



Juvenile Justice Services (JJS) Policies and Procedures (P&P)

Title Prison Rape Elimination Act (PREA) Compliance – Client Education and Advocacy

Category Safety and Emergency Operations (cross-reference with Classification guidelines)

Procedure # P.05.24 B

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1 Overview Statement (Policy/Regulation)

- 1.1 The purpose of this Procedure is to confirm JJS’s compliance with the Federal Prison Rape Elimination Act (PREA) and its ongoing commitment to prevent, detect, and respond to all allegations of sexual misconduct – including sexual abuse and harassment.
- 1.2 JJS is committed to providing a safe and secure environment, free from all forms of sexual misconduct and retaliation for clients and employees. To that end, JJS has zero tolerance for sexual misconduct and maintains comprehensive procedures regarding prevention, detection, and response to such conduct.
- 1.3 All sexual contact between employees and clients; contractors, volunteers, or student interns and clients; and clients and clients, regardless of consensual status, is prohibited and subject to disciplinary action and possible criminal prosecution.
- 1.4 All JJS employees, contractors, volunteers, and student interns are required to report any suspected or witnessed sexual misconduct.

2 PREA Definitions

- 2.1 **Sexual Misconduct** is an umbrella term that defines all incidents of Sexual Abuse or Sexual Harassment. Examples of sexual misconduct include:
- (1) Requests for sexual favors, sexual acts, or sexual contact.
 - (2) Influencing, promising, or threatening a client's safety, custody, or security level, including recommendations for court actions, privacy, housing, privileges, work detail, or program status in exchange for sexual favors.
 - (3) Promise of protection in exchange for sexual favors.
 - (4) Statements, comments, or innuendo made directly or indirectly concerning the sexual orientation or perceived sexual orientation of any person.
 - (5) Employees having intimate or close relationships with a client, defined as any relationship beyond the boundaries of a professional relationship.
 - (6) Employees engaging in intimate conversation or correspondence with a client.
 - (7) Employees exchanging personal information with clients such as letters, pictures, phone numbers, home addresses, social media, and email addresses.
 - (8) Viewing an unclothed client or watching a client perform bodily functions for reasons unrelated to official duties.
 - (9) Any verbal, non-verbal, or physical conduct which is sexual in nature or sexually suggestive.
 - (10) Creating an intimidating, hostile, or offensive environment by engaging in or permitting sexually offensive behavior or language that is directed at or observable by clients or others.
 - (11) Kissing, hugging, fondling, or other touching of an individual's breast, genital, anus, or other intimate area either directly or through clothing for sexual arousal, gratification, abuse, or assault of either party.
 - (12) Rape, sexual assault, sexual intercourse, oral sex, anal sex, and vaginal sex.
 - (13) Sex or penetration with any object or body part.
- 2.2 **Sexual Abuse of client by another client** includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (2) Contact between the mouth and the penis, vulva, or anus;
 - (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, excluding contact incidental to a physical altercation.
- 2.3 **Sexual Abuse of a client by an employee, contractor, volunteer, or student intern** includes any of the following acts, with or without consent of the client:
- (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 employee, contractor, volunteer, or student intern 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 employee, contractor, volunteer, or student intern 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 buttocks, that is unrelated to official duties or where the employee, contractor, volunteer, or student intern has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, volunteer, or student intern to engage in the activities described in (1)-(5) of this definition;
- (7) Any display by an employee, contractor, volunteer, or student intern of his or her uncovered genitalia, buttocks, or breast in the presence of a client; and
- (8) Voyeurism by an employee, contractor, volunteer, or student intern.

2.4 **Voyeurism** by an employee, contractor, volunteer, or student intern is a kind of sexual abuse that is an invasion of privacy of a client by employees for reasons unrelated to official duties, such as peering at a client who is using a toilet to perform bodily functions; requiring a client to expose buttocks, genitals, or breasts; or taking images of all or part of a client's naked body or of a client performing bodily functions.

2.5 **Sexual Harassment of a client by another client** is repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one client directed toward another.

2.6 **Sexual Harassment of a client by an employee, contractor, volunteer, or student intern** is verbal comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

2.7 **LGBTQI** is an acronym that stands for Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex. These are their definitions:

Lesbian: A female who is sexually attracted to females.

Gay: A male who is sexually attracted to males.

Bisexual: A person who is sexually attracted to females and males.

Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Questioning: A person who is questioning gender identity and/or sexual orientation.

Intersex: A person whose sexual and/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.

3 Purpose

3.1 The purpose of this Procedure is to outline the processes to educate clients about and protect clients from sexual misconduct – including sexual abuse and harassment.

3.2 This Procedure may reference other procedures and documentation that confirm PREA compliance.

4 Client Intake/Orientation

- 4.1 Within the first 72 hours of arriving at JJS Central Intake, clients are provided a comprehensive orientation. The orientation includes the following topics:
- Definitions of sexual misconduct – including sexual abuse and harassment;
 - JJS’s zero tolerance of sexual misconduct;
 - Instructions on how to report any grievance or allegation, including sexual misconduct;
 - The client’s right to be free from sexual misconduct;
 - The client’s protection from retaliation; and
 - The client’s right to treatment and counseling.
- 4.2 During the orientation, clients learn how and are encouraged to report any allegations of sexual misconduct. Clients can report in several ways:
- Notify any employee, contractor, volunteer, or student intern;
 - Call the JJS Facility Confidential Reporting Line (1-855-563-5065);
 - Email JJS.Confidential@state.nm.us;
 - Use a kiosk, an interactive device that provides another confidential method for reporting.
 - Write a confidential letter to the PREA Reporting Office in Las Cruces, NM;
 - Call the Statewide Central Intake (SCI) Hotline;
 - Email and/or call the JJS PREA Coordinator;
 - Request Medical or Behavioral Health (BH) services; or
 - Submit a grievance.
- Anyone may report allegations of sexual misconduct in facilities using these methods.
- 4.3 Clients who need language assistance are provided an interpreter and/or translation services. Other clients are never relied upon for interpreter and/or translation services.
- 4.4 Clients who need special accommodations are provided developmentally appropriate services.
- 4.5 In addition to providing necessary accommodations during orientation, JJS provides written material and model language material that ensures effective communication with disabled, special-needs, and non-English-speaking clients.
- 4.6 During orientation, new clients receive a client handbook. The client’s Classification Officer is responsible for reviewing the handbook with the client, ensuring the client signs an acknowledgement form, and filing the form in the client’s master file.
- 4.7 The client’s Classification Officer is responsible for mailing the handbook to the client’s parent/guardian/custodian (p/g/c) and providing the PREA Coordinator with a copy of the client’s signed acknowledgement form.
- 4.8 Female clients receive orientation and screening in their assigned living units.

5 Client Screening

- 5.1 Within the first 72 hours of a client’s arrival, employees use the Vulnerability Assessment Instrument to obtain information that will help protect the client from being the victim of or engaging in sexual misconduct. This instrument is again applied within 30 days of commitment,

every 6 months, at every new orientation/transfer, any time the client is away from the facility longer than 24 hours, and after every alleged incident of sexual misconduct.

- 5.2 In addition to various screenings and evaluations conducted during intake, JJS employees review files, conduct interviews, and observe behaviors to gather information about clients that will help protect them from being victims of or engaging in sexual misconduct.
- 5.3 If a client alleges sexual abuse by a community and/or family member, the intake employee notifies the Officer in Charge (OIC). The OIC initiates a PHPC (which includes JJS PREA Coordinator notification) and reports the allegation to SCI and/or law enforcement.
- 5.4 If a client alleges sexual abuse at a non-CYFD facility, the intake employee notifies the OIC. The OIC initiates a PHPC (which includes JJS PREA Coordinator notification). The facility Superintendent notifies that non-CYFD facility's administrator as soon as possible, and no longer than 72 hours after the allegation was received. Additionally, the PREA Coordinator documents the notification, per a PREA Case File Checklist and PREA Incident Log.
- 5.5 If a client alleges sexual abuse at another CYFD facility, the intake employee notifies the OIC. The OIC initiates a PHPC (which includes JJS PREA Coordinator notification). The facility Superintendent notifies that other CYFD facility's superintendent as soon as possible, and no longer than 72 hours after the allegation was received. Additionally, the PREA Coordinator documents the notification, per a PREA Case File Checklist and PREA Incident Log.
- 5.6 Only when the facility Superintendent is unavailable does the Deputy Superintendent make the notifications referenced in 5.4 and 5.5.
- 5.7 All information during the intake process is confidential.

6 Housing Assignments and Search Preferences

- 6.1 Information employees collect during a client's intake informs housing, education, and other programming assignments with the goal of optimizing rehabilitative services and keeping all clients safe from sexual misconduct.
- 6.2 Clients cannot be assigned special housing solely because of LGBTQI status.
- 6.3 Housing assignments of transgender and intersex clients are considered on a case-by-case basis. An Executive Multi-Disciplinary Team (MDT) will give the client's preference, potential vulnerability, and rehabilitative and educational needs serious consideration in recommending housing assignments.
- 6.4 The Executive MDT will review the initial housing assignment of transgender and intersex clients at least once a week until the client's first unit MDT. Thereafter, the unit MDT must review the housing assignment at least twice each year.
- 6.5 Transgender and intersex clients may request – for consideration – the gender of the employees who will conduct their searches. This preference is documented on a Client Search Exception Form and retained in the client's file.

7 Ongoing Education

- 7.1 After their initial intake and orientation, clients are provided continued, comprehensive education/training that address body safety and PREA. This education is part of all clients' programming.
- 7.2 Throughout the living units and common areas, posters encourage clients to report and provide clients with information on how to report any grievance or allegation, including sexual misconduct.

8 Behavioral Health (BH) Care, Treatment, and Advocacy

- 8.1 BH clinicians provide individual and group sessions that address sexual misconduct in a manner appropriate to the individual client and group settings.
- 8.2 Individual treatment plans are developed with clients who are at high risk for being sexually victimized or for abusing others sexually, and specialized housing may be considered.
- 8.3 Upon receiving notification of a sexual abuse allegation, the Facility PREA Compliance Manager (FPCM) assigns a BH clinician as an in-house advocate to the client.
- 8.4 In addition to serving as an in-house advocate, the BH clinician offers the client access to outside rape crisis organizations for support, information, advocacy, and victim services.
- 8.5 Clients may also call or write letters to outside advocacy groups, including victim support and rape crisis organizations. Such communications are privileged and shall not be monitored. Clients are permitted to make such calls in a location that preserves confidentiality.
- 8.6 In addition to evaluating and supporting client victims of sexual misconduct, BH clinicians evaluate client perpetrators and may recommend that they participate in offender counselling and treatment.
- 8.7 If continued BH treatment is required for the client victim, BH clinicians will ensure that the client is cared for in-facility and/or transported to an external facility, as appropriate.

9 Medical Support, Treatment, and Sexual Assault Nurse Examiner (SANE) Services

- 9.1 Onsite medical providers offer client victims information and access to pregnancy tests, emergency contraception, prophylaxis medications, pregnancy-related medical services, and tests and treatments for sexually transmitted diseases. Services are provided regardless of whether the victim names the abuser and/or cooperates with the investigation.
- 9.2 A client requesting a SANE exam is transported to a clinic and provided services and advocacy at no cost. Again, these services are provided regardless of whether the victim names the abuser and/or cooperates with the investigation.

- 9.3 If requested by the client, a victim advocate accompanies and supports the client during the SANE exam and investigatory interviews. Additionally, the advocate provides the client emotional support, crisis intervention, information, and referrals.
- 9.4 If continued medical treatment is required for the client victim, medical providers will ensure that the client is cared for in-facility and/or transported to an external medical facility, as appropriate.

10 Discipline

- 10.1 Client perpetrators of sexual misconduct are subject to criminal prosecution and/or disciplinary actions.
- 10.2 Clients who knowingly make false allegations of sexual misconduct, file grievances in bad faith, and/or engage in retaliation are subject to criminal prosecution and/or disciplinary actions.
- 10.3 Clients will not be subject to disciplinary actions if their reports of sexual misconduct were made in good faith.
- 10.4 In JJS facilities, any and all sex is prohibited. Clients who engage in sex, even if participants identify it as consensual sex, are subject to criminal prosecution and/or disciplinary actions. Disciplinary action will include consideration of the following situations:
The mental health and competency of the clients;
The nature and circumstances of the incident;
The clients' disciplinary histories; and
The sanctions previously imposed on clients with similar histories who engaged in comparable offenses.

11 Additional Documentation and Forms

Client and Family Handbook
Vulnerability Assessment Instrument
PREA Case File Checklist and PREA Incident Log
Client Search Exception Form

12 Issue Date

July 1, 2022

13 Effective Date

July 1, 2022

14 Modified Procedures

P.21.9, 10, 12, 13, and 14 Classification, 6/15/10
P.21.11 Admission, Reception and Orientation, issued 11/30/08

15 Replaced Procedure

P.5.24 B PREA Compliance – Client Education and Advocacy, 09/01/2019

16 Statutory Authority

Prison Rape Elimination Act of 2003, 42 USCA 15601 et seq.

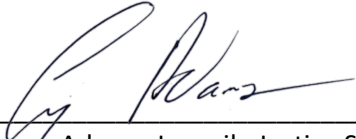
17 Applicable Policy (Regulation)

NMAC 8.14.5.24 Safety and Emergency Operations (Prison Rape Elimination Act)

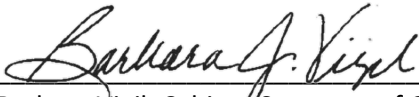
18 Authorizing Signatures



Tamera Marcantel, Juvenile Justice Services Deputy Director for Facilities



Corey Adams, Juvenile Justice Services Deputy Director for Field Services



Barbara Vigil, Cabinet Secretary of Children, Youth and Families Department