the person's status as a child/youth or staff member. 16. Pursuant TCA 37-1-413, any person who either verbally or by written/printed communication reports false accusations of sexual abuse commits a Class E felony. Refer to DCS Policy 14.6, Child Protective Services Case Tasks and Responsibilities, Section G, for additional information on falsely reporting child sexual abuse. A report made in good faith upon reasonable belief of the alleged incident does not constitute a false report and may not be used as grounds for disciplinary action. 17. After an incident is reported to Child Abuse Hotline: <ol style="list-style-type: none"> a) Special Investigations designated staff IMMEDIATELY notifies: <ul style="list-style-type: none"> ◆ Executive Director of Juvenile Justice (YDC) ◆ Executive Director of Network Development (contract agencies) ◆ PREA Statewide Coordinator (SPC) ◆ Youth's Juvenile Service Worker b) Juvenile Service Worker IMMEDIATELY notifies: <ul style="list-style-type: none"> ◆ Parents/legal custodians c) When there is an immediate need to protect the victim, the Superintendent/FA of the facility is notified by Special Investigations staff. 18. The YDC/Agency reports any contractor or volunteer who engages in sexual abuse to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies.
<p>E. Response to Allegations of Sexual Abuse</p>	<ol style="list-style-type: none"> 1. In response to an allegation of sexual abuse, the YDC/Agency develops a written plan to coordinate actions taken among staff first responders, medical and mental health practitioners, investigators, and YDC/Agency leadership. 2. Upon receiving notice of an incident of sexual abuse by a child/youth, or if an employee witnesses or unexpectedly encounters an assault taking place, the employee ensures the child/youth is safe and kept separated from the perpetrator,

immediately notifies their Supervisor, and:

- a) If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim not take any action that could destroy physical evidence including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
 - b) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure the alleged abuser not take any action that could destroy physical evidence including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating until after all physical evidence is obtained in connection with the violation; and
 - c) Secure the incident area and treat it as a crime scene.
3. Refer to [Protocol-First Responder Guidelines for Sexual Assaults](#) for guidelines on responding to sexual assaults.
 4. For those sexual abuse incidents alleged to have occurred within seventy-two (72) hours, the YDC/agency nursing personnel/designee offers to take the child/youth to the local hospital emergency room for examination, collection and preservation of evidence, and treatment.
 5. If the child/youth refuses medical treatment, document on form **CS-0991, PREA Refusal of Medical Treatment** that medical treatment was offered to the child/youth and if the offer for medical treatment was:
 - ◆ Refused by the child/youth, or
 - ◆ Accepted by the child/youth but refused to be examined after arriving at a medical facility.
 6. If the alleged sexual abuse incident occurred beyond seventy-two (72) hours, YDC nursing personnel or appropriate staff in a contract agency seeks the advice of a hospital regarding a forensic exam.
 7. Children/youth who are the victim of sexual abuse are provided prompt and appropriate medical treatment and counseling, to include is but not limited to:
 - a) YDC/agency staff, as applicable, provides access to an outside victim advocate for emotional support services related to sexual abuse to child/youth with the forensic medical exam process and investigation interviews.
- Note:** Reasonable communication between children/youth and these organizations is allowed in as confidential a manner as possible.
- b) The development of a safety action plan that includes a review/adjustment, if necessary, of appropriate housing, bed, program, education and work assignments to keep child/youth safe and free from sexual abuse.
 - c) An assessment by a mental health professional.
 - d) Mental health counseling as needed.

	<p>Note: An evaluation is conducted on all known youth on youth sexual abusers within sixty (60) days of learning such abuse history and offers treatment when deemed appropriate by mental health practitioners.</p> <p>e) Follow-up services and referrals, as applicable, for continued care following transfer to, or placement in other facilities, or release from custody.</p> <p>8. No child/youth victim is denied access to treatment resources and/or services for failing to fully disclose details to internal investigators, outside law enforcement investigators, and/or medical/mental health staff.</p>
<p>F. Investigations</p>	<p>1. DCS ensures that an administrative and/or criminal investigation is completed for all allegations of sexual abuse/harassment or lack of supervision related to sexual abuse/harassment.</p> <p>Note: DCS imposes a standard of preponderance of the evidence for determining whether allegations of sexual abuse or sexual harassment are substantiated.</p> <p>2. Allegations directly received from other agencies or facilities are investigated in accordance with the PREA standards.</p> <p>3. PREA investigations occur when allegations of sexual abuse/harassment or lack of supervision related to sexual abuse/harassment are made at juvenile facilities primarily used for the placement of juveniles pursuant to the juvenile justice system. These facilities are required to have a federal PREA audit every three years.</p> <p>Note: All juvenile facilities primarily used for placement of juveniles to be a PREA facility must have 51% or more delinquent youth in the facility. Determination of PREA facilities is completed each January and based on the percentage majority of the previous calendar year.</p> <p>4. The Special Investigations Unit investigates all PREA sexual abuse/harassment investigations that meet DCS policy for case assignment. PREA investigators who investigate sexual abuse and sexual harassment report to the Special Investigations Unit. PREA investigations are documented and classified in TFACTS.</p> <p>Note: All sexual abuse/harassment allegations are deemed severe abuse by DCS policy and are referred to law enforcement as part of the Child Protective Investigative Team (CPIT). At the conclusion of the investigation all information is presented to the CPIT team, where law enforcement and the District Attorney's office discuss prosecution.</p> <p>5. During a PREA investigation, if it is deemed criminal activity has taken place and law enforcement is not investigating, the PREA investigator consults with the SIU Team Coordinator and/or SIU Director to discuss re-engaging law enforcement about next steps. The PREA investigation continues. Prior to case closure, the PREA investigator presents the investigation to the CPIT team. The outcome is documented in TFACTS and the CPIT form is uploaded into TFACTS.</p>

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	<p>6. Refer to DCS policy <u>14.10, Special Investigations Unit Child Protective Services Investigations</u> and <u>Protocol for DCS PREA Investigators to Conduct Prison Rape Elimination Act (PREA) Investigations</u> for details regarding sexual abuse investigation process.</p>
<p>G. Documentation</p>	<p>1. All incidents of sexual abuse/harassment are documented in appropriate TFACTS incident reporting section as outlined in DCS policy <u>1.4 Incident Reporting</u>.</p> <p>2. At the completion of PREA investigations, the outcome is documented on form CS-4232, Investigation Outcome of Allegations of Sexual Abuse/Harassment by the DCS PREA Investigator and submitted to SPC. After review, the SPC provides the document to the YDC/agency for notification of investigation outcome and signature.</p> <p>3. The YDC/Agency completes form CS-4233, Sexual Abuse/Harassment Juvenile Notification Investigation Outcome confirming the youth has been notified of the investigation results. A signed copy is submitted to the SPC upon request.</p>
<p>H. Sexual Abuse Incident Review</p>	<p>1. The YDC/Agency conducts a sexual abuse incident review within thirty (30) days of the close of every sexual abuse investigation involving a PREA-related incident, unless the outcome was unfounded.</p> <p>2. The review team consists of <u>management level staff/designees</u>, as applicable, with input from line supervisors, investigators and medical and/or mental health practitioners.</p> <p>3. The review team:</p> <ul style="list-style-type: none">a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;b) Consider whether the incident or allegation was motivated by:<ul style="list-style-type: none">◆ Race;◆ Ethnicity;◆ Gender identity;◆ Lesbian, gay, bisexual, transgender, intersex, or gender non-conforming identification, status, or perceived status; or◆ Gang affiliation or was motivated or otherwise caused by other group dynamics at the YDC/Agency.c) Examine the area in the YDC/Agency where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;d) Assess the adequacy of staffing levels in that area during different shifts;e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

	<p>f) Complete form CS-1123, PREA - Sexual Abuse Critical Incident Review to include determinations made pursuant to paragraphs 2. B) of this <i>Section</i>, and any recommendations for improvement and submit the report to the Superintendent/Facility Administrator.</p> <p>g) The YDC/Agency implements the recommendations for improvement, or documents reasons for not doing so, e.g., inadequate funding or staffing issues.</p>
<p>I. Training</p>	<p>1. Appropriately trained employees help deter sexual assaults during the performance of their duties by:</p> <ul style="list-style-type: none">◆ Knowing and enforcing rules and procedures regarding sexual conduct of children/youth and staff;◆ Maintaining professionalism at all times; and◆ Treating any allegation of sexual assault seriously and following appropriate reporting procedures. <p>2. Applicable YDC/Agency employees are trained on:</p> <ul style="list-style-type: none">◆ The zero-tolerance policy for sexual abuse and sexual harassment;◆ How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;◆ Child’s/youth’s right to be free from sexual abuse and sexual harassment;◆ The right of children/youth and employees to be free from retaliation for reporting sexual abuse and sexual harassment;◆ The dynamics of sexual abuse and sexual harassment in juvenile facilities;◆ How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between children/youth;◆ How to avoid inappropriate relationships with children/youth;◆ How to communicate effectively and professionally with children/youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming children/youth.◆ How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;◆ Relevant laws regarding the applicable age of consent;◆ How to comply with the requirement for staff of the opposite gender to announce their presence when entering a youth housing unit area where youth are likely to be showering, performing bodily functions, or changing clothing; and

- ◆ Child's/youth's right to be free to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia except in exigent circumstances or when such viewing is incidental to routine room checks (This includes viewing via video camera).
 - 3. All YDC/Agency staff and persons listed below receive **training in compliance with PREA Standards:**
 - a) All YDC/Agency employees receive training during orientation and through annual refresher training thereafter.
 - b) All YDC/Agency volunteers that have direct contact with children/youth receive training during orientation and annual refresher training thereafter.
 - c) If medical staff employed by the YDC/Agencies conduct forensic examinations, such medical staff receives the appropriate training to conduct such examinations in compliance with **PREA Standards**.
 - d) Medical and mental health care practitioners also receive the training mandated for employees under **PREA Standards § 115.331** or for contractors and volunteers under **PREA Standards § 115.332**, depending upon the practitioner's status at the facilities.
 - 4. Employees who conduct investigations of allegations of sexual abuse/harassment on children/youth in YDC/agencies care receive training **in compliance with PREA Standards**.
 - 5. DCS/Agency security staff receive training on how to conduct cross-gender pat-down searches, and searches of transgender and intersex children/youth, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. Any exigent circumstance that requires a cross-gender search must be justified and documented. Body cavity searches are **PROHIBITED**.
- Note:** Searches should be conducted by employees that are the same gender as the child/youth unless form **CS-1219, Search Request for Transgender and Intersex Youth** is needed. Transgender and intersex (LGBTI) youth/children may request accommodations regarding the gender of staff conducting the search. Refer to DCS Policy [31.4, Search Procedures](#) for additional requirements and documentation for searches.
- 6. All DCS/Agency employees, volunteers and contractors are required to sign form **CS-0940, Employee Acknowledgement and Notification of Prison Rape Elimination Act (PREA)** to acknowledge they have read the DCS zero-tolerance policy and understand the training they have received.
 - 7. DCS/agencies maintain documentation on all employees, volunteers and contractors who receive training on **PREA**.

J. Supervision and Monitoring for a DCS YDC/Agency

1. The YDC/Agency develops, implements, and documents a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect children/youth against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, YDC/ Agency takes into consideration:
 - ◆ Generally accepted juvenile detention and correctional/secure residential practices;
 - ◆ Any judicial finding of inadequacies;
 - ◆ Any findings of inadequacy from federal investigative agencies;
 - ◆ Any finding of inadequacy from internal or external oversight bodies;
 - ◆ All components of the facilities physical plant (including “blind spots” or areas where staff or children/youth may be isolated);
 - ◆ The composition of the children/youth population;
 - ◆ The number and placement of supervisory staff;
 - ◆ Institution programs occurring on a particular shift;
 - ◆ Any applicable State or local laws, regulations or standards;
 - ◆ The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - ◆ Any other relevant factors.
2. The YDC/ Agency complies with the staffing plan except during limited and discrete exigent circumstances, and fully documents deviations from the plan during such circumstances.
3. The YDC/Agency includes in the Post Orders search procedures for intermediate-level or higher-level supervisors to conduct and document unannounced search rounds to identify and deter staff sexual abuse and sexual harassment. Post Orders must include these search procedures for both day and night shifts.
4. Whenever necessary, but no less frequently than once each year, for the YDC/Agency, in consultation with the PREA Coordinator, the **PREA** Compliance Manager assesses, determines, and documents in form **CS-1045, Staffing Plan Assessment** whether adjustments are needed to:
 - ◆ The staffing plan;
 - ◆ Prevailing staffing patterns;
 - ◆ The YDC/Agency’s deployment or updating of video monitoring systems and other monitoring technologies the YDC/Agency considers how such technology may enhance the YDC/Agency’s ability to protect children/youth from sexual abuse; and

	<ul style="list-style-type: none"> ◆ The resources the YDC/Agency has available to commit to ensure adherence to the staffing plan. <p>5. The PREA Compliance Manager submits the completed CS-1045, Staffing Plan Assessment to the PREA Coordinator for review and signature. The PREA Coordinator submits the signed form to the DCS Statewide PREA Coordinator.</p> <p>6. When designing or acquiring any new facility and in planning any substantial expansion or modification of an existing facility, the YDC/Agency considers the effect of the design, acquisition, expansion or modification upon the YDC/Agency’s ability to protect children/youth from sexual abuse.</p>
<p>K. Data</p>	<p>1. Data Collection</p> <p>DCS/Agencies collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions as instructed by the DCS Statewide PREA Coordinator.</p> <ul style="list-style-type: none"> a) DCS/Agencies aggregate the incident-based sexual abuse data at least annually. b) The incident-based data collected 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 Department of Justice. c) DCS/Agencies maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. d) DCS/Agencies also obtain incident-based and aggregated data from every contract agency with which it contracts for the confinement of its children/youth. e) Upon request, DCS/Agencies provide all such data from the previous calendar year to the Department of Justice no later than June 30th. <p>2. Data Review for Corrective Action</p> <ul style="list-style-type: none"> a) DCS/Agencies review data collected and aggregated pursuant to PREA Standards § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including: <ul style="list-style-type: none"> ◆ Identifying problem areas; ◆ Taking corrective action on an ongoing basis; and ◆ Preparing an annual report of its findings and corrective actions for each facility, as well as DCS/Agencies as a whole. b) The report includes a comparison of the current year’s data and corrective actions with those from prior years and provides an assessment of the agency’s progress in addressing sexual abuse.

- c) DCS/Agencies reports are approved by the DCS Commissioner/designee and contract agency Director and made readily available to the public through its website or through other means, as applicable.
- d) DCS/Agencies may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but the nature of the material redacted is indicated.

3. Data Storage, Publication, and Destruction

- a) DCS/Agencies ensure that data collected pursuant to **PREA Standards § 115.387** are securely retained.
- b) DCS/Agencies make all aggregated sexual abuse data from facilities under its direct control and contract agency facilities with which it contracts, readily available to the public at least annually through its website or through other means, as applicable.
- c) Before making aggregated sexual abuse data publicly available, DCS/Agencies removes all personal identifiers.
- d) DCS/Agencies maintain sexual abuse data collected pursuant to **PREA Standards § 115.387** for at least ten (10) years after the date of its initial collection unless Federal, State, or local law requires otherwise. Refer to [Records Disposition Authority \(RDA\) 2993](#) regarding closed CPS Case Files that includes documentation of administrative investigations and activities.
- e) Pursuant to PREA Standards **§ 115.371** DCS/agencies retains all written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment for as long as the alleged abuser is incarcerated or abuser is employed by the agency plus five (5) years.

Forms:

[CS-0939, Youth Acknowledgement and Notification of Prison Rape Elimination Act \(PREA\)](#)

[CS-0940, Employee/Volunteer/Contractor Acknowledgement and Notification of Prison Rape Elimination Act \(PREA\)](#)

[CS-0946, Prison Rape Elimination Act \(PREA\) Risk Assessment](#)

[CS-0991, PREA Refusal of Medical Treatment](#)

[CS-1123, PREA - Sexual Abuse Critical Incident Review](#)

[CS-1045, Staffing Plan Assessment](#)

[CS-1219, Search Request for Transgender and Intersex Youth](#)

[CS-1236, Safe Housing Assessment](#)

	<p><u>CS-1237, Safe Housing Re-Assessment</u></p> <p><u>CS-4232, Investigation Outcome of Allegations of Sexual Abuse/Harassment</u></p> <p><u>CS-4233, Sexual Abuse/Harassment Juvenile Notification Investigation Outcome</u></p>
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Collateral documents:	<p><u>1.4, Incident Reporting</u></p> <p><u>4.9, Employee Disciplinary Actions and Mediation Process</u></p> <p><u>4.20, Workplace Harassment</u></p> <p><u>5.2, Professional Development and Training Requirements</u></p> <p><u>14.1, Child Abuse Hotline</u></p> <p><u>14.6, Child Protective Services Case Tasks and Responsibilities</u></p> <p><u>14.10, Special Investigations Unit Child Protective Services Investigations</u></p> <p><u>14.7 Multi-Disciplinary Team: Child Protection Investigation Team</u></p> <p><u>24.12, Access to Legal Counsel for Youth in a Youth Development Center</u></p> <p><u>24.5 DOE, Youth Grievance Procedures</u></p> <p><u>31.4, Search Procedures</u></p> <p><u>Protocol: First Responder Guidelines for Sexual Assault</u></p> <p><u>PREA Public Law 108-79, Sec. 3</u></p> <p><u>Protocol for DCS PREA Investigators to Conduct Prison Rape Elimination Act (PREA) Investigations</u></p> <p><u>Protocol for Statewide PREA Coordinator</u></p> <p><u>Work Aid 1: CPS Categories and Definitions of Abuse/Neglect</u></p>
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Glossary:	
Term	Definition
Abusive Sexual Contacts:	Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person.

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Glossary:	
Term	Definition
Congregate Care:	Congregate care is designed to meet the needs of children/youth that are unable to live at home or in a foster family and require temporary care in a group or residential setting. Congregate care provides structure, counseling/therapy, behavioral intervention and other services identified in a child/youth's permanency plan for children with moderate to severe clinical needs.
Contractors:	Any person or corporation, other than an employee, providing any service to the YDC (<i>i.e.</i> , food services, medical, dental and mental health services, <i>etc.</i>) for an agreed upon form of compensation. Contractors may include other local government agencies that contract with the YDC or who supervise adult inmate work crews.
Hostile Work Environment:	Harassment, speech or conduct that is, based on the judgment of a reasonable person, severe or pervasive enough to create a hostile or abusive work environment, based on race, religion, sex, national origin, age, disability, veteran status, or, in some jurisdictions, sexual orientation, political affiliation, citizenship status, marital status, or personal appearance.
Non-Consensual Sex 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 penis, vagina, or anus; or penetration of the anal or genital opening of another person by hand, finger, or other object.

Glossary:	
Term	Definition
Prison Rape Elimination Act (PREA) 2003:	<p>PREA is the first United States federal law passed dealing with the sexual assault of prisoners. The bill was signed into law on September 4, 2003. PREA covers all adult, as well as juvenile detention facilities; the definition of prison for the purposes of the act includes "any juvenile facility used for the custody or care of juvenile inmates." U.S. Congress, within the text of PREA, noted that young, first-time offenders are at an increased risk of sexually motivated crimes. Juveniles held in adult facilities are five times more likely to be sexually assaulted than juveniles held in juvenile facilities.</p> <p>PREA directed the attorney general to promulgate standards for all confinement facilities including, but not limited to, local jails, police lockups, and juvenile facilities. See 42 U.S.C. § 15609(7). DOJ has promulgated standards for prisons and jails (28 C.F.R. §§ 115.11 – 115.93), lockups (28 C.F.R. §§ 115.111 – 115.193), residential community confinement facilities (28 C.F.R. §§ 115.211 – 115.293), and juvenile facilities (28 C.F.R. §§ 115.311 – 115.393).</p> <p>The Act applies to all public and private institutions that house adult or juvenile offenders and is also relevant to community-based agencies. It addresses both inmate-on-inmate and staff-on-inmate sexual abuse and sexual harassment.</p> <p>Additionally, on May 17, 2012, the President directed “all agencies with federal confinement facilities that are not already subject to the Department of Justice’s final rule” to develop rules or procedures that comply with PREA.</p> <p>A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards.</p> <p>Any new contract or contract renewal provides for agency contract monitoring to ensure that the contractor is complying with the PREA standards.</p>
Professional Visitors:	<p>Any person having access to any of the YDC/Agencies who provides a professional service to children/youth or employees, including but not limited to, attorneys, paralegals, paraprofessionals, investigators, clergy, unpaid interns, or researchers.</p>

<p>Sexual Abuse:</p>	<p>Includes:</p> <ol style="list-style-type: none">(1) Sexual abuse of a detainee or resident by another resident; and(2) Sexual abuse of a detainee or resident by a staff member, contractor, or volunteer. <p>Sexual abuse of a detainee or resident by another detainee or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:</p> <ol style="list-style-type: none">(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. <p>Sexual abuse of a detainee or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the detainee or resident:</p> <ol style="list-style-type: none">(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;(2) Contact between the mouth and the penis, vulva, or anus;(3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;(4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;(5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and(8) Voyeurism by a staff member, contractor, or volunteer. <p>Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.</p>
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Glossary:	
Term	Definition
Sexual Harassment:	Includes, (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one detainee or resident directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to a detainee or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
Transgender	PREA defines transgender as a person whose actual or perceived gender identity or gender expression does not match society’s expectations of how an individual should dress or behave in relation to their assigned gender. Transgender is an umbrella term that is used to describe those who transgress socially constructed gender norms. As an umbrella term, transgender can include various communities such as transsexuals, intersex individuals, cross-dressers, drag queens, etc. Most commonly, however, transgender is the preferred term used to refer to someone who identifies as transsexual or a person whose biological sex does not match the person’s gender identity. Not all transgender people take steps to alter their physical presentation. Sexual orientation varies and is not dependent on gender identity.
Intersex	PREA defines intersex as a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of boys/men or girls/women. Many medical and some advocacy communities now use the term “Disorder” or “Differences” of Sex Development (DSD) to distinguish between such medical conditions and a person’s self-label or identity. Not all people who are born with a DSD identify as intersex.
PREA Facility	Any juvenile facility primarily used for the placement of juveniles pursuant to the juvenile justice system. These include but are not limited to the YDC, hardware secure, juvenile detention centers and JJ-specific provider facilities. In addition, these facilities are required to have a federal PREA audit every three (3)years.
Sexualized Work Environment:	A work environment in which the behaviors, dress, and speech of either employees and/or child/youth create a sexually charged workplace. Sexually explicit talk, inappropriate emails, posted cartoons, jokes, or unprofessional dress characterizes a sexualized work environment. In a sexualized work environment, often employees’ off-duty behaviors, dating, and other activities intrude into the everyday work environment. In a sexualized work environment talk or actions have sexual overtones. A sexualized work environment severely erodes the professional boundaries between employees and between employee and child/youth.

Subject: Zero-Tolerance Standards and Guidelines for Sexual Abuse and Sexual Harassment Incidents and Prison Rape Elimination Act (PREA)

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Glossary:	
<i>Term</i>	<i>Definition</i>
<i>Substantiated</i>	Per PREA, the allegation that was investigated and determined to have occurred.
<i>Unsubstantiated</i>	Per PREA, the allegation that was investigated and the investigation produced insufficient evidence to make a final determination whether or not the event occurred.
<i>Unfounded</i>	Per PREA, the allegation that was investigated and determined not to have occurred.
<i>Volunteer:</i>	Any person who, by mutual agreement with the agency, provides service without compensation, or who voluntarily assists children/youth or DCS in the course of the volunteer's duties.