

<b>Policies and Procedures</b> FACE-IT RESIDENTIAL PROGRAM		<b>Policy Number</b> 19G	<b>Page # 1</b>
<b>Chapter:</b> PRISON RAPE ELIMINATION ACT (PREA)		<b>Subject:</b> INVESTIGATIONS	
<b>Effective Date:</b> 01/2017	<b>Reviewed:</b> 10/2017	<b>Revised:</b> 10/2017	<b>Approved by:</b> L. Hampton
<b>Related Standards:</b> <b>ACA Standards:</b> 3-JCRF-3D-04-4, 3-JCRF-3D-04-7, 3-JCRF-3D-04-10 <b>IDJJ Standards:</b> <b>JDAI:</b> V(C)(9), V(D)(8), V(E)(4), V(E)(5); VIII(A)(5), VIII(D)(1) <b>PREA:</b> 115.371, 115.372, 115.373			

- I. Policy: The FACE-IT Residential Program has zero tolerance for the sexual abuse or harassment of any participant through compliance with the Prison Rape Elimination Act (PREA) of 2003. Every allegation of sexual abuse, sexual harassment, or staff sexual misconduct will be investigated and those responsible will be held accountable for their actions.
- II. Definitions
- A. Definitions of Prohibited Conduct:**
1. Participant-on-Participant Sexual Abuse: 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:
    - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
    - b. Contact between the mouth and the penis, vulva, or anus;
    - c. Penetration of the anal or genital opening of another person, however slight by a hand, finger, object, or other instrument; and
    - d. 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.
  2. Sexual Abuse of a Participant by Staff, Contractor, or Volunteer: Includes any of the following acts, with or without consent of the participant:
    - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
    - b. Contact between the mouth and the penis, vulva, or anus;
    - c. 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;
    - d. 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;
    - e. 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

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duties or where the staff member, contractor or volunteer has the intent to abuse, arouse, or gratify sexual desire;

- f. Any attempt, threat, or request by a staff member, contractor or volunteer to engage in activities described in 1-5 of this section;
  - g. Any display by a staff member, contractor or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a participant, and
  - h. Voyeurism by a staff member, contractor or volunteer
3. Voyeurism: An invasion of privacy of a participant by staff for reasons unrelated to official duties, such as peering at a participant who is using a toilet in his or her room to perform bodily functions, requiring a participant to expose his or her buttocks, genitals, breasts, or taking images of all or part of a participant's naked body or of a participant performing bodily functions.
4. Sexual Harassment:
- a. By Staff/Contractors/Volunteers: Repeated verbal comments or gestures of a sexual nature to a participant by an employee, contractor, or volunteer, including demeaning references to gender, sexual suggestive or derogatory comments about body or clothing, or obscene language or gestures.
  - b. By Participants: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one participant directed toward another.

**B. Related Definitions:**

1. Contractor: A "contractor" means a person who provides services on a recurring basis pursuant to a contractual agreement with the FACE-IT Residential Program (including medical staff).
2. Prison Rape Elimination Act (PREA): The Prison Rape Elimination Act of 2003 is a federal law that supports the elimination, reduction, and prevention of sexual abuse in adult and juvenile facilities as well as community corrections programs. A set of standards were established for juvenile facilities that the FACE-IT Residential Program must abide by.
3. PREA Coordinator: An upper level staff member who has the authority to develop, implement, and oversee agency efforts to comply with the PREA standards.
4. PREA Review Committee: A committee consisting of the Superintendent, Deputy Superintendent(s), PREA Coordinator, and medical and mental health staff that will convene to review all allegations of sexual abuse and sexual harassment.
5. Staff Member: For the purpose of this policy, the term "staff member" includes all FACE-IT employees (including Juvenile Counselors, management, kitchen personnel, teachers, etc.).
6. Volunteer: A "volunteer" means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the FACE-IT Residential Program.

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### III. Procedures

#### A. Criminal and Administrative Investigations §115.371, §115.372

1. When the FACE-IT Residential Program conducts its own investigations into allegations of sexual abuse or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
2. Where sexual abuse is alleged, the allegations will be forwarded to the Lake County Sheriff's Office's Criminal Investigation Division (CID), who has received special training in sexual abuse investigations involving participants. When calling to make a report, inform the Investigator you are reporting a "PREA" incident. There are a number of investigators who have received training in PREA who will be assigned the investigation. All of the investigators have a juvenile certification. The CID investigator will need a copy of the incident report and will need access to interview the alleged abuser and victim.
3. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and deoxyribonucleic acid (DNA) evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
4. The investigation shall not be terminated solely because the source of the allegations recants the allegations.
5. When the quality of evidence appears to support criminal prosecution, CID shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
6. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as participant or staff. Neither the FACE-IT Residential Program nor CID shall require a participant who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
7. Administrative Investigations:
  - a. An administrative investigation shall include an effort to determine whether staff actions or failures to act contributed to the abuse.
  - b. An administrative investigation shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
8. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

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9. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
10. The FACE-IT Residential Program will obtain a copy of all written reports and retain said report for as long as the staff is employed or incarcerated plus five years, unless the abuse was committed by a participant and applicable law requires a shorter period of retention.
11. The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating the investigation.
12. All employees of the FACE-IT Residential Program will cooperate with CID investigators.
13. Management will keep abreast about the progress of the investigation.
14. Any sexual abuse allegations deemed to be false in nature will be forwarded to the State's Attorney's Office for possible delinquent/criminal charges. In the case of an employee, disciplinary action will also be considered with possible termination of employment.

**B. Evidentiary Standard for Administrative Investigations §115.372**

1. The FACE-IT Residential Program imposes a standard of preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual assault or sexual harassment are substantiated.

**C. Reporting to Participants §115.373**

1. Following an investigation into an alleged victim's allegation of sexual abuse, the PREA Coordinator will inform the participant as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If CID conducted the investigation, the PREA Coordinator shall request the relevant information from CID in order to inform the participant.
3. When the alleged abuser was an employee, the PREA Coordinator or Superintendent shall inform the alleged victim whenever:
  - a. The staff member is no longer posted in the participant's unit;
  - b. The staff member is no longer employed at the facility;
  - c. It is learned that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - d. It is learned that the staff member has been convicted on a charge related to sexual abuse within the facility.

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4. When the alleged abuser was a participant, the PREA Coordinator or Superintendent shall inform the alleged victim whenever:
  - a. It is learned that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - b. It is learned that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
5. All notifications or attempted notifications shall be documented.
6. The obligation to report shall terminate if the alleged victim is discharged.