

Category: Prison Rape Elimination Act (PREA)
Policy #: 17.7
Subject: Investigations
Purpose: To establish guidelines for proper investigation procedures for incidents in the Juvenile Detention Center.

When a staff member has cause to believe that a juvenile has been sexual harassed or sexual abused, they shall immediately report the matter to his/her immediate supervisor and at the earliest possible time to the Chief Juvenile Probation Officer, Detention Superintendent, Assistant Detention Superintendent and the PREA Coordinator/Investigator.

I. Criminal Investigations

1. The Fort Bend County Juvenile Probation Department (FBCJPD) shall not conduct criminal investigations of allegations of sexual abuse and sexual harassment. The Fort Bend County Sheriff's Office shall conduct all criminal investigations of allegations of sexual abuse and sexual harassment. They shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

2. When sexual abuse is alleged, the FBCJPD's PREA Coordinator or investigators who have received special training in sexual abuse investigations involving juvenile victims shall conduct an investigation for only administrative purposes.

3. The first person of knowledge of the sexual assault shall immediately notify their immediate supervisor, PREA Coordinator/Investigator, detention Division Director, Chief Juvenile Probation Officer and report to law enforcement the allegations.

The staff member may not delegate or rely on another person to make the report.

Failure to report suspected or alleged sexual abuse, sexual harassment, physical abuse, neglect, or exploitation, of a juvenile by any staff member shall be grounds for immediate administrative action up to and including termination.

3. The FBCJPD designated first responder shall, in the absence of the PREA investigator:

A. Separate the alleged victim and the alleged perpetrator by housing or supervision in a manner favorable to the alleged victim. The alleged victim shall be under the full constant observation of staff. Separation shall continue until the completion of an internal investigation.

B. Place all juveniles into their individual housing unit if the alleged sexual assault took place in the unit.

C. Secure the location of the alleged sexual assault by posting staff to insure no forensic

evidence is tampered with.

D. Alleged Victim Care:

- 1) Manage emergency medical issues
- 2) Ensure the safety of the victim
- 3) Ensure privacy and confidentiality
- 4) Request the alleged victim does not take any action that could destroy physical evidence such as showering, changing clothes, washing hands, urinating, defecating, brushing teeth, smoking, drinking or eating until consented to by law enforcement.
- 5) Obtain a written statement if appropriate

E. Alleged Perpetrator:

- 1) Ensure the alleged perpetrator does not take any actions that could destroy physical evidence such as showering, changing clothes, washing hands, urinating, defecating, brushing teeth, smoking, drinking or eating until consented to by law enforcement.
- 2) When appropriate, ensure suspension or re-assignment
- 3) Obtain a written statement

F. Evidence Collection:

- 1) Gather and preserve direct and circumstantial evidence, including any physical and DNA evidence and any available electronic monitoring data.
- 2) Photograph the scene
- 3) Photograph the alleged victim if appropriate
- 4) Document times, date, location, parties involved
- 5) Obtain written statements

4. The PREA Coordinator/Investigator shall:

A. Ensure the alleged perpetrator is sequestered away from contact with anyone other than law enforcement if that person remains on property controlled by FBCJPD.

B. Confirm that law enforcement has been contacted

C. Notify appropriate agencies of the incident

D. Document all aspects of the incident

E. Ensure all investigative procedures are followed

5. The FBCJPD shall not terminate an investigation solely because the source of the allegation recants the allegation.

6. When the quality of evidence appears to support criminal prosecution, the FBCJPD shall conduct compelled interviews only after consulting with prosecutors as to whether compelled

interviews may be an obstacle for subsequent criminal prosecution or interfere with the proper law enforcement agencies investigation.

7. 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 staff. FBCJPD shall not require a resident who alleges sexual harassment, 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.

II. Additional Procedures

1. Any staff member named in the complaint shall fully cooperate with any investigation of the alleged juvenile sexual harassment, sexual abuse, physical abuse, neglect, or exploitation, in the facility, and any staff member so named in a complaint shall:

- A. Be placed on administrative leave or reassigned to a position having no contact with juveniles in the facility until the conclusion of the internal investigation.
- B. Have no contact with the alleged victim or their family.
- C. Failure to comply with this section shall be grounds for immediate administrative action up to and including termination.

2. The failure by any staff member to comply fully in any investigation of alleged juvenile sexual harassment, sexual abuse, physical abuse, neglect, or exploitation, shall be grounds for immediate administrative action up to and including termination.

3. At the conclusion of the internal investigation of juvenile sexual harassment, sexual abuse, physical abuse, neglect, or exploitation, the FBCJDC shall take whatever measures necessary to provide for the safety of juveniles in the facility including but not limited to:

- A. Requesting the Juvenile Board to revise the operation policy and procedure.
- B. Reassignment of staff.
- C. Termination of staff.
- D. Transfer of the juvenile to another facility.

4. The Chief Juvenile Probation Officer has the authority to call upon the Texas Rangers, Fort Department, the Department of Family and Protective Services (C.P.S.) to perform internal investigations within the department.

5. Retaliation against any complainant or their family shall be grounds for immediate administrative action up to and including termination.

6. The allegation of abuse, neglect, or exploitation, shall specify the actual incidence(s) including the event and the alleged actors in the alleged action.

7. A program participant who alleges sexual abuse shall be offered at no cost:
 - A. Counseling and support by the employed or contracted counselors at the FBCJPD.
 - B. Counseling and support by a qualified contract service provider,
 - C. A forensic medical examination by a Sexual Abuse Nurse Examiner (SANE), Sexual Abuse Forensic Examiner (SAFE) or other qualified medical practitioner and,
 - D. A victim advocate from a rape crisis center, another qualified staff member from a community based organization, or a qualified staff member of the FBCJPD to accompany the victim through all processes where allowable.

Documentation of the support services offered and provided shall be maintained in the juvenile resident's detention or residential file.

8. Until the conclusion of the internal investigation, any person alleged to be a perpetrator of abuse, exploitation, or neglect shall be placed on paid or unpaid leave or reassigned to a position having no contact with residents in the facility or any program participant, relatives of the alleged victim, participants in a juvenile justice program or individuals under the jurisdiction of the juvenile court.
9. At the conclusion of the internal investigation, the Director or facility administrator, or designee shall take appropriate measures to provide for the safety of the residents.
10. At the conclusion of a sexual abuse investigation, the victim shall be informed as to the finding of the investigation.
11. The Director or facility administrator, or designee shall submit a copy of the internal investigation to the TJJD within five calendar days following the completion of the internal investigation.

III. Juvenile Board:

In the event the Chief Juvenile Probation Officer or facility administrator is alleged to be a perpetrator of abuse, exploitation or neglect, the juvenile board shall:

1. Conduct the internal investigation or appoint an individual who is not an employee of the facility to conduct the internal investigation.
2. Until the conclusion of the internal investigation place the Director or facility administrator on administrative leave, or ensure the Director or facility administrator has no contact with the residents in the facility, relatives of the alleged victim, participants in a juvenile justice program or individuals under the jurisdiction of the juvenile court.
3. The juvenile board or their designee shall submit a copy of the internal investigation to the Texas Juvenile Justice Division (TJJD) within 5 calendar days following the completion of the internal investigation.

IV. Administrative Agency Investigations

1. Administrative Investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse and 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.
2. 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.
3. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.
4. FBCJPD shall retain all written reports referenced in paragraphs (1) and (2) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.
5. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
6. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
7. When outside agencies investigate sexual abuse, the FBCJPD shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

V. Evidentiary Standard for Administrative Investigations

The FBCJPD shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

VI. Reporting to Residents

1. Following an investigation into a resident's allegation of sexual abuse suffered in the Fort Bend County Juvenile Detention Center (FBCJDC), the FBCJPD shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the FBCJPD did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the resident.
3. Following a resident's allegation that a staff member has committed sexual abuse against the resident, the FBCJPD shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:
 - A. The staff member is no longer posted within the resident's unit;

- B. The staff member is no longer employed at the facility;
 - C. FBCJPD learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - D. FBCJPD learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
4. Following a resident's allegation that he or she has been sexually abused by another resident, the FBCJPD shall subsequently inform the alleged victim whenever:
- A. FBCJPD learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - B. FBCJPD learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications shall be documented.
6. FBCJPD obligation to report under this standard shall terminate if the resident is released from the agency's custody.

Revised: 04/01/2015

Date

Reviewed by County Attorney's Office: 5/27/2015

Date

Adopted by the Juvenile Board: 6/10/2015

Date