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| Illinois Department of Juvenile Justice | ADMINISTRATIVEDIRECTIVE | Number | **04.01.302** |
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| Effective | **6/01/2017** |
| **Section** **04 Programs and Services** | | | |
| **Subsection 01 General Provisions** | | | |
| **Subject 302 Sexual Abuse and Harassment - Response Procedures** | | | |

**I. POLICY**

**A. Authority**

730 ILCS 5/3-2.5-20, 410 ILCS 70/1a and 70/5, and 325 ILCS 5

Prison Rape Elimination Act National Standards – Juvenile, 28 C.F.R. §§ 115.311, 115.321, 115.322, 115.331, 115.333, 115.335, 115.341, 115.342, 115.351, 115.353, 115.361, 115.363, and 115.365.

**B. Policy Statement**

As part of the Sexual Abuse and Harassment Program, prompt staff intervention shall be provided in the event of a suspected or reported youth sexual abuse and/or sexual harassment.

**II. PROCEDURE**

**A. Purpose**

The purpose of this directive is to establish internal instructions to coordinate actions taken in response to an incident of sexual abuse or sexual harassment among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

**B. Applicability**

This directive is applicable to all youth centers within the Department.

**C. Facility Reviews**

A facility review of this directive shall be conducted at least semi-annually.

**D. Designees**

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

**E. Requirements**

The Chief Administrative Officer of each youth center shall ensure that a written procedure is developed that includes the following applicable requirements.

1. Intervention

a. Any youth who alleges to be a victim of sexual abuse and/or sexual harassment shall be:

(1) Promptly offered protection from the alleged assailant and the incident shall be investigated

(2) Evaluated by mental health services to assess the need for counseling and support services, such as psychological or chaplaincy services, group therapy, etc. If sexual abuse is alleged, the Crisis Intervention Team or mental health professional shall be immediately notified and shall respond pursuant to Administrative Directive 04.04.102.

(3) Provided medical treatment and evidence collection in accordance with Paragraphs II.E.3.and II.E.7., if sexual abuse is alleged.

b. Any observance of sexual activity shall be treated as a possible sexual abuse and shall be investigated.

c. The Department PREA Coordinator, the Facility PREA Compliance Manager, and the Chief Administrative Officer of the youth center shall be notified of any alleged or possible sexual abuse or sexual harassment.

d. The youth's housing needs shall be reviewed to determine appropriate placement.

(1) If the youth is transferred to another youth center, the Facility PREA Compliance Manager of the sending youth center shall promptly notify the Facility PREA Compliance Manager of the receiving youth center of the alleged sexual abuse and/or sexual harassment to ensure the youth receives proper follow-up services.

(2) Youth may only be isolated from others as a last resort.

e. If any staff member receives a report of alleged sexual abuse and/or sexual harassment of an identifiable youth from a third party, staff shall promptly notify the Chief Administrative Officer of the youth center at which the youth is located to ensure the intervention procedures pursuant to this section are implemented.

2. Internal Reporting

a. All staff shall immediately report through chain of command as an unusual incident in accordance with Administrative Directive 01.12.105 the following:

(1) Any knowledge, suspicion or information they receive regarding a possible incident of sexual abuse or sexual harassment that occurred at any youth center or other correctional setting;

(2) Retaliation against youth or staff who reported such incident; and

(3) Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

b. All staff shall accept reports made verbally, in writing, anonymously and from third parties, and shall promptly ensure that an incident report is completed.

c. All staff who observe alleged or possible sexual abuse and/or sexual harassment, receive an initial report, or were otherwise involved in or responded to an incident shall complete an incident report and may be required to be interviewed by an investigator or other staff designated by the Chief Administrative Officer prior to leaving the youth center at the end of their shift.

d. The Shift Supervisor shall immediately contact the Facility PREA Compliance Manager upon receiving such report.

3. Sexual Abuse Medical Treatment

Medical treatment shall be provided, without financial cost, to any youth who is the alleged victim of a sexual abuse.

a. If the sexual abuse is recent (*i.e.,* reported within 48 hours of vaginal or anal sexual abuse or within 24 hours of oral sexual abuse), the youth shall be immediately transported to a community hospital for a forensic medical examination. The youth shall be escorted to the hospital as soon as possible in accordance with the procedures provided for an emergency escorted medical furlough in Administrative Directive 05.03.124, except that:

(1) A strip search shall not be conducted;

(2) Security restrains shall not be used, unless failing to do so would present a safety or security risk; and

(3) Security staff shall not be in the exam room with the youth when the exam is being conducted or when mental health staff or a victim advocate is present in the exam room, unless requested by the youth.

b. If the sexual abuse is not recent, medical treatment may be provided on site, at another youth center, or at a community hospital as determined by the parent youth center. The medical examination provided by Department facilities shall include, but not be limited to:

(1) A blood test (RPR serology for Syphilis) - repeat at three months;

(2) Culture smears for seminal fluid, Gonorrhea, Chlamydia and other Sexually Transmitted Diseases (STD) as appropriate; STD and Gonorrhea and Chlamydia testing repeat at three weeks;

(3) Collection of evidence by use of the Evidence Collection Kit when determined necessary by the physician; and

(4) Timely information about and access to emergency contraception when medically appropriate.

c. Youth shall be informed that they have to right to refuse medical treatment.

d. An HIV test and counseling shall be offered to any youth who is the alleged victim in accordance with Administrative Directive 04.03.115. The HIV test shall be repeated at three, six, and nine months after the initial test.

e. The progress notes in the medical record shall:

(1) Identify the youth's name and identification number;

(2) Include a statement by the youth indicating the date and time of the alleged incident;

(3) Identify the type or description of sexual abuse (oral, anal, vaginal, etc.);

(4) Include the results of the physical examination, tests, and if applicable, use of the Evidence Collection Kit;

(5) Contain documentation of the presence or absence of cuts, scratches, and bruises and any trauma; and

(6) Include documentation of counseling; but

(7) Not reflect any conclusions regarding whether a crime occurred.

f. All reports contained in the Evidence Collection Kit shall be completed and distributed appropriately, when applicable.

4. Victim Advocate

a. If sexual abuse is alleged, the Facility PREA Compliance Manager shall, prior to transporting the youth to the hospital and at least within two hours of the initial report, contact a victim advocate from a rape crisis center. If a rape crisis center is not available, the Facility PREA Compliance Manager shall make available a qualified staff member from a community-based organization or from within the Department. The Facility PREA Compliance Manager shall document efforts to secure services from a rape crisis center in the youth health record.

b. The victim advocate or other qualified staff member shall, with the consent of the youth, accompany and support the victim through the forensic medical examination process in paragraph II.E.3, any investigatory interviews, and shall provide emotional support, crisis intervention, information, and referrals.

5. Notification to Third Parties

a. Upon receiving a report of an alleged sexual abuse, the Chief Administrative Officer shall:

(1) If the alleged victim is under 18 years old, promptly report allegations of youth sexual abuse to the alleged victim’s parents, legal guardians (unless there is official documentation showing they should not be notified), or the DCFS caseworker where applicable.

(2) Within 14 days, report to the youth’s attorney or legal representative of record.

(3) If the sexual abuse is alleged to have occurred in a correctional setting, regardless of whether it was an I DJJ youth center, notify the head of the facility or appropriate office of the agency where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation.

b. If an employee is a mandated reporter under the Abused and Neglected Child Reporting Act and suspects that an incident of child abuse or neglect has occurred, the employee shall first comply with the requirements for internal reporting and first responder duties in E.2.a. and E.6.a., and then the employee shall call the Child Abuse Hotline in accordance with Administrative Directive 01.12.135.

5. Confidentiality

a. All staff are prohibited from revealing any information related to a sexual abuse report to anyone, except as provided in this Administrative Directive or when otherwise necessary to make treatment, investigative, or other security or management decisions.

6. First Responder Duties

a. The first security staff member to respond to an alleged or possible sexual abuse shall:

(1) Separate the alleged victim and abuser;

(2) Preserve and protect the crime scene until appropriate steps can be taken to collect any evidence; and

(3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim and ensure that the alleged abuser do not take any actions that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first staff member to respond is not a security staff member, the responder shall request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

7. Investigation and Referral for Discipline or Prosecution

a. In investigating alleged or possible sexual abuse, investigators shall collect and tag evidence from the scene in accordance with Administrative Directive 01.12.112.

b. An investigation of all alleged and possible sexual abuse or sexual harassment shall be conducted in accordance with Administrative Directive 01.12.120, except the initial report shall be provided to the Chief Administrative Officer within 24 hours of the onset of the investigation. When notified, the Chief Administrative Officer shall notify the Deputy Director.

c. If a youth is determined to be the possible assailant, he or she shall be placed in investigatory status, unless doing so may jeopardize the investigation.

d. For at least 90 days following a report of sexual abuse, the Facility PREA Compliance Manager shall monitor the conduct or treatment of youth or staff who reported the sexual abuse and of youth who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by youth or staff, and shall act promptly to remedy any such retaliation.

(1) Items the Facility PREA Compliance Manager should monitor include any disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff, and in case of youth monitoring, shall also include periodic status checks. Youth conduct and treatment shall be documented on the PREA Retaliation Monitor – Youth, DJJ 0498. Staff conduct and treatment shall be documented on the PREA Retaliation Monitor – Staff, DJJ 0499.

(2) All forms shall be completed within 1 week from the initial incident and every 30 days thereafter up to 90 days.

(3) Such monitoring shall continue beyond 90 days if the monitoring indicates a continuing need.

e. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect that individual against retaliation.

f. Upon conclusion of the investigation:

(1) Disciplinary reports shall be completed, served, and processed, where warranted.

(i) A reporting youth may not be disciplined unless the investigation concludes that the alleged sexual abuse, and/or sexual harassment was unfounded and the reporting youth did not make the allegation on good faith and based on reasonable belief, or that the reporting youth inflicted or attempted to inflict self-injury.

(ii) A youth may not be disciplined for sexual contact with staff unless a finding is made that the staff member did not consent to such contact.

(2) The results shall be forwarded to the Deputy Director of Operations or his or her designee who shall report the incident to the Illinois State Police, where appropriate.

(3) Substantiated allegations of conduct that appears to be criminal shall be referred to the appropriate State's Attorney for prosecution.

(4) The Chief Administrative Officer shall inform the youth as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded and provide the youth with a completed Report of Investigative Outcome, DJJ 0321.

(a) If the youth alleged that a staff member had committed the sexual abuse, the Facility PREA Compliance Manager shall inform the youth (unless the Department has determined that the allegation is unfounded) whenever (i) the staff member is no longer posted within the youth’s unit or is no longer employed at the facility, or (ii) the Department learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the youth center.

(b) If the youth alleged that another youth committed the sexual abuse, the Facility PREA Compliance Manager shall inform the youth whenever the Department learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the youth center.

NOTE: If the Department did not conduct the investigation, the Chief Administrative Officer of the youth center shall request the relevant information from the investigative agency in order to inform the youth.

(5) Within 30 days of the conclusion of the investigation, unless the allegation has been determined to be unfounded, the Chief Administrative Officer shall appoint a review team that shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The review team shall:

(a) Consider whether the allegation or investigation 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, gay, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the youth center;

(c) Examine the area in the youth center 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 findings, including but not necessarily limited to determinations made pursuant to paragraphs (5)(a)-(5)(e) of this section, and any recommendations for improvement and submit such report to the Chief Administrative Officer and Facility PREA Compliance Monitor.

(6) The youth center shall implement the review team’s recommendations for improvement, or shall document its reasons for not doing so

**Authorized by:**

*[Original Authorized Copy on File]*

**Heidi Mueller**

**Director**

Supersedes:

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