

**North Carolina  
Department of Public Safety**



***JUVENILE JUSTICE***

***COMMUNITY PROGRAMS***

***CP 2: Zero Tolerance  
Sexual Abuse and Sexual Harassment  
POLICY***

**Prepared: June 2022**

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## Document and Signature History

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### CP 2: Document Signature History

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Community Programs policy created and signed	07/25/2013
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Approved by:

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Cindy Porterfeld, Director of Community Programs

06/22/2022

Date

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William Lassiter, Deputy Secretary for Juvenile Justice

06/22/2022

Date

## **Juvenile Justice Sexual Abuse Elimination Policy**

The North Carolina Department of Public Safety is committed to a standard of zero-tolerance of sexual abuse and sexual harassment of persons under its supervision. Therefore, it is the policy of Juvenile Justice to provide a safe, humane and appropriately secure environment, free from the threat of sexual abuse and sexual harassment of juveniles, by maintaining a program of prevention, detection, response, investigation, and tracking.

### **Community Programs Section**

The Community Programs Section oversees two distinct operational service components for at-risk and adjudicated juveniles. Short-term residential and community-based services are direct service contracts managed by Community Program Contract Administrators. Community-based services are also provided by-way of program agreements with the County and local Juvenile Crime Prevention Council (JCPC)-funded entity. These services are managed by JCPC Area Consultants in close coordination with the JCPC Program Managers at the local provider level.

It should be noted that the DPS PREA Office has interpreted the National PREA Standards and has found JCPC-funded entities to be exempt. The reporting of incidents involving sexual abuse and sexual harassment of juveniles are addressed in Juvenile Crime Prevention Councils and Community Programs Section Funded Programs Minimum Standards Policy as a Critical Standard Violation and follow prescribed reporting protocols and procedures.

The policies and procedures described herein to prevent and detect sexual abuse and sexual harassment are relative to the provision of short-term residential services provided by vendors/direct service contractors.

A coordinated response among the Community Programs Section is hereby addressed in the investigation and tracking of incidents involving sexual abuse and sexual harassment for all staff members and direct service contractors for short-term residential services in adherence with Juvenile Justice Policy and Prison Rape Elimination Act (PREA) standards.



## Related Standards, Citation, and/or Legislation

**CP 2: Standards (S), Citation (C), Legislation (L), Other (O)**

Type	Number	Name
L	N.C. Gen. Stat. § 7B, Article 3	<i>Screening of Abuse and Neglect Complaints.</i>
L	N.C. Gen. Stat. § 7B-101	<i>Definitions.</i>
L	N.C. Gen. Stat. § 7B-200	<i>Jurisdiction.</i>
L	N.C. Gen. Stat. § 7B-301	<i>Duty to report abuse, neglect, dependency, or death due to maltreatment.</i>
L	34 USC § 30301	Prison Rape Elimination Act (PREA) of 2003
C	28 CFR Part 115  § 115.211, § 115.212, § 115.222, § 115.231, § 115.232, § 115.234, § 115.251, § 115.253, § 115.254, § 115.261, § 115.262, § 115.263, § 115.264, § 115.267, § 115.271, § 115.273, § 115.276, § 115.277, § 115.286, § 115.401	PREA (Standards for Community Confinement); § 115.212 - Contracting with Other Entities for the Confinement of Juveniles; § 115.222 - Policies to Ensure Referrals of Allegations for Investigations; § 115.231 - Employee Training; § 115.232 – Volunteer and Contractor Training; § 115.234 - Specialized Training: Investigation; § 115.251 - Juvenile Reporting; § 115.253 - Juvenile Access to Outside Confidential Support Services; § 115.254 - Third Party Reporting; § 115.261 - Staff and Agency Reporting Duties; § 115.262 - Agency Protection Duties; § 115.263 - Reporting to Other Confinement Facilities; § 115.264 - Staff First Responder Duties; § 115.267 - Agency Protection Against Retaliation; § 115.271 - Criminal and Administrative Agency Investigations; § 115.273 - Reporting to Juveniles; § 115.276 - Disciplinary Sanctions for Staff; § 115.277 - Corrective Action for Contractors and Volunteers; § 115.286 - Sexual Abuse Incident Reviews; and § 115.401 - Frequency and Scope of Audits.
S	N/A	National PREA Commission Standards: Community Confinement
S	Federal Register Vol. 77; No. 119 Wednesday June 20, 2012	Rules and Standards: National Standards to Prevent, Detect and Respond to Prison Rape; Available at: <a href="http://www.prearesourcecenter.org/sites/default/files/library/2012-12427.pdf">http://www.prearesourcecenter.org/sites/default/files/library/2012-12427.pdf</a>

# 1 Community Programs Zero Tolerance Sexual Abuse and Sexual Harassment Policy

Juvenile Justice is committed to a standard of zero-tolerance towards all forms of abuse, neglect, and sexual offense, and stands committed to a culture of safety and security free from the threat of sexual incident for all juveniles in our care by maintaining a program of prevention, mandatory staff reporting and optional juvenile reporting; early detection, response, comprehensive investigation and evaluation; effective intervention, and monitoring of sexual incidents.

## 1.1 Purpose

The purpose of this policy is to provide guidelines for the prevention, detection, response, investigation, and tracking of sexual abuse and sexual harassment incidents that occur in the Community Programs Section.

## 1.2 Rationale

Juveniles can be referred to services provided by Community Programs either by a judicial court order or from a variety of youth serving agencies for the purposes of community protection and to meet the needs of the juvenile for treatment and education. In many instances, Juvenile Justice stands in loco parentis (in the place of parent) and has a particular responsibility to protect the juveniles from abuse of any kind.

Short-term residential services are provided under contract with Juvenile Justice Community Programs, and services rendered address a variety of individual needs in a therapeutic environment to support juveniles in becoming healthy and productive members of society. Lack of safety, including sexual abuse or sexual harassment, contributes to trauma that juveniles may experience in community confinement.

## 1.3 Scope

This policy applies to all juveniles served in short-term residential placement programs under contract with Juvenile Justice and to all Community Programs staff, volunteers, agents of Juvenile Justice, and contractors providing services to juveniles.

## 1.4 Employee Training

A. All employees shall receive initial instruction related to the sexual abuse and harassment zero tolerance policy, the right for juveniles to be free from sexual abuse and harassment, the right for juveniles and staff to be free from retaliation for reporting sexual abuse and harassment; how to avoid inappropriate relationships with youth; how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; 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 residents. Training will also include dynamics and common reactions of juveniles served in community-based and short-term residential services, sexual abuse and sexual harassment, effective and professional communication with juveniles including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming juveniles, and relevant laws

regarding mandatory reporting and the age of consent.

- B. All staff shall receive annual refresher training on juvenile sexual abuse and sexual harassment issues emphasizing the zero-tolerance and duty to report, and current sexual abuse and sexual harassment policies and procedures.
- C. Specialized training shall be offered periodically in coordination with the Department of Public Safety's PREA Office.
- D. All materials provided to staff on the subject of sexual abuse and sexual harassment and any lesson plans used during any presentations on this topic shall be approved by Department of Public Safety's PREA Office in consultation with the Director of Community Programs or Designee.
- E. All training will be documented using the Juvenile Justice Training Course Record (SD001) and the PREA Acknowledgement Form (OPA-T10).

## 1.5 Volunteer and Contractor Training

### A. Initial Training

- 1. Volunteers (with the exception of one-time volunteers) and contractors providing services to short-term residential juveniles shall receive the Sexual Abuse and Harassment 101 training and sign the PREA Acknowledgement Form (OPA-T10) as part of initial orientation.
- 2. One-time volunteers must review and sign the PREA Acknowledgement Form (OPA-T10) as part of their required overall training.
- 3. Sexual Abuse and Harassment 101 Training shall be offered by the Community Programs Section and approved by the DPS PREA Office.
- 4. Training for volunteers and contractors shall be offered by staff trainers identified by the Director of Community Programs in consultation with the DPS PREA Office.

### B. Annual Training

- 1. Volunteers: At a minimum, all volunteers must review and sign a PREA Acknowledgement Form (OPA-T10) annually. The application process will not be complete until the PREA Acknowledgement Form is signed and returned to the Juvenile Justice Community Programs Central Office. Forms shall be maintained at the Juvenile Justice Community Programs Central Office and be available for examination during audits.
- 2. Contract persons/agencies (who have direct contact with juveniles): Contracts shall include language that reflects commitment to a zero-tolerance of sexual abuse and sexual harassment, and the contract person's duty to report any allegations of juvenile sexual abuse or sexual harassment either by another juvenile or by staff. All contractor training shall be documented on the PREA Acknowledgement Form (OPA-T10). All contracts shall reflect the contractor's

obligation to adopt and comply with PREA Standards.

- C. Volunteer and Contractor Training Records: Documentation of trainings for volunteers and contractors will be maintained in the Community Programs Central Office. Copies of training attendance records and other relevant documentation will be provided to the DPS PREA Office.

## 1.6 Victim Support

- A. Each short-term residential program shall have at least one (1) trained PREA Support Person (PSP), who will coordinate services for and provide support to alleged victims of sexual abuse and sexual harassment. The PSP shall:
  - 1. Explain investigative procedures to the victim and be present during interviews and medical exams unless assistance is declined by the victim.
  - 2. Consult with the Residential Director/Program Manager prior to meeting with the victim weekly for the initial three (3) weeks following the report. The PSP will update the victim on progress of the investigation and answer questions.
  - 3. Meet with the victim, after the initial three (3) weeks and through conclusion of the investigation, and after consultation with the Residential Director/Program Manager and trained PREA Investigator.
  - 4. Participate on Incident Review Team, if requested.
  - 5. Monitor victims and any juveniles who report sexual abuse for indications and/or signs of retaliation (e.g., disciplinary actions, behavioral changes, etc.) for at least 90 days following the report; and
  - 6. Provide victim with a letter to inform him/her of the results (status and outcome) of the investigation, law enforcement outcome, unless determined as unfounded, and inform the victim of staff member (assailant) status whenever:
    - a) The staff member is no longer employed at the short-term residential program;
    - b) The contracting agency for short-term residential services learns that the staff member has been indicted on a charge related to sexual abuse within the short-term residential program, or
    - c) The contracting agency learns that the staff member has been convicted on a charge related to sexual abuse within the program.
- B. The PSP will not obstruct or interfere in an investigation.
- C. The victim will be provided contact information for an external victim advocate in consultation with the designated contracting agency PSP.



## 1.7 PREA Compliance Manager (PCM)

- A. The PCM must have sufficient time and authority to coordinate efforts to comply with PREA standards. The Community Programs Section, Compliance and Quality Assurance Manager is designated to serve as the PCM.
- B. The PCM will ensure the Community Programs Section has a written, institutional plan to address sexual abuse and harassment issues.
- C. The PCM will conduct a Post Incident Review (PIR) after every sexual abuse investigation unless “unfounded”. The PIR will occur within 30 days of the conclusion of the investigation and will include a review team of: Director of Community Programs, Community Programs Contract Administrators, PREA investigators, and other personnel upon request. The review team will:
  - 1. Consider if there is a need to change policy or practice;
  - 2. Consider if the incident was motivated by race, ethnicity, gender identity, LGBTI identification, status, gang affiliation, or was motivated by group dynamics at the short-term residential placement program;
  - 3. Assess if physical barriers enabled abuse;
  - 4. Assess adequacy of staffing levels;
  - 5. Assess if monitoring technology should be deployed or supplemented; and
  - 6. Prepare a report of findings, determinations, and improvement recommendations. If the short-term residential placement program does not implement recommendations, reasons must be documented.
- D. Any Community Programs staff member reporting a Sexual Abuse incident will be monitored by the PCM for indications and/or signs of retaliation (performance indicators, changes in location or attendance) for at least 90 days following the report.

## 1.8 Contracting with other Entities for the Confinement of Juveniles

- A. Entities contracting with Juvenile Justice Community Programs for the provision of short-term residential services shall adopt and comply with the PREA Standards.
- B. New contracts or contract renewals for short-term residential services shall be monitored during the contract term.
- C. Community Program Contract Administrators shall conduct an annual monitoring of PREA related policies, requirements, and implementation efforts to ensure the contractor is complying with PREA standards. Monitoring will include a sampling of relevant documents and other records and information such as the documentation of interviews with juveniles and staff of the short-term residential program and community-based advocates with insight into the relevant conditions of the short-term residential placement program.
- D. The Community Programs Section shall submit annual staffing plans of short-term residential programs under contract with Juvenile Justice to the DPS PREA Office. The report shall include staffing reports and any deviations from the required ratios.

Additionally, the Community Programs Contract Administrators and Community Programs PREA Compliance Manager shall assess, determine, and document whether adjustments are needed to:

1. The staffing plan;
2. Prevailing staffing patterns;
3. The short-term residential placement program's deployment of video monitoring systems and other monitoring technologies; and
4. Ensure accessibility and availability of resources for adherence to the staffing plan.

## 1.9 General Provisions

- A. Staff has a duty to report any allegation or suspicion of sexual abuse or sexual harassment to law enforcement and DSS in accordance with mandatory reporting laws.
- B. All reports of alleged sexual abuse and sexual harassment that occurred at a contracted short-term residential placement program involving a DPS employee, volunteer or contractor or occurred under the direct supervision of DPS are to be forwarded to the Director of Community Programs who, in turn, will notify the Compliance and Quality Assurance Manager. Written notification from the Compliance and Quality Assurance Manager shall be used to share information with the DPS PREA Office, Chief Court Counselor and Area Administrator for Court Services. Failure of staff to report alleged incident of sexual abuse or sexual harassment will subject the non-reporting staff member to disciplinary action up to and including dismissal.
- C. The assigned PREA investigator shall provide a written report of the allegations of juvenile sexual abuse or sexual harassment, along with the dispositions of the resulting investigations, to the Office of Special Investigations. The Office of Special Investigations will forward the investigation to the Community Programs PREA Compliance Manager for closure and the DPS PREA Office for review.
- D. Once the incident is reviewed and closed, the disposition of the investigation will be provided to the Community Programs PREA Compliance Manager. The Office of Special Investigations shall receive the final disposition from the Community Programs PREA Compliance Manager and enter the investigation into the Tracking and Reporting of Incidents (TROI) system.
- E. All case records associated with allegations of juvenile sexual abuse and harassment, including incident reports, investigation reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling shall be retained in the Community Programs Central Office and disposed of in accordance with DPS Record and Retention Schedule. A complete copy of the investigation will be sent to the PREA Office within 30 days of the alleged incident.

## 1.10 Allegation of Sexual Abuse or Sexual Harassment at a Prior Residential Program

- A. Upon receiving an allegation that a juvenile was sexually abused or harassed while confined at another residential program (other than the contracting entity), the Residential Director/Program Manager that received the allegation shall notify the Community Programs Contract Administrator and appropriate program/agency where the alleged abuse occurred by email correspondence. The Residential Director/Program Manager shall also notify the appropriate investigative agency. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

*Note: Full juvenile names cannot be sent through e-mail.*

- B. The Community Programs Contract Administrator shall notify the Director of Community Programs and the Community Programs PREA Compliance Manager. The Community Programs PREA Compliance Manager shall provide notification to the DPS PREA Office.
- C. The Community Programs PREA Compliance Manager shall maintain a listing of alleged incidents of sexual abuse or sexual harassment that occur at Community Program short-term residential programs.
- D. The Residential Director/Program Manager of short-term residential programs, under contract with Juvenile Justice that receives such notification, shall ensure that the allegation is investigated in accordance with PREA standards.

## 1.11 Discipline

- A. Employees: Staff shall be subject to disciplinary action up to and including termination for violation of Department of Public Safety sexual abuse or sexual harassment policies, including failing to report knowledge or suspicion of sexual abuse or sexual harassment. Consequences will be commensurate with the nature and circumstances of the sexual abuse or harassment committed.
- B. Contractors and Volunteers: Any contractor or volunteer who engages in sexual abuse shall immediately be prohibited from contact with juveniles and shall be reported to relevant licensing bodies or law enforcement agencies.
- C. Juveniles:
1. A juvenile alleged to be involved in a sexual abuse or sexual harassment incident shall be subject to being separating from the alleged victim. The decision to prohibit the juvenile from further contact with other juveniles shall be considered based upon the history of the juvenile and his/her involvement with any other violation of sexual abuse or sexual harassment policies.
  2. Juveniles shall be subject to consequences for sexual misconduct/offense pursuant to the Behavior Expectations policy of the contracting agency.
  3. The contracting agency shall ensure that consequences are commensurate

with the nature and circumstances of the sexual abuse committed, the juvenile's disciplinary history, and consequences imposed for comparable offenses committed by other juveniles with similar histories. It will be taken into consideration whether a resident's mental disabilities or mental illness contributed to the behavior when determining what disciplinary sanctions, if any, will be imposed.

- D. False Reporting: A report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

## 1.12 Retaliation

- A. Retaliation against staff or juveniles alleging juvenile sexual abuse or sexual harassment is prohibited. Unless the allegation is determined to be unfounded, management is responsible for monitoring the following:
- i) The conduct and treatment of juveniles;
  - ii) Staff who reported the sexual abuse or cooperate in the investigation and;
  - iii) The juvenile(s) who were reported to have suffered sexual abuse for at least 90 calendar days following the report.
- B. The PREA Support Person identified by the short-term residential contracting agency is responsible for monitoring juveniles who report or have suffered sexual abuse. The Community Programs Contract Administrator will also provide guidance and assistance in the monitoring of juveniles.
- C. The Community Programs PREA Compliance Manager is responsible for monitoring Community Program staff members who report sexual abuse incidents for indications and/or signs of retaliation (e.g., disciplinary actions, behavioral changes, etc.). The PREA Compliance Manager/Coordinator identified by the short-term residential contracting agency is responsible for monitoring contract staff members who report sexual abuse or sexual harassment. Community Program Contract Administrators shall make contact with the PREA Compliance Manager/Coordinator regarding monitoring efforts of contract staff members.
- D. Monitoring shall continue beyond 90 calendar days if the initial monitoring indicates a continuing need. Any staff who have knowledge, suspicion, or information regarding retaliation against juveniles or staff who report sexual abuse or harassment must immediately report that knowledge, suspicion, or information to the DPS PREA Office.

## 2 Reporting, Response, Investigation, Prosecution, and Resolution

### 2.1 Reporting Sexual Abuse and Sexual Harassment

- A. Juvenile Reporting: A juvenile at a short-term residential program may report sexual abuse to any Juvenile Justice employee. An employee that receives an allegation of sexual abuse or possible sexual abuse from any source, whether verbally or in writing, shall immediately notify the Community Programs Contract Administrator, who, in turn will notify the Community Programs PREA Compliance Manager, and Director of Juvenile Community Programs.
- B. The Community Programs PREA Compliance Manager shall ensure that the incident information is provided to the DPS PREA Office and Office of Special Investigations within 72 hours of the allegation being reported to Community Programs staff. *NOTE: Juveniles may request to call the DPS PREA Office.*
- C. The Office of Special Investigations shall assign a PREA Investigator.
- D. Staff Reporting: Any Juvenile Justice employee who receives an allegation or has knowledge of sexual abuse or possible sexual abuse or harassment and fails to report the allegation as provided in this policy or JJ 6, Reporting Abuse and/or Neglect will be subject to disciplinary action up to and including dismissal. Staff members shall immediately take action to provide for the safety of the juvenile.
- E. All reports of sexual abuse and sexual harassment, however made, are to be forwarded to the Community Programs PREA Compliance Manager.
- F. When a short-term residential placement program under contract with Juvenile Justice learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the juvenile in accordance with their respective PREA policy and procedures.
- G. Third-Party Reporting: All third-party reports of juvenile sexual abuse or harassment will be responded to and investigated. Third parties may contact the Community Programs Contract Administrator and/or the Community Programs PREA Compliance Manager to report alleged incidents of sexual abuse and sexual harassment. All parents/legal guardians are provided PREA informational brochures by the short-term residential placement program. Additionally, there is a PREA reporting link on the DPS website available to the public.

### 2.2 Response

- A. For allegations of sexual abuse and sexual harassment that have occurred within 72 hours, the Community Programs PREA Compliance Manager and Community Programs Contract Administrator shall (1) notify the Director of Community Programs, and (2) ensure that the actions outlined in B. of this section have been taken by the short-term residential placement program.

- B. Program staff shall take the following actions:
1. Call 911 if there is evidence of physical or mental trauma requiring immediate assistance.
  2. Ensure the alleged victim and aggressor are physically separated, either through juvenile reassignment, staff reassignment, or some other effective means in accordance with the contracting entity's PREA policy.
  3. Advise the alleged juvenile victim and abuser to avoid actions that could destroy physical evidence, in instances where there may be forensic evidence (such as when penetration is alleged, and/or bodily fluids may be present on the victim), Such actions include:
    - a) Washing (including hands and face),
    - b) Bathing (including body and anogenital areas),
    - c) Brushing teeth/flossing teeth/gargling,
    - d) Changing/removing clothing,
    - e) Urinating/defecating,
    - f) Removing a tampon and/or sanitary pad,
    - g) Cutting/trimming/cleaning finger nails,
    - h) Smoking/chewing tobacco, and
    - i) Drinking/eating/chewing gum.
  4. Reassign and/or terminate alleged victims from services only as a last resort, in consultation with the Juvenile Court Counselor or Court Services designee, to avoid any appearance to the juvenile that the reassignment is punitive or retaliatory.
  5. Contact law enforcement if there is evidence or suspicion that criminal sexual conduct may have occurred.
  6. Make a notification to the appropriate Department of Social Services regarding all knowledge, suspicion and/or information pertaining to sexual abuse involving a juvenile.
  7. Inform the alleged victim's parents and/or legal guardians in consultation with the Residential Director/Program Manager and Juvenile Court Counselor, unless the parent/legal guardian is named as the assailant.
- C. The Community Programs PREA Compliance Manager will notify the DPS PREA Office and Court Services Chief Court Counselor and Area Administrator.

*Note: If Juvenile Court retains jurisdiction over the alleged victim, the Community Programs PREA Compliance Manager shall ensure that the juvenile's attorney is notified of the allegation within fourteen (14) days of receiving the allegation. This notification may be made by the party deemed most appropriate in consultation*



*with the Program Manager, the Chief Court Counselor, and the Community Programs PREA Compliance Manager.*

- D. The PREA Investigators shall not conduct interviews or proceed with an administrative investigation until cleared by law enforcement to do so if there is evidence or suspicion of a criminal act. PREA investigators may request information relevant to the administrative investigation from law enforcement but may not interfere with a criminal investigation.
- E. For allegations of previous (not recent = beyond 72 hours) sexual abuse or sexual harassment, staff shall take action as outlined in B., 1-7 of this section.
- F. All allegations of sexual abuse and sexual harassment occurring at a short-term residential placement contracted program shall be reported to the Community Programs Contract Administrator, Director of Community Programs, and the Community Programs PREA Compliance Manager as well as the DPS PREA Office.
- G. If a question exists in reference to whether an alleged incident is a form of juvenile sexual abuse or sexual harassment, or if a PREA investigation is required, then the DPS PREA office shall be consulted.
- H. In consultation with the Residential Director/Program Manager and the contracting agency PSP, the Community Programs PREA Compliance Manager shall ensure rape crisis center contact information is made available to the juvenile-victim and parent/legal guardian as soon as possible.
- I. If the incident occurred at a JCPC-funded program, the sponsoring agency shall immediately notify the JCPC Area Consultant, who shall immediately notify their Area Manager. The incident shall be reported and investigated in accordance with Critical Program Standard Violation outlined in Juvenile Crime Prevention Councils and Community Programs Section Funded Programs Minimum Standards Policy.
- J. For purposes of information sharing with Juvenile Justice Sections, the Community Programs PREA Compliance Manager shall notify the DPS PREA Office and the Court Services Administrator, when court-referred juveniles are involved, of incidents involving sexual abuse and sexual harassment that occur in JCPC-funded programs.

## 2.3 Investigations

- A. Assignment of an Investigator: The Office of Special Investigations is responsible for assigning a trained PREA Investigator from the Section to investigate allegations of sexual abuse and sexual harassment that occur at a short-term residential placement program under contract with Juvenile Justice.
- B. Investigators have been identified as the Community Programs Contract Administrators and the Community Programs PREA Compliance Manager. In efforts to prevent a conflict among vendors/direct service contractors, assignments will be based upon non-direct supervisory responsibilities. The Office of Special Investigations will ensure that another trained PREA Investigator is assigned if and when a conflict arises or if the Community Programs Contract Administrator is the

alleged aggressor. Additionally, the Director of Community Programs may use his/her discretion in requesting a PREA trained investigator in direct consultation with the Office of Special Investigations.

- C. Criminal investigations shall only be conducted by law enforcement. In order to preserve the integrity of the investigation and if law enforcement is not involved, then the PREA Investigator(s) shall be designated to investigate an incident, and only that person (or team) shall be involved in the interviewing of potential witnesses. In the event law enforcement is involved, then the PREA Investigator must receive prior clearance and shall not interfere or impede a criminal investigation of local law enforcement. A thorough investigation is necessary to ensure the potential for prosecution/legal action.
- D. Community Programs PREA Investigators shall develop and implement an investigation plan in an effort to determine whether staff action or failure to act contributed to the alleged abuse. The plan shall include at a minimum: a comprehensive review of the policies and procedures of the short-term residential program.
- E. PREA investigators shall be sensitive to the possible trauma that juveniles may experience as a result of recounting the events of the alleged sexual abuse or sexual harassment.
- F. A determination shall be made, based upon the amount of time that has passed since the alleged incident and other factors, whether there is a possibility of evidence still existing at the scene of the incident. If it is determined that evidence may still exist, when possible, the scene of the incident shall be secured by on-site program staff and any potential evidence shall remain in place for law enforcement examination and investigation.
- G. The Community Programs PREA Compliance Manager with input from the Sexual Abuse Review Team shall complete a Post Incident Review within 30 days of the conclusion for all substantiated and unsubstantiated juvenile sexual abuse investigations. The review team shall consider the following as part of the incident review process:
  - 1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
  - 2. Consider whether the incident or allegation was motivated or otherwise caused by the perpetrator's or victim's race, ethnicity, gender identity; LGBTI identification, status or perceived status; or gang affiliation; or was motivated by other group dynamics at the short-term residential placement program;
  - 3. Examine the area in the short term residential placement program where the alleged incident occurred to assess whether physical barriers in the area enabled the abuse;
  - 4. Assess the adequacy of staffing levels in the area during different shifts;
  - 5. Assess whether monitoring technology should be deployed or augmented to



supplement supervision by staff; provide any recommendations for improvement; and submit such report to the Residential Director/Program Manager. A copy of the final PIR will be uploaded into TROI.

- H. A written report shall be provided to the Office of Special Investigations for review and approval. The investigation will be forwarded to the Community Programs PREA Compliance Manager for final review and closure and to the DPS PREA Office for review.
- I. Forensic evidence collected as a result of PREA investigation shall not be released to Community Programs staff members. Community Programs staff shall not retrieve forensic evidence from any person or program as part of the PREA investigatory process.
- J. A juvenile that alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- K. When a video is available that is associated with an alleged sexual abuse or harassment incident, a copy of the video shall be maintained with the full investigative package in accordance with DPS retention policy.
- L. Terminating an Investigation
  - 1. The Department of Public Safety shall not terminate an investigation solely because the source of the allegation recants the allegation.
  - 2. When the quality of evidence appears to support criminal prosecution, the Department of Public Safety shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution, while maintaining juvenile rights. Substantiated allegations of sexual abuse that appear to be criminal/delinquent shall be referred to the District Attorney. The departure of the alleged aggressor or victim from the employment or control of the Department of Public Safety shall not provide a basis for terminating an investigation.

*REFERENCE: Law Enforcement Interviews of Juveniles policy for parental notification and juvenile rights information.*

M. Disposition of PREA Investigation

- 1. The alleged victim shall be informed in writing by the contracting agency's designated PSP and in consultation with the Community Programs Contract Administrator or Community Programs PREA Compliance Manager of the results of the investigation.

*REFERENCE: PREA template for this notification.*

- 2. Following an allegation that a juvenile has been sexually abused by a DPS employee or a staff person at a short-term residential placement program, (unless unfounded), the alleged victim shall be informed by the PSP whenever the staff member is no longer employed.

3. The obligation to report is terminated when a juvenile is released from the agency's custody.

## 2.4 Prosecutions

All substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.

## 2.5 Confidentiality and Resolution

The PREA Investigator and all others involved in the PREA process will strive to protect juveniles who make complaints of sexual abuse from retaliation, and assure the impartial resolution of PREA complaints in accordance with the Prison Rape Elimination Act of 2003, 34 U.S.C. § 30301, et seq. The PREA Investigator and all others involved in the PREA process, to the extent possible, will ensure the confidentiality of PREA complaints as well as all data collected through the investigation of those complaints except as required in the following circumstances:

(1) to cooperate with law enforcement in any investigation and prosecution of the incidents alleged in such complaints; (2) to take and enforce disciplinary action against any staff member as a result of the incidents alleged in the complaints; (3) to defend against claims brought by the juvenile for violation of the juvenile's rights for having been subjected to sexual abuse; and (4) to otherwise comply with the law.

## 2.6 First Response to Concerns of Sexual Abuse, Sexual Harassment, and Voyeurism

- A. Upon learning of a concern for sexual abuse, involving a juvenile(s) residing at a short-term residential placement program, the first responding staff member shall be *required* immediately to:
  1. Alert local Emergency Medical Services (911) if the alleged victim(s) is exhibiting signs of obvious life-threatening injury and/or significantly altered mental state;
  2. Separate the alleged victim(s) and the alleged aggressors(s); Immediately inform the Residential Director/Program Manager of all knowledge, suspicion, and/or information pertaining to:
    - a) Sexual abuse, involving a juvenile(s) within the program,
    - b) Retaliation against juvenile(s) or staff who reported concerns of sexual abuse, sexual harassment, and/or voyeurism involving a juvenile(s) within the program, and/or
    - c) Staff neglect/violation of responsibilities that may have contributed to an incident and/or retaliation; and
    - d) Preserve and protect the potential crime scene(s) until the formal investigation is initiated.
  3. Request that the alleged victim (juvenile) avoid actions that could destroy (potential) physical evidence, including:
    - a) Washing (including hands and face),
    - b) Bathing (including body and anogenital areas),

- c) Brushing teeth/flossing teeth/gargling,
  - d) Changing/removing clothing,
  - e) Urinating/defecating,
  - f) Removing a tampon and/or sanitary pad,
  - g) Cutting/trimming/cleaning finger nails,
  - h) Smoking/chewing tobacco, and
  - i) Drinking/eating/chewing gum.
4. Request that the alleged aggressor avoid actions that could destroy (potential) physical evidence, including:
- a) Washing (including hands and face),
  - b) Bathing (including body and anogenital areas),
  - c) Brushing teeth/flossing teeth/gargling,
  - d) Changing/removing clothing,
  - e) Urinating/defecating,
  - f) Removing a tampon and/or sanitary pad,
  - g) Cutting/trimming/cleaning finger nails,
  - h) Smoking/chewing tobacco, and
  - i) Drinking/eating/chewing gum.

*Note: Juvenile Justice first responders are prohibited from revealing any information regarding the alleged sexual abuse of a juvenile of a short-term residential placement program under contract with the Department, unless expressly required to secure the immediate safety of a juvenile, and/or to meet mandated investigation, evaluation, intervention, and/or treatment requirements as established by federal, State or local law, and/or NCDPS policy.*

5. Inform the short-term residential placement program nurse or human services coordinator, if applicable regarding all knowledge, suspicion and/or information pertaining to sexual abuse, involving a juvenile(s) of that short-term residential placement program, during regular business hours (If the initial concern is reported after regular business hours, the Residential Director/Program Manager, or his/her designee, shall report all concerns by the next business day).
6. In coordination with the Residential Director/Program Manager, inform the appropriate local department of social services (in the county associated with the program of concern) regarding all knowledge, suspicion and/or information pertaining to sexual abuse, involving a juvenile(s) of a short-term residential placement program, and Juvenile Justice staff, contractors, and/or volunteers.
7. In coordination with the Residential Director/Program Manager inform the alleged victim's parents and/or legal guardians of all concerns pertaining to possible sexual abuse, involving a juvenile(s) within a short-term residential placement program and the timing/location of all evaluation referrals.

*Note: If the alleged victim is under the guardianship of the North Carolina child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents and/or legal guardians.*

*Note: If Juvenile Court retains jurisdiction over the alleged victim, the Community Programs PREA Compliance Manager shall ensure that the juvenile's attorney is notified of the allegation within fourteen (14) days of receiving the allegation. This notification may be made by the party deemed most appropriate in consultation with the Program Manager, the Chief Court Counselor, and the Community Programs PREA Compliance Manager.*

*Note: The Residential Director/Program Manager and vendor/direct service contract staff are prohibited from revealing any information regarding the alleged sexual abuse of a juvenile in a short-term residential placement program unless expressly required to secure the immediate safety of a juvenile, and/or to meet mandated investigation, evaluation, intervention, and/or treatment requirements as established by federal, State or local law or policy, or by NCDPS policy.*



## Appendix A: Definitions

<b>Aggressor</b>	The juvenile or staff member who commits an act of sexual abuse and/or sexual harassment.
<b>Contractor</b>	A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.
<b>Direct staff supervision</b>	Direct care staff members are in the same room with, and/or within reasonable hearing distance of, the juvenile.
<b>Exigent circumstances</b>	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/program.
<b>First Responder</b>	The first staff member to respond to a report of alleged sexual abuse or sexual harassment.
<b>Juvenile</b>	Any person confined or detained in a juvenile facility, in a community residential facility/program, or under the supervision of Juvenile Justice. NOTE: This does not include Division of Adult Correction (DAC) youthful offenders.
<b>Intersex</b>	A person whose 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.
<b>Investigator</b>	An employee who has been assigned or designated to administratively investigate a report of alleged juvenile sexual abuse and/or sexual harassment; and has received specialized training in conducting such investigations.
<b>LGBTI</b>	Lesbian, Gay, Bi-sexual, Transgender, Intersex
<b>PREA Support Person</b>	A designated employee who has been specially trained to support an alleged juvenile victim during the investigation of the alleged sexual abuse or sexual harassment.
<b>PREA Compliance Manager</b>	A designated employee with authority to coordinate the Department's efforts to comply with the PREA standards.
<b>Preponderance of Evidence</b>	The standard of proof used in most civil cases that requires the party bearing the burden of proof to present evidence that is more credible and convincing than the evidence presented by the other party. This standard is satisfied if the evidence shows that it is more probable than not that an event occurred. Preponderance of the evidence is a lesser standard of proof than "beyond a reasonable doubt," which is required to convict in a criminal trial.
<b>Sexual Abuse Review Team</b>	A team that includes the PREA Compliance Manager, Director for Community Programs, Community Program Contract Administrators, and Department officials as designated to review PREA cases.



<p><b>Sexual Abuse</b></p>	<p>Encompasses (1) sexual abuse of a <b><u>juvenile by another juvenile</u></b>; and (2) sexual abuse of a <b><u>juvenile by an employee, contractor, or volunteer</u></b>.</p> <p>Sexual abuse includes—</p> <ul style="list-style-type: none"> <li>(1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and</li> <li>(2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.</li> </ul> <p>Sexual abuse of an inmate, detainee, or resident by another inmate, 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> <ul style="list-style-type: none"> <li>(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;</li> <li>(2) Contact between the mouth and the penis, vulva, or anus;</li> <li>(3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and</li> <li>(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.</li> </ul> <p><b>Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:</b></p> <ul style="list-style-type: none"> <li>(1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;</li> <li>(2) Contact between the mouth and the penis, vulva, or anus;</li> <li>(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;</li> <li>(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;</li> <li>(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;</li> <li>(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;</li> <li>(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</li> <li>(8) Voyeurism by a staff member, contractor, or volunteer.</li> </ul> <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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<b>Sexual Harassment</b>	<ol style="list-style-type: none"> <li>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 juvenile toward another; and</li> <li>2. Repeated verbal comments or gestures of a sexual nature to a juvenile by an employee, contractor, or volunteer, including demeaning references to gender/sex, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.</li> </ol>
<b>Strip Search</b>	A search that requires a juvenile to remove or arrange some or all clothing so as to permit a visual inspection of the juvenile's breasts, buttocks, or genitalia.
<b>Substantiated Allegation</b>	An allegation that was investigated and determined to have occurred.
<b>Transgender</b>	A juvenile whose gender identity (i.e., internal sense of feeling male or female) is different from the juvenile's assigned sex at birth.
<b>Unfounded Allegation</b>	An allegation that was investigated and determined not to have occurred.
<b>Unsubstantiated Allegation</b>	An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
<b>Volunteer</b>	An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.
<b>Voyeurism by an employee, contractor, or volunteer</b>	An invasion of privacy of a juvenile, by staff for reasons unrelated to official duties, such as peering at a juvenile who is using a toilet to perform bodily functions; requiring a juvenile to expose his/her buttocks, genitals, or breasts; or taking images of all or part of a juvenile's naked body or of a juvenile performing bodily functions.