

	JUSTICE CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES	REFERENCES: 505 KAR 1:170 4-JCF-4C-50 4-JDF-4C-50 3-JTS-D06-8 3-JCRF-3D-04-8 1-JBC-3D-06-7
CHAPTER: Prison Rape Elimination Act of 2003 (PREA)	AUTHORITY: KRS 15A.065; 28 CFR 115; 28 CFR 115.364; 28 CFR 115.365; 28 CFR 115.366; 28 CFR 115.382; 28 CFR 115.383	
SUBJECT: DJJ Response to a Report of a PREA Violation		
POLICY NUMBER: 908		
TOTAL PAGES: 8		
EFFECTIVE DATE: 03/09/18		
APPROVAL: Carey D. Cockerell , COMMISSIONER		

I. POLICY

The Department of Juvenile Justice (DJJ) shall have a coordinated response system in place to address incidents of sexual abuse, sexual harassment, sexual contact, or any type of sexual misconduct directed toward juveniles who are in the custody, care, or supervision of DJJ.

II. APPLICABILITY

This policy shall apply to all DJJ staff, volunteers, interns, and contractors.

III. DEFINITIONS

Refer to Chapter 900.

IV. PROCEDURES

- A. If a facility staff is witness to or hears about a juvenile making inappropriate sexual comments, the staff shall advise the juvenile that comments of a sexual nature are prohibited and that sanctions shall be put in place if the behavior does not stop. If a pattern of inappropriate communication continues by the juvenile, the staff or the juvenile shall report this conduct to the Internal Investigations Branch (IIB) hotline.

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- B. If any facility staff learns that a juvenile is at substantial risk of imminent danger of sexual abuse or has received a report of sexual abuse, sexual harassment, or sexual contact, the staff shall take immediate action to protect the juvenile.
- C. Staff at each facility shall develop and implement a coordinated written plan that shall dictate the actions of first responders, medical and mental health staff, and contacts to be made, immediately following a report of sexual abuse, sexual harassment, sexual contact, or any sexual misconduct.
- D. If a facility staff becomes aware of a threat of sexual abuse, sexual contact, or any sexual misconduct, the staff shall take the following steps:
 - 1. The alleged perpetrator shall immediately be separated from the intended victim and other juveniles and shall be placed in an isolated area until safety measures are put in place to prevent the abuse. Staff shall make a report to the IIB hotline; and
 - 2. If the alleged perpetrator is a staff, the staff shall be separated from direct contact and access to all juveniles.
- E. If a sexual assault has been witnessed by staff or staff is alerted that a sexual assault is occurring, staff shall take the following steps in caring for the juvenile victim:
 - 1. Kentucky State Police (KSP) and 911 Emergency Responders shall be immediately notified, unless the incident happened in the cities of Lexington or Louisville, Kentucky in which case DJJ staff shall contact the local police department and a report shall be filed. Staff shall also contact the IIB hotline;
 - 2. The nurse or health trained staff shall ensure that the juvenile is medically conscious and is mobile. Staff shall only provide treatment for conditions that are life-threatening. If additional treatment is needed, the closest emergency medical facility shall provide medical care;
 - 3. The juvenile victim shall not be permitted to shower or otherwise clean themselves until they are examined by hospital emergency medical staff and cleared by the emergency medical facility to do so;
 - 4. DJJ staff shall make contact with local Kentucky Association of Sexual Assault Programs (KASAP) to request a hospital advocate for the juvenile victim;
 - 5. DJJ staff shall not leave the emergency medical facility until the juvenile is released by the attending physician and law enforcement officials authorize release;
 - 6. Upon return from emergency medical services to the facility, the juvenile victim shall be evaluated by the Regional Psychologist or Treatment Director for appropriate counseling or treatment needs;

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7. Upon return from emergency medical services, in consultation with facility medical and counseling staff, the Superintendent or Regional Director shall make appropriate arrangements regarding housing or group assignment for the juvenile victim and the alleged perpetrator;
 8. The parent or caregiver and juvenile service worker (JSW) for the juvenile victim shall be notified by the Superintendent or designee of the PREA violation within twenty-four (24) hours;
 9. If a juvenile court retains jurisdiction over the victim, the Office of Legal Counsel shall report the allegation to the attorney of the juvenile or other legal representative within fourteen (14) days of the allegation; and
 10. If a Children's Advocacy Center is available, DJJ staff shall collaborate with the Children's Advocacy Center to provide care for victims. For youth in detention who have not been committed to DJJ, approval shall be obtained from the court.
- F. If sexual abuse or sexual assault has occurred, the location of the incident shall immediately be cleared of juveniles and staff. Staff shall erect barriers to rope off the area to ensure the area remains undisturbed until law enforcement arrives.
1. Staff and the juvenile shall not remove any items from the scene, including clothing, linens, and towels. Bodily fluids that are on the floor, furniture, or linens shall not be compromised.
 2. If the abuse occurred within a time period that still allows for the collection of physical evidence, staff shall ensure that the alleged perpetrator does not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, smoking, drinking, or eating.
 3. If law enforcement chooses not to investigate, staff shall contact IIB for instructions regarding evidence collection and preservation.
 4. Staff who directly receive the report or witness the sexual abuse or sexual assault shall complete an incident report. Any other staff who witnessed or have relevant information shall complete an addendum to the incident report.
 5. The juvenile victim of the sexual abuse or sexual assault shall be separated until they can be interviewed by law enforcement or law enforcement confirms that the juvenile victim does not need to be interviewed.
 6. The alleged perpetrator and any other juvenile or staff who witnessed or were involved in the incident shall be evaluated by medical staff and the Regional Psychologist, Treatment Director, or designee for any necessary treatment or counseling, immediately after the safety and security of the victim is ensured.

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7. The Superintendent shall review, download, and preserve all videos in or around the area that could contain evidence of a Prison Rape Elimination Act of 2003 (PREA) violation.
 8. For an allegation of juvenile-on-juvenile sexual abuse, sexual assault, sexual harassment, sexual contact, or any type of sexual misconduct, the Superintendent may submit an administrative transfer request (ATR) to the Division of Placement Services, to move the alleged perpetrator from the facility.
- G. If the sexual abuse or sexual assault occurred less than seventy-two (72) hours prior to the report, the juvenile victim shall be transported to the closest emergency medical facility by DJJ staff and the juvenile shall be examined by qualified medical staff. If transportation is not readily available, a 911 emergency operator shall be utilized.
- H. If the sexual abuse or sexual assault occurred more than seventy-two (72) hours prior to the report, sealing off the area may not be practical due to traffic, contamination, and use of the area. The Superintendent or Regional Director shall consult with IIB to determine what areas to close and what evidence to collect.
- I. If the sexual abuse or sexual assault occurred more than seventy- two (72) hours prior to the report, transportation to an emergency medical facility shall be at the discretion of the facility medical staff, in consultation with the Superintendent and the Division Director of Medical Services.
- J. After an allegation of any type of sexual misconduct has been made, the facility shall protect the reporting juvenile, facility staff, or any cooperating individual from retaliations by other juvenile or facility staff.
1. Facility staff shall be designated to monitor for retaliatory behavior or actions.
 2. Facility staff shall use protective measures, such as changes in residential housing for juvenile victims, transfer of juveniles to other facilities, and change of work assignments for alleged staff.
 3. Facility staff shall provide emotional support for juveniles and staff, who fear retaliation from reporting sexual abuse, sexual harassment, sexual contact, or any sexual misconduct through residential counseling and the Kentucky Employee Assistance Program (KEAP).
 4. Facility staff shall monitor the treatment of the juvenile and staff for ninety (90) days following a report of sexual abuse or sexual harassment, and if the victim exhibits changes that may suggest possible retaliation by other juveniles or staff the facility shall act immediately to address any retaliation.

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5. Juvenile disciplinary reports, housing assignments, facility staff reassignments, program changes, and any negative performance reviews of facility staff involved in the allegation shall be monitored for indications of retaliation.
 6. Monitoring shall continue beyond ninety (90) days if any indication of retaliation is noted.
 7. The facility may terminate the monitoring process if through investigation it is determined that the allegations are unfounded.
- K. If a committed or probated juvenile, under community supervision, makes an allegation of sexual abuse, sexual contact, or any type of sexual misconduct to a Division of Community and Mental Health staff or if a staff learns of an alleged sexual abuse through other means, the staff shall take the following steps:
1. Upon being notified of the sexual abuse, the staff shall immediately notify their supervisory chain, which includes the Juvenile Services District Supervisor (JSDS), Regional Manager, Regional Psychologist, and the Division Director of Community and Mental Health Services.
 2. The staff shall make a report to the Department of Community Based Services (DCBS), the IIB hotline and the KSP office that is near the facility or office where the juvenile is located except for those facilities or offices located in Lexington or Louisville, Kentucky. In Lexington and Louisville, staff shall contact the local law enforcement agencies.
 3. The Division Director of Community and Mental Health Services or designee shall inform the Agency PREA Compliance Officer, the Office of General Counsel, the Deputy Commissioners, and the Commissioner.
 4. The reporting staff, if not the JSW, shall notify the assigned JSW. The JSW shall advise parents or caregivers to seek medical assistance and examinations regarding the juvenile reporting the sexual abuse.
 5. The JSW may accompany the juvenile and parents or caregivers to the medical facilities for medical assistance and examinations. The JSW shall provide continuous updates to the supervisory chain.
 6. The JSW shall assist in arranging victim services and counseling for the juvenile and parent or caregivers. Resources may include the Children's Advocacy Center, KSAP, Victim's Advocate at the Commonwealth Attorney's office, DJJ Mental Health Branch, and other community based services that provide sexual abuse assistance.
 7. The Division Director of Community and Mental Health Services shall provide updated information to the Agency PREA Compliance Officer, the

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Office of General Counsel, the Deputy Commissioners, and the Commissioner.

- L. If sexual abuse occurs in a private child care facility, therapeutic foster care home, or in a mental health medical facility, DJJ staff shall, upon receiving notice, do the following:
1. Classification staff and the JSW shall notify the IIB hotline;
 2. Classification staff and the JSW shall notify the Director in their respective chains of command;
 3. The Director of Placement Services and the Director of Community and Mental Health Services shall notify the Commissioner, the Deputy Commissioner in their respective chain of command, the Agency PREA Compliance Officer, the Ombudsman, and the Cabinet for Health and Family Services (CHFS), Office of Inspector General (OIG);
 4. The Director of Community and Mental Health Services shall coordinate the immediate service needs of the juvenile and assign a staff person to accompany the juvenile for any medical and mental health services that may be needed; and
 5. The Division Director of Community and Mental Health Services, the Director of Placement Services or designee, and the Deputy Commissioner shall case conference the matter to determine the best placement arrangement and treatment needs for the DJJ juvenile or juveniles involved.
 6. The JSW shall assist in arranging victim services and counseling for the juvenile. Resources may include the Children's Advocacy Center, KSAP, Victim's Advocate at the Commonwealth Attorney's office, DJJ Mental Health Branch, and other community based services that provide sexual abuse assistance.
- M. If a juvenile is being transferred as a result of sexual abuse, the Division of Placement Services Classification Branch representative shall notify the receiving facility and the Regional Director, of the situation surrounding the juvenile transfer. The receiving facility shall follow all procedures within this policy.
- N. DJJ shall enter into a memorandum of understanding (MOU) or an agreement with community service providers that are able to provide juveniles with emotional support services related to sexual abuse. Each facility Superintendent shall utilize the crisis and counseling services associated with KASP when an incident of sexual abuse has occurred at a facility.
- O. When staff has any questions regarding the PREA processes, protocol, or the federal PREA standards, staff may contact the Agency PREA Compliance Officer.

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- P. If a resident at a DJJ facility alleges sexual abuse occurred at a different DJJ facility, the staff shall immediately report the allegation to the IIB hotline, Administrative Duty Officer (ADO), Facility PREA Coordinator, and Superintendent. The current Superintendent shall notify the Superintendent of the previous placement where the alleged abuse occurred, IIB, and the Facilities Regional Administrator (FRA). Notification shall be made immediately through the chain of command, but no later than twenty-four (24) hours from the time the allegation was reported. The notification shall be documented in the juvenile's ICR.
- Q. If a resident at a DJJ facility alleges sexual abuse occurred at a private child caring facility, contracted facility, hospital, or any correctional facility, the staff shall immediately report the allegation to the IIB hotline, Administrative Duty Officer (ADO), Facility PREA Coordinator, and the Superintendent. The current Superintendent shall notify the agency head of the previous facility where the alleged abuse occurred, IIB, and the Facilities Regional Administrator (FRA). Both notifications shall be up-lined immediately, but no later than twenty-four (24) hours from the time the allegation was reported. The notification shall be documented in the juvenile's ICR.
- R. If a third party source contacts a facility and alleges that a current resident has been a victim of abuse, the staff shall immediately report the allegation to the IIB hotline, Administrative Duty Officer (ADO), Facility PREA Coordinator, and Superintendent. The notification shall be up-lined immediately, but no later than twenty-four (24) hours from the time the allegation was reported. The notification shall be documented in the juvenile's ICR.
- S. DJJ staff in coordination with the Director of Medical Services shall make arrangements for any juvenile victim of sexual assault or sexual abuse to be tested for sexually transmitted diseases. For any female juvenile victim arrangements for a pregnancy test shall be arranged.
- T. Treatment services for any type of sexual assault or sexual abuse shall be provided to the victim without financial cost.
- U. The Superintendent or designee shall attempt to make arrangements for a Qualified Mental Health Professional (QMHP) to conduct a mental health evaluation or assessment of all known resident-on-resident perpetrators within sixty (60) days of learning of such abuse history and offer treatment when deemed appropriate by the QMHP.

V. STAFF TRAINING

- A. The Agency PREA Compliance Officer or designee be responsible for training all Facility and Community PREA Coordinators regarding this policy.
- B. Each Facility PREA Coordinator shall be responsible for training facility staff regarding this policy.

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C. Each Community PREA Coordinator shall be responsible for training community staff regarding this policy.

VI. MONITORING MECHANISM

The Agency PREA Compliance Officer or designee shall conduct an annual audit to verify that DJJ staff are being trained regarding the policy.