

<b>Policies and Procedures</b> Juvenile Probation and Detention Services		<b>Policy Number</b> 6N	<b>Page # 1</b>
<b>Chapter:</b> Working with Clients		<b>Subject:</b> PREA: Investigations	
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<b>Related Standards:</b> <b>ACA:</b> 3-JDF-3D-06-4, 3-JDF-3D-06-7, 3-JDF-3D-06-10, 3-JCRF-3D-04-4, 3-JCRF-3D-04-7, 3-JCRF-3D-04-10 <b>AOIC:</b> <b>IDJJ:</b> <b>JDAI:</b> V(C)(9), V(E)(4), VIII(A)(5), VIII(D)(1) <b>PREA:</b> 115.371, 115.372, 115.373 <b>AO:</b> Administrative Order Number 17-03			

I. 6N: Investigations Policy:

The Hulse Detention Center and FACE-IT Program have zero tolerance for the sexual abuse or harassment of any resident through compliance with the Prison Rape Elimination Act (PREA) of 2003. Every allegation of sexual abuse and sexual harassment will be investigated and those responsible will be held accountable for their actions.

There shall be an administrative investigation for all allegations of sexual abuse and sexual harassment. Once the administrative investigator determines that it is likely a criminal act occurred, the investigation will be forwarded to the Lake County Sheriff's Office for a criminal investigation.

II. Procedures

A. Administrative Investigations §115.371

1. The PREA Coordinator will receive all reports of sexual abuse and/or sexual harassment. The report may come in from a resident directly, the first responder, any employee, contractor, intern, or volunteer that received the report or has suspicions, or from a third party on behalf of the resident.
2. The PREA Coordinator will ensure the alleged victim and the alleged perpetrator have been separated.

3. If there was a first responder, the PREA Coordinator will review their report and see what steps have already been taken.
4. An administrative investigation shall be initiated for all allegations of sexual abuse and sexual harassment.
  - a. Administrative investigations are conducted by the PREA Coordinator, Deputy Superintendents, or the Superintendent who have received specialized training in PREA investigations.
  - b. Investigations shall be initiated immediately, but no later than twenty-four (24) hours upon receipt of the allegation. Administrative investigators will conduct investigations promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
    - i. Administrative investigations should typically be completed within five business days. Some circumstances may delay the report being completed such as involved parties being inaccessible within that timeline.
  - c. The administrative investigator shall review camera footage in a private setting to determine if video evidence of the incident exists.
    - i. If there is video evidence of an incident of sexual abuse, the video will be downloaded and preserved. The administrative investigator will then immediately forward the investigation to the Lake County Sheriff's Office. Video footage is not to be disclosed without authorization from the Chief Judge.
      - (1) Pursuant to Administrative Order Number 17-03 dated February 2017, any requests for disclosure of a video or image captured on security video monitoring the facilities of the 19<sup>th</sup> Judicial Circuit must be (1) in writing and (2) presented to the Chief Judge.
      - (2) The Chief Judge, or in the Chief Judge's absence, the Deputy Chief Judge, shall determine whether the video or image shall be allowed to be disclosed and if there are to be any limitations to the disclosure. Any denial, approval or limitation shall be made in writing.
    - ii. If there is video evidence that the incident did *not* occur, the investigator will speak to the witness or alleged victim again to confirm the details of the incident. If the allegation date/time remains the same, the allegation will be unfounded. The administrative investigator will then determine if the report was made in good faith.

- d. The investigator shall interview the alleged victim, any witnesses to the incident, and the alleged perpetrator. All parties will be requested to write a statement.
  - i. If a resident refuses to write a statement, the investigator shall document that decision and write out “refused” on the statement form. Employees cannot refuse to write a statement as they are required to cooperate with investigations.
  - ii. Interviews will take place out of sight and sound from other residents including the alleged abuser (who the resident should already be separated from). If the alleged abuser was an employee, the interview will take place away from employees as well. The administrative investigator will escort the resident to and from their location.
- e. The investigation shall be documented in a PREA Incident Report which includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. A file shall be created for the investigation that includes the report along with statements and corresponding forms (i.e., victim notification form, retaliation monitoring form, first responder checklist).
- f. At any time during an administrative investigation, the investigator shall forward the investigation to the Lake County Sheriff’s Office if it is determined that a criminal act likely occurred. The Director of Juvenile Probation/Detention Services and the Superintendent shall be notified.
- g. An administrative investigation shall include an effort to determine whether employee’s actions or failures to act contributed to the abuse. This will be discussed during the PREA Review Committee.

**B. Criminal Investigations §115.371**

- 1. When the administrative investigator has determined that a criminal act likely occurred, the investigation shall be forwarded to the Lake County Sheriff’s Office’s Criminal Investigation Division (CID), who has received special training in sexual abuse investigations involving residents.
  - a. 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 the investigators have a juvenile certification.
  - b. The CID investigator will need a copy of the incident report and will need access to interview the alleged abuser and victim. Interviews will be conducted in a space away from other residents and employees in either the cafeteria or

principal's office. The PREA Coordinator or Deputy Superintendent will supervise the resident if needed.

- c. Due to the alleged victim being a child, the Child Advocacy Center may need to conduct the interview if it is an allegation of sexual abuse. The Lake County Sheriff's Office will schedule the interview. If the victim is a resident in the detention center, the interview will take place in the principal's office with the Lake County Sheriff's Office observing from the medical unit. CID will need to obtain a court order to obtain video footage.
- d. Parents of the alleged victim and alleged abuser (if a resident) will be notified of the allegation and that an investigation is being completed by the Lake County Sheriff's Office.
- e. 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.
- f. 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. The PREA Coordinator will receive a copy of the report.
- g. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.
- h. Management will keep abreast of the progress of the investigation through regular email and telephone correspondence with the CID investigator.

C. General Investigation Guidelines §115.371

- 1. The investigation shall not be terminated solely because the source of the allegations recants the allegations.
- 2. Investigators shall 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.
- 3. 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 resident or employee. Neither the Hulse Detention Center, FACE-IT Program nor CID shall require a resident 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.

4. The Hulse Detention Center and FACE-IT Program shall obtain a copy of all written reports and retain said report for as long as the abuser is employed or incarcerated plus five years, unless the abuse was committed by a resident and applicable law requires a shorter period of retention.
5. The departure of the alleged abuser or victim from employment or control of the facility shall not provide a basis for terminating the investigation.
6. All employees of the Hulse Detention Center and FACE-IT Program will cooperate with administrative and criminal investigators.
7. 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 if the Lake County Sheriff's Office was investigating. If the investigation was completed by administration, the resident will receive disciplinary action. In the case of an employee, disciplinary action will also be considered with possible termination of employment.

D. Evidentiary Standard for Administrative Investigations §115.372

1. The Hulse Detention Center and FACE-IT Program imposes a standard of preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated.

E. Reporting to Residents §115.373

1. Following an investigation into an alleged victim's allegation of sexual abuse or sexual harassment, the PREA Coordinator will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the Hulse Detention Center and FACE-IT Program did not conduct the investigation, the PREA Coordinator shall request the relevant information from the investigative agency to inform the resident.
3. When the alleged abuser was an employee, the PREA Coordinator or Deputy Superintendent shall inform the alleged victim whenever:
  - a. The employee is no longer posted in the resident's unit;

- b. The employee is no longer employed at the facility;
  - c. It is learned that the employee has been indicted on a charge related to sexual abuse within the facility; or
  - d. It is learned that the employee has been convicted on a charge related to sexual abuse within the facility.
- 4. When the alleged abuser was a resident, 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 on the [Victim Notification Documentation form](#).
- 6. The obligation to report shall terminate if the alleged victim is released from custody.