Department of Community Justice
Policy and Procedures

DIVISION: Department of Community Justice		
SUBJECT: Sexual Victimization Prevention and Response – (Prison Rape Elimination Act - PREA)		
APPROVAL: Deena Corso	**EFFECTIVE DATE:** **9/26/2017**	**REPLACES (policy # and date):** DCJ Client/Offender Sexual Victimization Prevention and Response / (PREA) – 9/ 2013

I. **POLICY:**

It is the policy of the Department of Community Justice (DCJ) to have zero tolerance for sexual abuse, sexual harassment, or sexual misconduct and to follow the Prison Rape Elimination Act (PREA) Standards pertaining to the prevention, intervention and response to any justice involved individual within secure detention or a community confinement facility associated with pre-trial release or post release supervision. The Department will immediately respond to allegations, fully investigate reported incidents, pursue disciplinary action, and refer for investigation and prosecution those who perpetrate sexual abuse conduct.

II. **REVIEW HISTORY:**

Reviewed by Adult and Juvenile Services Division Management 7/2007, 11/2008, 8/2013 and 8/2017.

III. **CONTACT:**

DCJ PREA Compliance Manager and DCJ PREA Coordinator

IV. **PERSONS AFFECTED:**

All employees, volunteers and interns with DCJ.

V. **CROSS REFERENCES:**

ORS 163.452-454 Custodial Misconduct; ORS 419B.005-025 Reporting of Child Abuse; DCJ Mandatory Reporting Policy; DCJ Professional Ethics and Conflict of Interests Policy; DCJ Complaints and Grievance Process for Justice Involved Individual and the Public Policy; JSD Ethical Staff Boundaries; JSD Searches Policy; ASD Arrest and Transport Policy.

VI. **DEFINITIONS:**

Community Confinement Facility: a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Mandatory Child Abuse Reporter: A public or private official, as defined by ORS 419B.005(3), "…licensed nurse, peace officer, psychologist, member of the clergy, licensed clinical social worker, licensed professional counselor, court appointed

special advocate, a county juvenile department employee, a certified provider of foster care or an employee thereof…"
Due to the extensiveness of the statute's definition Multnomah County has deemed all county employees to act in the capacity of a Mandatory Reporter.

Prison Rape Elimination Act (PREA): The law signed by the President of the United States in February 2003 which mandates all corrections and community confinement facilities comply with national rape prevention standards that cover non-consensual sexual acts, justice involved individuals' sexual abuse, staff sexual misconduct and sexual harassment.

Sexual Abuse: Where 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 the buttocks of another person, excluding contact incidental to a physical altercation.

Additionally, in regards to staff, contractors, or volunteers as the perpetrators –
(5) 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;
(6) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident.

Sexual Coercion: The use of debt, threats of physical harm, peer pressure, deceit, personal favors, positional authority to force or cajole sexual favors from a person.

Sexual Exploitation: Allowing, employing, authorizing, permitting, inducing or encouraging one to engage in prostitution, photography, filming, tape recording or other exhibition which depicts sexual conduct or contact.

Sexual Harassment: (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Sexual Misconduct: Behavior or sexual act directed toward a justice involved individual by an employee, volunteer, contractor, official visitor, or agency representative. Misconduct includes romantic or sexual relationships including: 1) intentional touching of the genitalia, anus, groin, breast, inner thigh or buttocks with the intent to abuse, arouse, or gratify sexual desire; 2) completed, attempted, threatened, or requested sexual acts; 3) occurrences of indecent exposure; or 4) staff voyeurism.

Sexual Victimization: For purposes of this policy, this term encompasses any of the following intolerable acts: Sexual abuse, sexual coercion, sexual exploitation, sexual harassment, sexual misconduct, and voyeurism.

Voyeurism: The invasion of privacy of an inmate, detainee, or resident by staff, contractor or volunteer for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

VII. PROCEDURES:

A. Training and Education

1. DCJ staff, contracted individuals/agencies, volunteers and interns who have direct or incidental contact with justice involved individuals within secure detention or a community confinement facility will receive an initial PREA training and a refresher training every two years.
Training will include, but is not limited to:
- **a.** Review of DCJ PREA Policy and zero tolerance expectations;
- **b.** Prevention, intervention, response and reporting measures;
- **c.** Recognition of sexual misconduct, predatory individuals and potential victims;
- **d.** Acknowledgement that retaliation towards anyone who reports sexual victimization or cooperates with a sexual victimization investigation will not be tolerated. This behavior will be monitored and addressed by the PREA Compliance Manager and PREA Coordinator; and
- **e.** Allowance for reporting information in private.

2. DCJ will ensure that Corrections Health staff (Mental Health Consultants, and nurses), and preliminary investigators receive specialized training in:
- **a.** Assessing, preserving and collecting evidence; and
- **b.** Handling interviews and documenting findings.

3. Within 10 days of intake to secure juvenile custody or a community confinement setting, DCJ justice involved individuals will receive education / orientation that consists of:
- **a.** No sexual contact is permitted between residents within a community confinement or detention setting. All sexual contact will be investigated. Any "consensual" findings will result in disciplinary action.
- **b.** Zero tolerance of sexual victimization policy;
- **c.** How to report incidents; and
- **d.** False and deliberately malicious reports will result in disciplinary action or criminal charges.

B. Prevention Measures for Sexual Victimization - *Juvenile Detention and Juvenile Secure Treatment*:

1. Youth and staff receive PREA training/education.

2. Youth are provided single occupancy room assignments on gender specific units.

- Youth are allowed to change clothing and perform bodily functions without staff viewing them.
  - Exceptions occur only during rare circumstances of a 1:1 suicide watch status and when such viewing is incidental to routine cell/room checks.

3. Unit assignments consider vulnerability assessment results gathered during the intake process.
4. Showers are single occupancy spaces with a locking door.
   - All unit activities cease during the unit's structured showering schedule.
5. A staff entering a housing unit that consists of the opposite gender population than that of the staff requires the staff to announce his/her presence at the door.
   - Simple announcement of: "Male/female entering the unit."
6. A staffing plan is documented and followed.
7. The Intake area and housing units have recording surveillience cameras operating 24 hours a day, seven days a week.
8. Visitors are informed about the facility's Zero Tolerance policy regarding sexual abuse / sexual harassment / sexual misconduct. Educational flyers that define PREA are made available in the visiting lobby.
9. The Detention Manager will conduct and document random and unannounced walk-throughs of all units during day and night shifts.
   a. Staff are prohibited from alerting staff/units of the Detention Manager's presense as he approaches and moves through secure units.

C. Reports from Justice Involved Individuals and Staff

1. Justice involved individuals or any other reporting bodies are not required to file a written report.
   a. Verbal reports or submitted written grievances by a victim, a witness, an anonymous individual or a third party require staff to immediately generate a *PREA Incident Report* **(Exhibit A)** and pass the report to the on duty manager. See **Exhibit B** – *First Response Checklist*
      - The on-duty manager, PREA Compliance Manager (Detention Manager) and/or PREA Coordinator will ensure allegations are investigated in accordance to PREA standards.
        - If an incident is claimed to have occurred in another facility, the PREA Compliance Manager or PREA Coordinator will share the DCJ PREA Incident Report with that facility within 72 hours.
      - Any incoming Grievance will be processed as a priority and outcomes will be documented and returned to the grievant within 90 days, but not greater than a 70-day extension beyond the 90 days.
        - The Compliance Manager (or designee) will share investigation outcomes with the alleged victim and document this communication.

- A Department of Human Services hotline number is available for detained youth to access and Custody Services staff will expedite the facilitation of a request from a youth to make such a call.
- The Compliance Manager (or designee) will monitor retaliation by checking-in with the reporter and the alleged victim(s) every seven days.

2. Any DCJ staff who has knowledge, suspicion, or information regarding sexual victimization that occurred in a secure facility or community confinement center (within DCJ or outside of DCJ) is required to fill out a *DCJ PREA Incident Report to* **(Exhibit A)** with as much information as possible, and submit the form to an on duty manager.
Staff have an obligation to report any awareness of retaliation against youth or staff who have reported PREA details, and must report any knowledge of staff neglect that may have contributed to an incident. Failure to follow reporting requirements may lead to disciplinary action up to and including termination.

a. The manager is required to send copies of the PREA report to both the DCJ PREA Compliance Manager and the PREA Coordinator.
b. Staff will follow Mandatory Child Abuse Reporting, as applicable.
c. A senior manager will refer criminal behavior associated with sexual abuse / sexual harassment / sexual misconduct to the appropriate law enforcement jurisdiction for investigation purposes.

D. Staff Response Beyond Submitting a Written Report and Notification to Law Enforcement

1. If a justice involved individual's alleged **sexual abuse has occurred <u>within the last 96 hours</u>**, the following is required:

a. If the victim is a juvenile from a DCJ secure facility, he/she is transported to a local hospital for an evidentiary exam and treatment.
- All other justice involved individual are assisted in locating the closest hospital in order to receive a medical exam.

b. If a justice involved individual has an assigned Parole/ Probation Officer (PPO) or Juvenile Court Counselor (JCC), staff notifies the assigned PPO/JCC and the PPO/JCC's unit manager via e-mail.
c. If the sexually victimized person is a youth, parental/guardian notification is assessed and conducted at the JCC's discretion.
d. Staff will not discuss information related to a sexual victimization report to anyone other than those necessary to make treatment, investigation, or security decisions.

2. Under circumstances where **<u>96 hours has passed since sexual abuse</u>** has occurred, it is no longer necessary to obtain an evidentiary exam. However, the justice involved individual is encouraged to access medical attention so he/she can inquire and receive treatment for a variety of health concerns (i.e. sexually transmitted diseases, etc.).

a. When a justice involved individual discloses prior sexual victimization that occurred while he/she was staying in any sanctioned secure setting,

the staff will seek to verify a PREA report already exists (data base records/notes, or a phone call to the relevant facility). If documentation of the alleged incident does not exist, a DCJ PREA Incident Report is generated and sent to the facility's PREA Coordinator.
- Staff actions are documented within a chrono entry.

b. Staff will not discuss information related to a sexual victimization report to anyone other than those necessary to make treatment, investigation, or security decisions.

3. Under circumstances a justice involved individual identifies a DCJ staff as the alleged perpetrator:
- **a.** A unit manager notifies the Department's Assistant Director and a Human Resources representative.
- **b.** Immediate steps are taken to ensure that there is no further contact between the alleged perpetrator and the justice involved individual.
- **c.** All previously listed response protocols of this policy are to be followed.

4. Under circumstances a justice involved individual identifies another justice involved individual as the alleged perpetrator:
- **a.** Immediate steps are taken to ensure that there is no further contact between the alleged perpetrator and the justice involved individual.
- **b.** All previously listed response protocols of this policy are to be followed.

VIII. **EXHIBITS:**

Exhibit A: DCJ PREA Incident Report Form
Exhibit B: PREA First Responder Checklist
Exhibit C: Juvenile Facility Standards (May 2012)