

Chapter: **STAFF RESPONSIBILITY AND ADMINISTRATION**

Standards: **3-JCRF-3D-04-2 , 04-3, 04-4, 04-5, 04-6, 04-9**

Subject: **PREA Compliance**

Policy No.: **XX-6**

ODYS:

PREA: **115.311(a-c); 115.312(a-b); 115.313(a-e); 115.318(a-b); 115.322(a-e); 115.386(a-e); 115.387(a-f); 115.388(a-d); 115.389(a-d); 115.393; 115.401; 115.402; 115.403; 115.404; 115.405; 115.501**

Approved by: *[Signature]* 3/14/14

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Policy: In accordance with the Prison Rape Elimination Act (PREA), The Lucas County Youth Treatment Center mandates zero tolerance toward all forms of sexual abuse and sexual harassment. The PREA policy of the Lucas County Court of Common Pleas, Juvenile Division, supersedes any related policy provision conflicting with provisions herein. Sexual and/or physically aggressive misconduct of any kind by and with anyone, including residents, visitors, staff, contractors or volunteers is prohibited. The Youth Treatment Center will employ or designate an upper-level, agency wide PREA coordinator with sufficient time and authority to develop, implement and oversee agency efforts to comply with PREA standards in all of its facilities. In the event that the Treatment Center operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. The Treatment Center will ensure that each facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring, to protect residents against sexual abuse. The staffing plan will be complied with except during limited and discrete exigent circumstances, and shall be fully documented when deviations from the plan during such circumstances occur. The Treatment Center will maintain a staff ratio of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only Residential Specialist or those assigned to perform Residential Specialist duties will be included in these ratios. Intermediate-level or higher level supervisors will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Staff are prohibited from alerting other staff members that these supervisory rounds are occurring. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Treatment Center shall consider the effect of the design, acquisition, expansion, or modification upon the Center's ability to protect residents from sexual abuse. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Treatment Center shall consider how such technology may enhance the agency's ability to protect residents from abuse. The Treatment center will ensure that an incident review and/or criminal investigation is completed and documented on all suspected, referred, alleged, threatened, or actual sexual assault, abuse or harassment. Any allegation that involves potentially criminal behavior is referred to the Toledo Police Department. The Lucas County Youth Treatment Center shall conduct a sexual abuse incident review at the conclusion of every sexual abuse incident review, including where the allegation has not be substantiated, unless the allegation has been determined to be unfounded. The Treatment Center will collect, review for corrective action and store accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. All records associated with claims of sexual abuse and/or assault, including incident reports, investigative reports resident information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained in accordance with an established schedule. During the three-year period starting on August 20, 2013 and during each three-year period thereafter, The Lucas County Youth Treatment Center shall ensure that the Treatment Center is audited by the Department of Justice. The Ohio Department of Youth Services, the Youth Treatment Center's parent agency will complete all applicable requirements for PREA standard 115.501(a-b).

PROCEDURES:

1. The Lucas County Juvenile Court's PREA policy can be accessed on the Lucas County website at www.lucas.oh.us/juvenile. Printed copies of the Treatment Center's PREA policy as well as the Juvenile Court's policy are available by request.
2. The Treatment Administrator is the Treatment Center's PREA Coordinator.
3. The Senior Supervisor is the Treatment Center's PREA Compliance Manager.
4. The Lucas County Juvenile Court and the Lucas County Youth Treatment Center do not contract with private agencies or other entity's, including other government agencies for the confinement of its residents.
5. In the event that it would become necessary to enter into a new contract for the confinement of residents, the Lucas County Youth Treatment Center will provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

PREA: STAFFING PATTERNS

6. The Treatment Administrator, Senior Supervisor, Supervisors, and Lead Primary Counselor are responsible for developing implementing, and documenting the Treatment Center's staffing plan. When necessary, but no less frequently than once each year, the Treatment Center in consultation with PREA coordinator will assess, determine, and document whether adjustments are needed to:
 - a. The staffing plan;
 - b. Prevailing staffing patterns;
 - c. The facility's deployment of video monitoring systems and other monitoring technologies; and
 - d. The resources the facility has available to commit to ensure adherence to the staffing plan.
7. In calculating adequate staffing levels and determining the need for video monitoring, the following will be taken into consideration:
 - Generally accepted juvenile detention and correctional/secure residential practices;
 - Any judicial findings of inadequacy;
 - Any findings of inadequacy from Federal investigative agencies;
 - Any finding of inadequacy from internal or external oversight bodies;
 - All components of the facility's physical plan (including "blind spots" or areas where staff or residents may be isolated);
 - The composition of the resident population;
 - The number and placement of supervisor staff;
 - Institution programs occurring on a particular shift;
 - Any applicable state or local law, regulations, or standards;
 - The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
 - Any other relevant factors.
8. The Treatment Administrator or designee will document any deviations from the staffing plan due to limited and discretely exigent circumstance and contact the Lucas County Juvenile Court's Court

Administrator and the Bureau Chief of the Ohio Department of Youth Services' Bureau of Community Corrections.

9. The Treatment Administrator or designee will consult with the Ohio Department of Youth Services when upgrading the building structure and video and audio surveillance system; and on an annual basis, conduct a PREA vulnerability assessment. The PREA vulnerability assessment will include a tour of the facility and recommendations for equipment and technologies to enhance the ability to protect residents from sexual abuse.
10. The Treatment Administrator, Senior Supervisor, Supervisors, and Lead Primary Counselor will conduct and document unannounced rounds at varying shifts, days, and intervals.
11. Unannounced rounds are planned during management meeting and assigned to on call management staff.
12. Unannounced rounds are documented on the Unannounced Rounds PREA Checklist which contains the date, time, and place of the checks and the signature and initials of the management staff member who conducted them.
13. Staff who alert other staff that supervisory rounds are occurring are subject to disciplinary action, unless such announcement is related to the legitimate operational functions of the facility.

PREA: INVESTIGATIONS

14. The Treatment Administrator or designee will convene incident review team for all allegations of sexual misconduct.
15. The Lucas County Juvenile Court's Court Administrator may convene an incident review team consisting of Court personnel assigned to a department outside of the Treatment Center.
16. In the event that an allegation involves potentially criminal behavior, the Treatment Administrator or designee will contact the Toledo Police Department to conduct a criminal investigation and document the referral.
17. Neither the state of Ohio nor the Department of Justice is responsible for conducting incident reviews or criminal investigations of sexual abuse or sexual harassment.
18. Criminal investigations and incident reviews can occur simultaneously.
19. Any resident can inform any staff member at any time about alleged physical and/or sexual assault; however, the Senior Supervisor is the designated staff member to whom any resident can report sexually assaultive incidents.
20. Any staff member who has knowledge of any assault or who has received information from a resident, other staff, contract staff, volunteer, or consultant must activate the on-call procedure.

21. The Senior Supervisor and Administrator conduct and document an incident review of all alleged or threatened sexual assaults. Other members of the management team may also be assigned to conduct and document an incident review.
22. The Senior Supervisor keeps all case records associated with the investigation per Lucas County Juvenile Court policy and procedures.
23. Any resident found to have committed a physically and/or sexually assaultive behavior is subject to disciplinary action up to and including consequences through the Behavior Management System, removal from the program, and/or criminal charges filed.
24. Any staff member, contract personnel, volunteer or consultant found to have committed a physically and/or sexually assaultive behavior is subject to disciplinary action up to and including criminal charges filed and termination of employment or contract.

PREA: SEXUAL MISCONDUCT AND ABUSE INCIDENT REVIEW

25. Sexual misconduct and abuse incident review will occur within 30 days of the conclusion of any investigation.
26. The sexual misconduct and abuse incident review team will consist of the Administrator, Senior Supervisor, Supervisors and Lead Primary Counselor with input from shift leaders, investigators, Primary Counselors and/or medical or mental health practitioners, if applicable.
27. The incident review team shall:
 - a. Consider whether the allegation or incident review 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 race; ethnicity; gender identity; lesbian, gang, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise cause by other group dynamics at the facility;
 - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during different shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - f. Prepare a report of its finding, including by not necessarily limited to determinations made pursuant to the above described procedures, and any recommendations for improvement and submit such report to the Administrator and the PREA compliance manager.
28. The Administrator or designee shall implement the recommendations for improvement, or shall document any reasons for not doing so.

PREA: DATA COLLECTION, REVIEW, AND STORAGE

29. The Administrator or designee with the Lucas County Juvenile Court's Information Systems Department will aggregate the incident-based sexual abuse data at least annually.

30. The incident-based data collected shall include, 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.
31. All available incident-based data documents, including reports, investigation files, and sexual abuse incident reviews will be maintained, reviewed, and collected.
32. The Treatment Center does not contract private agencies for the confinement of its residents. In the event that a contract to confine residents occur in the future, the Treatment Center will obtain incident-based aggregated from any private facility with which it contracts.
33. Upon request, the Treatment Center shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.
34. All collected data will be reviewed in order to assess and improve the effectiveness of the Treatment Center's sexual abuse prevention, detection, and response policies, practices, and training, including:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of its findings and corrective actions for each facility, as well as the Treatment Center as a whole.
35. The annual report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Treatment Center's progress in addressing sexual abuse.
36. The report shall be approved by the Administrator or designee and made readily available to the public on county website: www.lucas.oh.us/juvenile . If necessary, written copies can be made available by request.
37. When publication of the report material present a clear and specific threat to the safety and security of the facility, the report will contact redacted material, but must indicate the nature of the material redacted.
38. Data collected concerning sexual misconduct and abuse is securely retained by the Senior Supervisor.
39. All aggregated sexual abuse data, from facilities under the Treatment Center's direct control and private facilities with which it contracts, is readily available to the public at least annually through the county website: www.lucas.oh.us/juvenile and/or can be available upon request.
40. All personal identifiers shall be removed before making aggregated sexual abuse data publicly available.
41. The Treatment Center shall maintain sexual abuse data collected for at least 10 years after the date of its initial collection unless Federal, State, or local law requires otherwise.

PREA: AUDITING AND CORRECTIVE ACTION

42. The Youth Treatment Center does not operate other facilities or contract with private agencies to detain or confine its residents.
43. All Treatment Center employees are to cooperate fully and professionally with all audit processes.
44. The Department of Justice may send a recommendation to the Treatment Center for an expedited audit if the Department of Justice has reason to believe that the Treatment Center may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the Treatment Center with PREA-related issues.
45. The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.
46. The Treatment Center bears the burden of demonstrating compliance with the standards.
47. The Auditor shall review all relevant Treatment Center policies, procedures, reports, internal and external audits, and accreditations.
48. The audits shall review at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.
49. The Auditor shall have access to, and shall observe, all areas of the Treatment Center.
50. The Auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).
51. The Auditor shall retain and preserve all documentation (including video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.
52. The Auditor shall interview a representative sample of residents, staff, supervisors, and administrators.
53. The Auditor shall review a sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.
54. The Auditor shall be permitted to conduct private interviews with residents.
55. Residents shall be permitted to send confidential information or correspondence to the Auditor in the same manner as if they were communicating with legal counsel.
56. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the Treatment Center.
57. An audit shall be conducted by:
 - A member of a correctional monitoring body that is not part of, or under the authority of, the Treatment Center.

- A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the Treatment Center
- Other outside individuals with relevant experience.

58. All Auditors shall be certified by the Department of Justice. The Department of Justice shall develop and issue procedures regarding the certification process, which shall include training requirements.
59. No audit may be conducted by an auditor who has received financial compensation from the Treatment Center, except for compensation received for conducting prior PREA audits, within the three years prior to the agency's retention of the auditor.
60. The Treatment Center shall not employ, contract with, or otherwise financially compensate the Auditor for three years subsequent to the Treatment Center's retention of the auditor, with the exception of contracting for subsequent PREA audits.

Audit contents and Finding

61. Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the Treatment Center.
62. Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.
63. For each PREA standard, the Auditor shall determine whether the audited facility reaches one of the following findings:
- Exceeds Standard (substantially exceeds requirement of standard)
 - Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
 - Does not Meet Standard (requires corrective action).
- The Audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.
64. Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.
65. Auditors shall redact any personally identifiable inmate or staff information from their reports, but shall provide such information to the Treatment Center upon request, and may provide such information to the Department of Justice.
66. The Treatment Center shall ensure that the auditor's final report is published on the Lucas County Juvenile Court's website to be made readily available to the public.

Audit Corrective Action Plan

67. A finding of "Does not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.

68. The auditor and the Treatment Center Administrator shall jointly develop a corrective action plan to achieve compliance.
69. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
70. After 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
71. If the Treatment Center does not achieve compliance with each standard, it may request a subsequent audit once it believes that it has achieved compliance.

Audit Appeals

72. The Treatment Center may lodge an appeal with the Department of Justice regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
73. If the Department of Justice determines that the Treatment Center has stated good cause for a re-evaluation, the Treatment Center may commission a re-audit by an auditor mutually agreed upon by the Department of Justice and the Treatment Center. The Treatment Center bears the cost of this kind of re-audit.
74. The findings of the re-audit shall be considered final.