

YOUTH CORRECTIONAL FACILITY

CHAPTER: Operations	SUBJECT: Zero Tolerance of Sexual Abuse & Sexual Harassment	POLICY NO.: 1.12.a
RELATED POLICIES: Prison Rape Elimination Act 115.31	RELATED FORMS:	OTHER REFERENCES:

I. POLICY

Department of Youth Affairs (DYA) is committed to the safety and well-being of the residents in our care, as well as our staff, volunteers, contractors and visitors. To that end, the following Prison Rape Elimination Act Standards have been put into place at DYA.

PREA §115.311

1. Department of Youth Affairs establishes a zero tolerance standard for any incidence of sexual abuse, Sexual harassment between youth on youth, and staff, volunteers and contractors on youth. DYA Coordinated Response to Sexual Abuse and Assault, to coordinate actions taken in response to an incidents of sexual abuse and assault among staff first responders, medical and behavioral health services, investigators, and Director or designee.
2. Youth on youth, and staff, volunteers and contractors on youth sexual activity, sexual abuse, sexual assault, rape, sexual conduct, sexual contact and sexual harassment as defined in this policy and within Guam Code are prohibited and subject to administrative and criminal disciplinary sanctions, regardless of consensual status.
3. Engaging in sexual abuse, sexual assault or sexual harassment with any youth under DYA supervision is prohibited and may result in termination of employment. Any contractor or volunteer who engages in sexual abuse, sexual assault or sexual harassment shall be prohibited from contact with youth and notification shall be made to the Guam Police Department, unless the activity was clearly not criminal. DYA shall take appropriate remedial measures, and shall consider whether to prohibit further contact with youth in the case of any other violation of this policy.
4. Youth shall receive information regarding sexual abuse, sexual assault and sexual harassment including: prevention and intervention, self-

protection, medical and behavioral health treatment services, their rights to be free from retaliation for reporting such incidents, and DYA's policies and procedures for responding to and reporting such incidents. This information shall be communicated orally and writing, in an age appropriate fashion and language clearly understood by the youth, during intake

5. Any employee, volunteer or contractor who is a witness to or has knowledge of any sexual activity, sexual abuse, sexual assault, sexual harassment and /or rape shall immediately report it to the Director or designee. An employee who knowingly fails to report sexual activity, sexual abuse, sexual assault, sexual harassment and/or rape of a youth shall be subject to disciplinary actions or termination of services.
6. DYA employees, volunteers and contractors, as well as youth in the custody of DYA, are prohibited from retaliating against other staff or youth for reporting allegations of sexual abuse, sexual assault, sexual harassment and rape investigations. The Program Director shall be responsible for monitoring the retaliation and ensuring the agency's victim protection measures are enforced.
7. All staff, volunteers and contractors are prohibited from revealing any information related to a sexual abuse or sexual assault report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation and other security and management decisions.
8. This policy applies to all DYA staff, contractors and volunteers.
9. DYA shall designate an upper-level PREA Coordinator with sufficient time and authority to develop, implement and oversee efforts to comply with the PREA Standards.

II. Applicability

This policy applies to all Department of Youth Affairs' staff and volunteers.

III. Procedures

Department of Youth Affairs will not tolerate any type of sexual abuse, sexual assault or sexual harassment between youth, staff and youth, staff and staff, or volunteers/contractors and youth or staff. There will be consequences for all, whether they be administrative or criminal, it will not be taken lightly.

Roles and Responsibilities:

1. Department of Youth Affairs shall designate an upper-level Staff member to act in capacity of PREA Coordinator with the sufficient time and authority to develop, implement and oversee DYA's efforts to comply with the PREA standards within the facility.

Screening for Sexual Abuse, Sexual Assault and/or Sexual Victimization:

1. All youth shall be screened utilizing the 'Screening for Assaultive Behavior, Sexually Aggressive Behavior and Risk for Sexual Victimization' form within 72 hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Housing, program, education and work assignments shall be made accordingly with the goal of keeping all youth safe and free from sexual abuse and sexual assault.

Youth Reporting:

1. Youth shall have multiple internal ways to privately report sexual abuse, sexual assault, sexual harassment, retaliation by other youth or staff for reporting sexual abuse, sexual assault and sexual harassment and staff neglect or violation of responsibilities that may have contributed to such incidents.
2. Youth who are victims of sexual abuse, sexual assault and/or sexual harassment have the option to report the incident to any Department of Youth Affairs staff member.
3. Youth may file a formal grievance (Complaint) and place it in the secure Complaint Form located in each unit.
4. A youth also has the option to report sexual abuse, sexual assault, and/or sexual harassment via the Emergency Phones located in each units to the Guam Police Department, Their Social Worker in which DYA will follow their protocol procedures.

Staff Reporting and Monitoring:

1. All staff accept reports of sexual abuse, sexual assault and/or sexual harassment made verbally, in writing, anonymously, and from third parties, and take them seriously. They will be passed through the Chain of Command for investigation.

2. Third party reporting of sexual abuse, sexual assault and/or sexual harassment can be submitted by using a 'Third Party Reporting Form' available on the facility website, at the form counter, and using the copy given to the family during the assessment process prior to the youth being admitted into the program.
3. All staff shall privately and immediately report to the Director or the Superintendent and promptly document using a 'Sexual Abuse/Assault/Harassment' form, any knowledge, suspicion, or information they received regarding and incident of sexual abuse, sexual assault or sexual harassment that occur in a facility, whether or not it is DYA Staff will also report any retaliation against youth or staff who have reported such an incident, and any staff neglect or violation of responsibilities/duties that may have contributed to an incident or retaliation.
4. Medical and counseling staff shall also report sexual abuse or sexual assault to their designed by mandatory child abuse reporting laws and in accordance with DYA policy. At the initiation of medical and mental health services, youth shall be informed of the staff's duty to report and the limitations of confidentiality.
5. The Superintendent shall be responsible for monitoring the retaliation from staff and youth against other staff or youth who report allegations of sexual abuse, sexual assault or sexual harassment or cooperate with investigations of such allegations. If any other individual who cooperates with an investigation expresses a fear of retaliation, DYA shall take appropriate measures to protect the individual against retaliation. The monitoring will cease if the allegation is determined to be unfounded. The monitoring shall include, but not limited to the following:
 - a. For at least 90 days following a report of sexual abuse or sexual assault, the Superintendent shall monitor the conduct or treatment of youth or staff who reported the incident and of youth who were reported to have suffered sexual abuse or sexual assault to see if there are changes that may suggest possible retaliation by youth or staff, and shall act promptly to remedy any such retaliation. Items the Program Director shall monitor include any youth disciplinary reports, housing, or program changes, or negative performance reviews or reassignment of staff. The Superintendent shall continue monitoring indicates a continued need.
 - b. Periodic Status checks of youth.

- c. Review of youth behavioral reports, room changes, negative performance evaluations or staff reassignments, and other information as deemed appropriate.

Medical – Staff Response:

The treatment of youth who allege sexual assault or rape is considered a medical emergency. Staff shall follow DYA's written plan to coordinate actions taken in response to an incident of sexual abuse and sexual assault among staff first responders, medical and behavioral health services providers, investigators and the Superintendent.

1. As a first responder, the staff member who first becomes aware of the incident shall take immediate action to protect the victim by physically separating the victim and the aggressor. The staff member shall notify his/her immediate supervisor who shall notify the Superintendent and Director. Facts regarding the incident shall be reporting in writing without unsubstantiated conclusions, opinions, or accusations. The youth should be viewed as priority and should be given immediate privacy.
2. In order to preserve and protect any possible evidence, staff shall call 9-1-1 to request emergency squad transport of the youth to Guam Memorial Hospital when possible. Law enforcement will also be contacted for investigation of the incident, and secure the crime scene. Only an emergency physician of the Guam Memorial Hospital, should perform an examination on the youth. The Supervisor on duty at the time shall notify the Guam Memorial Hospital and Guam Fire Department and provide information pertaining to the youth's reason for transport and impending arrival time. All medical treatment shall be at no cost to the youth.
3. If the alleged assault occurred within seventy-two (72) hours the alleged victim and aggressor shall be advised by staff not to shower, change clothes, urinate, defecate, drink, eat or otherwise clean themselves, or if the abuse or assault was oral, to not drink or brush their teeth, or otherwise take any action that could damage or destroy evidence.
4. The staff member accompanying the youth should be of the same gender to prevent further trauma (depending on the circumstances of the trauma).
5. The Supervisor on duty at the time shall be responsible for notifying the youth's committing court (Caseworker) and the youth's parents/guardians.
6. The Supervisor on duty at the time shall report the alleged incident to assigned Social Worker and through follow procedures and contact Guam Child Protective Services.

7. The staff member who first became aware of the alleged incident shall complete Significant Incident Report or Point of Information Report.
8. The Supervisor on duty at the time shall ensure that all appropriate reports Significant Incident Report or Point of Information Report and Witness Statements are completed.
9. An investigations shall be conducted by the Guam Police Department and documented whenever sexual abuse, sexual assault, or sexual harassment is alleged, threatened, or occurs. The Guam Police Department shall receive notification of all allegations of sexual abuse and assault. Discipline and/or additional criminal charges for the alleged aggressor may occur pending the results of the investigation.
10. If an allegations that a youth was sexually abused or sexually assaulted while confined in another facility, the Director or designee shall notify the appointing authority or designee of the facility or agency where the alleged abuse or assault occurred. Such notification shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. Notification shall be noted in the youth's file.

If a report is received from another facility alleging sexual abuse, assault or harassment occurring at DYA. The Director will document the report and immediately begin the reporting process as with any other allegation of such an incident by reporting to the Guam Police Department, if applicable.

Follow Up Support:

Emotional and supportive treatment of youth who allege sexual assault or rape is considered an emergency and in need of specific sexual assault counseling by trained individuals

1. The Supervisor on Duty at the time or designee will assure that the youth and/or alleged perpetrator is removed from the area where the alleged assault occurred. Also, the Supervisor or designee shall separate the victim and the alleged perpetrator to ensure the victim's safety.
2. The Supervisor on Duty at the time or designee shall complete a Point of Information Report that will be sent to the parents, Guam Police Department Social Worker and Family court.
3. The youth's DYA counselor shall conduct an assessment to determine the impact of the crisis as soon as possible, not to exceed the end of the workday on which staff is notified of the alleged assault. The DYA

- counselor shall assess the youth utilizing the Assessment for Assaultive Behavior Sexual Aggressive Behavior Risk for Sexual Victimization.
4. Crisis counseling done by an individual trained in sexual counseling shall be immediately provided and documented as a part of a mental health treatment plan. The youth shall be informed of options and supported in decisions so that the individual can regain a sense of control. The counselor will question the youth to determine if further evidence collection is desired and/or appropriate.
 5. Counseling shall be done by either rape/crisis center personnel or by specifically trained professional. Arrangements for these services shall be conducted by the Director or Designee.
 6. The licensed counselor is responsible for the therapeutic follow-up of the individual's treatment. Problems will be identified and entered into a treatment plan in order to address the needs of the youth regarding; (1) education; (2) counseling; (3) legitimacy of report (does the youth have delusions of rape, does he report rapes as a means of gaining attention, does he enter into voluntary sexual encounters that change to alleged rape, or has he been a legitimate rape victim but has continued to accuse falsely?; and (4) the youth's definition of sexual assault. The licensed counselor will coordinate the treatment plan with the incident and ensure written follow-up contact. A follow-up report shall be submitted to the Director for quality review purposes.
 7. DYA Nurse shall ensure the youth victim received testing for all of the following: Trichomoniasis, Gonorrhea, Chlamydia, Syphilis, Hepatitis B and C, and HIV. If testing did not occur at the Guam Memorial Hospital any of the Guam Public Health Clinics.
 8. DYA nurse shall ensure the aggressor, if a DYA resident, receives testing for all of the following: Trichomoniasis, Gonorrhea, Chlamydia, Syphilis, Hepatitis B and C, and HIV.

Sexual Abuse and Sexual Assault Incident Reviews

1. At the conclusion of every sexual abuse or sexual assault investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded, GMH or Guam Public Health shall conduct a sexual abuse or sexual assault incident review.
2. This review shall occur within thirty (30) days of the conclusion of the investigation.
3. The review team shall include the Director, Superintendent the Supervisor on duty at the time of the incident, the youth's counselor, and the DYA

- Nurse. Input from the Case Management Personnel and External Investigator(s) will also be considered. 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 facility.
 - c. Examine the area in the facility 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 shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.
 - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant and any recommendations for improvement and submit such report to the facility head and PREA Compliance Manager.
4. DYA shall implement the recommendations for improvement, or shall document its reasons for not doing so.

Staffing Plan Assessment

1. The Director in conjunction with Compliance Manager will organize and schedule a staffing plan assessment annually.
2. Identification of operational issues, staffing issues, as well as technology and physical plant issues that need to be addressed to ensure a safe and secure environment.
3. A written report will be developed noting all issues being addressed.
4. Items will be addressed in order of importance.

Training and Education

Youth Education:

1. Within 10 days of intake, youth shall receive comprehensive age-appropriate education regarding DYA's Zero tolerance policy regarding sexual abuse, sexual assault and sexual harassment, how to report incidents

- or suspicions of sexual abuse sexual assault and sexual harassment and to be free from retaliation for reporting such incidents, DYA's policies and procedures for reporting such incidents. Youth shall also receive this information in the DYA's client handbook.
2. Each youth shall sign a Sexual Abuse, Sexual Assault, and Sexual Harassment Education form to acknowledge and document his/her participation in the education session.
 3. A copy of the education form will be placed in the youth's file.
 4. DYA staff provide youth education in formats accessible to all youth, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to youth who have limited reading skills. In addition to providing such education the Compliance Manager shall ensure that key information is continuously and readily available or visible to youth through posters and client handbooks.

Staff Training:

Orientation and annual training plans shall include training for all staff on the following

- a. DYA Zero Tolerance of Sexual Abuse and Sexual Harassment Policy to include but not limited to:
 - i. Preventing, detecting, reporting, and responding to sexual abuse, sexual assault, and sexual harassment;
 - ii. Youth's right to be free from sexual abuse, sexual assault, and sexual harassment; and
 - iii. Youth and staff right to be free from retaliation for reporting sexual abuse, sexual assault, or sexual harassment;;
- b. The common reactions of youth victims of sexual abuse, sexual assault, and sexual harassment.
- c. How to detect and respond to signs of threatened and actual sexual abuse and sexual assault and how to distinguish between consensual sexual contact and sexual abuse and sexual assault between youth;
- d. How to avoid inappropriate relationships with youth;
- e. How communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming youth;
- f. The dynamics of sexual abuse, sexual assault, and sexual harassment in youth facilities;
- g. DYA's Policy on Child Abuse and Neglect Reporting and complying with all relevant laws related to reporting and age of consent.

All DYA staff will document that they received the training and understand the information by signing the Training Verification form.

Medical and Behavioral Health Services Staff Training:

1. All medical and counseling staff shall receive the same mandatory training given to all DYA staff. They will also receive additional specialized training in Sexual Abuse, Sexual Assault and Sexual Harassment. The training shall consist of but is not limited to the following:
 - a. Detecting and assessing signs of sexual abuse and sexual harassment;
 - b. Responding effectively and professionally to juvenile victims of sexual abuse, sexual assault, and sexual harassment; and
 - c. Reporting of allegations or suspicions of sexual abuse, sexual assault and sexual harassment.

Volunteer and Contractor Training:

1. All volunteers and contractors who have contract with youth shall be trained on the prevention, detection, reporting, and response to sexual assault, and sexual harassment as outlined in this policy. The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with youth.
2. DYA shall maintain documentation showing that volunteers and contractors understand the training they received.

Possible Sanctions for Prohibited Behaviors:

Youth: Sanctions for youth who commit sexual abuse or sexual harassment of other youth or staff would be written as a disciplinary report. The Capitol Offense and Disciplinary Report Hearing process would be followed. Meanwhile, the Juvenile Court would be notified. At that point any sanctions the Juvenile Court wants to impose would take precedent over the facility sanctions. This would all take place after an investigation was completed. If there is sufficient evidence to show that the action is definitely criminal in nature, the Guam Police Department would also be involved.

Sanctions could range from time on suspension in the program, time added to the program stay, up to and including removal from the program and remanded to the Department of Youth Affairs.

Staff: Sanction for staff who commit sexual abuse of a youth or fellow staff member or sexual harassment of a youth or staff would follow the Government of Guam Department of Administration (DOA) Personnel Policy Manual. DYA is also responsible to comply with DOA Policies due to the fact that all staff at DYA work under the auspices of the Guam Juvenile Court.

Sanction could range from Group II Offenses from 8-24 hour suspension to termination of employment. More serious Group III Offenses carry a sanction of “Up to and including termination employment”.

If there was a case of staff sexually harassing staff, it would be dealt with through administrative means which would still fall under the DOA Personnel Policy Manual but may not be criminal in nature.

Record Keeping:

1. All youth records associated with claims of sexual abuse and sexual assault, including incident reports, investigative reports, youth information, case disposition, medical and behavioral health evaluation findings, and recommendations for treatment and/or behavioral health services shall be securely retained in the youth’s file. DYA, working under Guam’s Juvenile Court, has no record retention policy and therefore, records are kept indefinitely.

Audits and Compliance:

DYA has a staff member titled Compliance Manager who will serve as the PREA Coordinator and will oversee the efforts to make and keep the facility in compliance with all the PREA standards.

DYA shall be audited by a certified Department of Justice Auditor every three years.

IV. Definitions

Aggressor – A person committing a sexual assault or sexual abuse against another.

Bisexual – A person who is attracted to and may form sexual and romantic relationships with males and females.

Contractor – A person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Gay – Generally refers to a person who is emotionally, romantically, and sexually attracted to people of the same gender. Sometimes, it may be used to refer to gay men and boys only. It is preferred over the term “homosexual.”

Gender Nonconforming – A person whose appearance or manner does not confirm to traditional societal gender expectations.

Intersex – A person whose sexual 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.

Lesbian – Generally refers to a female who is emotionally romantically, and sexually attracted to other females.

LGBTI Youth – Youth who have self-identified or are perceived by others as lesbian, gay, bisexual, transgender or intersex.

Prison Rape Elimination Act (PREA) – The first United States federal law passed dealing with sexual assault of prisoners. The bill was signed into law on September 4, 2003.

PREA Coordinator – A DYA staff member with sufficient time and authority to develop, implement, and oversee the agency’s efforts to comply with the PREA standards.

Rape – Any sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force (ORC 2907.02)

Sexual Abuse – Includes sexual abuse of an inmate, detainee, resident by another inmate, detainee, or resident; and sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident 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 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.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

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 staff member, contractor, or volunteer 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 staff member, contractor, or volunteer 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 the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraph (1)-(5) of this section;
7. 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; and
8. Voyeurism by a staff member, contractor, or volunteer, which means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at a inmate who is using a toilet in his cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breast; or taking images of all or part of an inmates naked body or of an inmate performing bodily functions.

Sexual Activity – Sexual conduct or sexual contact, or both. (ORC 2907.01)

Sexual Assault – Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any part of the body of one person, or of any object into the sex organ, mouth or anus of another person, by the use of force or threat of force.

Sexual Conduct – Vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. (ORC 2907.01)

Sexual Harassment – (as it pertains to this policy) – (1) Repeated and unwelcome sexual advances, request for sexual favors, or verbal comments, gestures, innuendos, or actions of a derogatory or offensive sexual nature by a youth directed toward another youth; and (2) Repeated verbal comments, innuendos, or gestures of a sexual nature to a youth 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 Victimization – Collective term to describe any acts of sexual violence perpetrated against an individual.

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.

Volunteer – A person who choose freely to provide services for youth with no promise of compensation.

Voyeurism – An invasion of privacy by a staff member, contractor, or volunteer of a youth or resident by staff for reason unrelated to official duties, such as peering at a resident who is using a toilet in his living area to perform bodily functions; requiring a resident to expose his buttocks, genitals, or breast; or taking images of all or part of a resident’s naked body or of a resident performing bodily functions.

Vulnerability Assessment – An assessment which shall serve to identify physical plant and operational issues that exist within our institutions that create vulnerabilities for sexual abuse and sexual assault to occur.