



Office of Children and Family Services

Policy and Procedures Manual

Prevention, Detection and Response to Sexual Abuse and Sexual Harassment (PPM 3247.01)

Approved By: <i>Sheila J. Poole (signed)</i> Sheila J. Poole, Acting Commissioner	Date Issued: June 20, 2016	Number of Pages: 18	Appendix Pages: 3
Related Laws: Correction Law § 168-a(2) Penal Law Article 130 Sex Offenses Sections 130.00(1) through 130.90(2) Prison Rape Elimination Act of 2003 Department of Justice Juvenile Facility Standards National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA) 28 C.F.R. Part 115	Division/Office: Juvenile Justice and Opportunities for Youth	Contact Office/Bureau/Unit: Facilities Management	
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Related Policies: PPM 1810.00 Reporting Crimes PPM 2021.04 Employee Screening for Child Abuse and Maltreatment PPM 2026.03 Criminal History Screening PPM 2613.00 Employee Reporting of Personal Threats PPM 2615 Work Place Violence Prevention Program PPM 2651.00 Employee Discipline PPM 3243.42 Communicable Disease and Disease Control PPM 3246.00 Ready Emergency Data Book PPM 3247.03 Supervision of Youth PPM 3247.17 Addressing Allegations of Employee Misconduct PPM 3402.00 Limited Secure &	Related Forms: OCFS 2167 Video Surveillance and Staffing Plan OCFS 4928 Facility Classification Form OCFS 4902 What You Should Know About Sexual Abuse		

<p>Non-secure Facilities Admissions and Orientation PPM 3402.01 Secure Facilities Admissions and Orientation PPM 3429.00 Reportable Incidents PPM 3442.00 Lesbian, Gay Transgender and Questioning Youth PPM 3450.00 Case Record Management. PPM 3456.01 Justice Center-Related Reportable Incidents in OCFS Residential Facilities and Programs</p>	
<p>Supersedes: PPM 3247.01 Prevention, Detection and Response to Sexual Abuse, Assault and Harassment (03/18/2014)</p>	
<p>Summary: This policy outlines the Office of Children and Family Services zero tolerance policy concerning sexual abuse and sexual harassment of Office of Children and Family Services' youth as well as procedures for prevention, detection and response within Office of Children and Family Services operated facilities.</p>	

I. POLICY

The Office of Children and Family Services (OCFS) has a zero tolerance policy concerning sexual abuse and sexual harassment of OCFS youth, and is committed to the prevention and elimination of sexual abuse and sexual harassment within the Division of Juvenile Justice and Opportunities for Youth (DJJOY) facilities through compliance with the Prison Rape Elimination Act of 2003 (PREA). OCFS is committed to the equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment. Violations of this policy may result in disciplinary sanctions for staff and youth perpetrators and/or criminal prosecution as authorities deem appropriate.

II. DEFINITIONS

- A. Contractor** – Any person not an employee providing any service on a recurring basis for agreed upon compensation pursuant to a contractual agreement with OCFS.
- B. Employee** – Any person compensated by OCFS via state payroll regardless of civil service status who works directly for OCFS, or any person compensated by another State agency whose job duties entail providing services in OCFS facilities.
- C. Exigent Circumstances** – Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- D. Gender Non-Conforming** – A person whose appearance or manner does not conform to traditional societal gender expectations.

- E. Intersex** – a person who’s 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.
- F. Medical Practitioners** – Health professionals who, by virtue of education, credentials, and experience, are permitted by law to evaluate and care for patients within the scope of their professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- G. Mental Health Practitioners** – Mental health professionals who, by virtue of education, credentials, and experience, are permitted by law to evaluate and care for patients within the scope of their professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.
- H. Pat-down Search** – A search conducted by a staff member by running the hands over the clothed body of a youth to determine if the youth possesses contraband.
- I. OCFS PREA Coordinator** – The upper-level DJJOY employee designated with sufficient time and authority to develop, implement and oversee OCFS’ efforts to comply with PREA standards in all DJJOY facilities.
- J. PREA Facility Compliance Manager** – The facility-level employee designated with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.
- K. Sexual Abuse*** –
1. Sexual abuse of a youth by another youth 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:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and/or
 - d. 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.
 2. Sexual abuse of a youth by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the youth:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

- b. Contact between the mouth and the penis, vulva, or anus;
- c. 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;
- d. 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;
- e. 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;
- f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a) – (e) of this section;
- g. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a youth, and
- h. Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor or volunteer means an invasion of privacy of a youth by a staff member, contractor or volunteer for reasons unrelated to their official duties such as peering at a youth who is using a toilet to perform bodily functions; requiring a youth to expose his or her buttocks, genitals or breasts; or taking images of all or part of a youth's naked body or of a youth performing bodily functions.

* Note - Youth in OCFS/DJJOY facilities are unable to consent regardless of age. Youth are prohibited from engaging in sexual activity with other youth, staff, volunteers or contractors. However, for such activity to constitute sexual abuse between youth, it must be determined that the activity was coerced.

L. Sexual Harassment

1. Repeated and unwelcome sexual advances, requests for sexual favors, and other verbal comments, gestures or actions of a derogatory or offensive nature by one youth directed toward another, and
2. Repeated verbal comments or gestures of a sexual nature to a youth, by a staff, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about the body or clothing, or obscene language or gestures.

M. Sex Offenses – Any act identified as a sex offense by Article 130 of the New York State Penal Law or as defined by New York State Correction Law § 168-a (2).

- N. Strip Search** – A search that requires a youth to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breasts, buttocks, and/or genitalia.
- O. Substantiated*** – An allegation that was investigated and determined to have occurred.
- P. 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.
- Q. Unfounded*** – An allegation that was investigated and determined NOT to have occurred.
- R. Unsubstantiated*** – An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- S. Visitors** – Any people having access to any OCFS facility, office or program who are not contractors, employees or volunteers as defined in this policy.
- T. Volunteers** – Any people who donate time and effort on a recurring basis to enhance the activities and programs of the agency/facility.
- U. Voyeurism** – An invasion of privacy of a youth by a staff member, contractor, or volunteer for reasons unrelated to official duties, such as peering at a youth who is using a toilet to perform bodily functions; requiring a youth to expose his or her buttocks, genitals or breasts; or taking images of all or part of the youth’s naked body or of a youth performing bodily functions.
- V. Youth** – Persons who are or have been in OCFS custody.

* **NOTE:** The above definitions are taken from the Prison Rape Elimination Act National Standards for Juvenile Facilities and only apply to this policy. They are not interchangeable with the definitions of the same words as used in Social Services Law.

III. PROHIBITIONS

The following acts are prohibited:

- A.** Sexual conduct with OCFS youth by OCFS staff, volunteers, visitors or contractors. These individuals must also comply with [PPM 3247.03 Supervision of Youth](#);
- B.** Sexual conduct among OCFS youth in OCFS facilities;
- C.** Cross-gender strip searches and pat-down searches except for thoroughly documented exigent circumstances;
- D.** Opposite gender viewing of youth under circumstances when breasts, buttocks or genitalia would normally be exposed (shower/hygiene time, performing bodily functions, and changing clothes). Each facility director must develop local operating procedures designed to prevent such viewing; such procedures must require that

staff of the opposite gender announce their presence when entering the housing unit and any area where youth are likely to be showering, performing bodily functions, or changing clothing;

- E. Searching or physically examining a transgender or intersex youth for the sole purpose of determining the youth's genital status.

IV. PROCEDURE

A. Prevention – Supervision and Monitoring

DJJOY must develop, implement and document a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring to protect youth against sexual abuse. [OCFS 2167 Video Surveillance and Staffing Plan](#) must be completed and submitted to the OCFS PREA Coordinator by January 31st of each year. In determining adequate staffing levels and the need for video monitoring, facilities must take into consideration:

1. generally accepted juvenile detention and correctional/secure residential practices;
2. any judicial findings of inadequacy;
3. any findings of inadequacy from federal investigative agencies;
4. any findings of inadequacy from internal or external oversight bodies;
5. all components of the facility's physical plant (including "blind spots" and/or areas where staff or youth may be isolated);
6. composition of the different populations within its facilities;
7. number and placement of supervisory staff;
8. programs occurring on each shift;
9. relevant laws, regulations and standards;
10. prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
11. Minimum staff to youth ratios must be 1 to 8 during waking hours and 1 to 16 during sleeping hours. Any deviations from the plan due to limited and discrete exigent circumstances must be documented on the Video Surveillance and Staffing Plan ([OCFS 2167](#)). Only security staff must be included in these ratios,

B. Video Surveillance and Staffing Plan

1. Whenever necessary, but no less frequently than once a year in consultation with the OCFS PREA Coordinator, DJJOY facilities will assess, determine and document where adjustments are needed to:

- a. The staffing plan;
- b. Prevailing staffing patterns;
- c. The facility's deployment of video monitoring systems and other monitoring technologies;
- d. Resources the facility has available to commit to adhere to its staffing plan and;
- e. The OCFS 2167 Video Surveillance and Staffing Plan must be submitted to the OCFS PREA Coordinator by January 1st of each year on OCFS 2167.

Intermediate level or higher level supervisors must conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such unannounced rounds must be implemented for all shifts (day and night). Facility staff are prohibited from alerting other staff members that these supervisory rounds are occurring, unless these announcements are related to legitimate operational functions of the facility.

2. Staff of opposite gender must announce their presence when entering a living unit or area where youth change clothes, shower, or perform bodily functions.
3. When designing or acquiring any new facility and in planning any substantial expansion or modification to existing facilities, OCFS must consider the effect of the design, acquisition, modification or expansion upon the facility's ability to protect youth from sexual abuse. When installing or updating a facility's video monitoring system or other monitoring systems, OCFS must consider how such technology will enhance OCFS' ability to protect youth from sexual abuse.

C. Admission/Housing

1. Youth are to be screened for potential vulnerabilities to victimization and propensity to victimize others with sexually aggressive behavior upon arrival/intake at an OCFS facility. This screening will be documented using [OCFS 4928 Facility Classification Form](#) and entered into JJIS within 72 hours of admission. Living unit and room assignments must be made accordingly. This form must be reviewed every 30 days and the review must be documented in JJIS. At a minimum, the facility must attempt to ascertain information about:
 - a. prior sexual victimization or abusiveness;
 - b. any gender non-conforming appearance or manner of identification as lesbian, gay, bisexual, transgender, or intersex, and whether the youth may therefore be vulnerable to sexual abuse;
 - c. current charges and offense history;

- d. age;
 - e. level of emotional and cognitive development;
 - f. physical size and stature;
 - g. mental illness or mental disabilities;
 - h. physical disabilities;
 - i. the youth's own perception of vulnerability; and
 - j. any other specific information about the individual youth that may indicate needs for heightened supervision, additional safety precautions, or separation from certain other youth.
2. This information must **only** be shared with authorized employees and **must be maintained in a manner that ensures that sensitive information is not exploited to the youth's detriment by other staff or youth.** This information will be used to make housing, bed, program, education and work assignments for youth with the goal of keeping all youth safe and free from sexual abuse.
 3. Youth may be isolated from other youth only as a last resort when less restrictive measures are inadequate to keep them and other youth safe, and then, only until an alternative means of keeping all youth safe can be arranged. During any period of isolation youth must receive large muscle exercise, educational programming, daily visits from medical or mental health staff, and access to other programs to the extent possible. If a youth is isolated, the facility must clearly document the basis for the facility's concern for the youth's safety and the reason why no other alternative means of separation can be arranged. Every 30 days, the facility must afford a youth isolated as described above a review of the circumstances to determine whether there is a need for continued separation from the general population.
 4. Lesbian, gay, transgender, bisexual, or intersex youth must not be placed in particular housing, bed, or other assignments solely on the basis of such identification, or status, or their perceived or actual sexual orientation, nor must the facility consider lesbian, gay, transgender, bisexual or intersex identification or status as an indicator of likelihood of being sexually abusive. ([PPM 3442.00 Lesbian, Gay, Transgender or Questioning Youth](#))
 5. In deciding whether to assign a transgender or intersex youth to a facility for male or female youth, and in making other housing and programming assignments, OCFS must consider on a case by case basis whether the placement would promote the youth's health and safety, and whether the placement would present management and/or security problems.
 6. Placement and programming for transgender and intersex youth must be reassessed at least twice a year or sooner if a complaint has been made, to review any threat to safety experienced by the youth. Transgender and intersex youth's own views with respect to their own safety must be given serious

consideration.

7. Transgender and intersex youth must be given the opportunity to shower separately from other youth.
8. Upon admission, and no later than 72 hours, youth must be provided information, in an age appropriate manner, either in person or video, about their rights to be free from sexual abuse and sexual harassment, and free from retaliation for reporting allegations of sexual abuse and sexual harassment. Youth must be provided with and sign for receipt of [OCFS 4902 What You Should Know About Sexual Abuse](#) within first 72 hours of admission. Youth must be provided information concerning prevention, intervention, self-protection, reporting of sexual abuse and the agency's zero tolerance policy.
9. Youth must also receive information regarding treatment and counseling for victims of sexual abuse.
10. The required information must be communicated orally and in writing, in a language clearly understood by the youth during the admission process. Language assistance resources are available through the OCFS Public Information Office. Facilities must not rely upon youth interpreters, youth readers or other types of youth assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could jeopardize a youth's safety, the performance of first responder duties subject to section 115.364 of the PREA Juvenile Standards, or the investigation of the youth's allegations. All education and information must be made available in formats accessible to all youth (limited English, deaf, visually impaired or otherwise disabled, as well as, limited reading skills).
11. Youth must be clearly advised that sexual conduct encompassing all definitions in this policy by adults or other youth in OCFS facilities is prohibited and that youth are to feel comfortable to report any such activity to his or her counselor, ombudsman or any staff member.
12. In addition to providing such information, facilities must make certain that key information is continuously and readily available and visible to youth through posters, youth handbooks, or other written formats.
13. Youth who are transferred to another facility must receive this information again to the extent that the information from the previous facility differs from their new facility.
14. With regards to PREA, youth must be referred to a mental health clinician under the following circumstances:
 - a. The youth is identified as a high risk with a history of sexually assaultive behavior. Such youth must be monitored, counseled, and provided appropriate treatment.
 - b. The youth is identified as at-risk for sexual victimization. Such youth must be monitored and counseled, and provided with appropriate treatment.

15. Receipt of the above education and information must be documented for each youth in the Juvenile Justice Information System (JJIS).

D. Employee Training and Youth Education

1. All employees must receive training that is specific to juveniles and the gender of the population they are working with. Employees must sign an acknowledgement verifying that they understand the training they receive. Staff must be retrained when they transfer to a facility with a different gender population. Current employees must receive this training and receive refresher training annually. The training must include the following:
 - a. OCFS' zero tolerance policy on sexual abuse and sexual harassment;
 - b. staff responsibilities under OCFS' sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;
 - c. youth's rights to be free from sexual abuse and harassment;
 - d. rights of youth and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e. dynamics of sexual abuse and sexual harassment in juvenile facilities;
 - f. common reactions of juvenile victims of sexual abuse and harassment;
 - g. how to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between youth;
 - h. how to avoid inappropriate relationships with youth;
 - i. effective and professional communication with youth including those who identify as lesbian, gay, bisexual, transgender, intersex and/or gender non-conforming;
 - j. compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and
 - k. relevant laws regarding the applicable age of consent for OCFS youth.
2. All volunteers and contractors who have intended contact with youth must be trained on their responsibilities under this policy. The level and type of training must be based on the services they provide and the level of contact they have with youth. Regardless of level of contact, all volunteers and contractors who have contact with youth must be notified in writing of OCFS' zero tolerance policy and how to report incidents or suspicions of sexual abuse or harassment. The facility must maintain documentation confirming that contractors and volunteers have understood the training that they have received.

3. Investigators who are assigned to cases involving allegations of violations of this policy must receive specialized training (in addition to the training provided to all employees) concomitant with the roles in conducting investigations in facility settings. The specialized training must include:
 - a. techniques for interviewing juvenile sexual abuse victims;
 - b. proper use of Miranda and Garrity warnings;
 - c. sexual abuse evidence collection in facility settings; and
 - d. criteria and evidence required to substantiate a case for administrative action and/or prosecution referral.
4. Medical staff and mental health clinicians must receive specialized training (in addition to the training provided to all employees) in the following:
 - a. detecting and assessing signs of sexual abuse and harassment;
 - b. preserving physical evidence of sexual abuse;
 - c. responding effectively and professionally to victims of sexual abuse and harassment; and
 - d. how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

E. Allegations of Inappropriate Conduct

Youth who believe they have been subjected to conduct prohibited by this policy have the option to report the incident to a designated staff member other than an immediate point-of-contact line staff member. That includes, but is not limited to, the unit/office supervisor, counselor, mental health clinician, medical personnel, any facility administrator, or the OCFS Office of the Ombudsman (OOTO). Reports may be made verbally or in writing. The necessary materials to submit written reports will be provided to all youth. Youth also have the option of reporting allegations to the OOTO and/or the Special Investigations Unit (SIU) via their respective toll-free numbers posted on all living units. Additionally, youth, their families, and the public have the ability to report allegations outside OCFS via the toll-free number for the Vulnerable Persons Central Register Hotline (VPCR), which is part of the NYS Justice Center for the Protection of People with Special Needs (Justice Center). ([PPM 3456.01 Justice Center-Related Reportable Incidents in OCFS Residential Facilities and Programs](#))

Facility staff must accept reports, including reports made regarding other OCFS or non-OCFS facilities that are made verbally, in writing, anonymously, and from third parties. Verbal reports must be promptly documented.

Each facility must provide a manner for staff to privately report sexual abuse and sexual harassment of youth.

1. For all allegations of sexual abuse or where there has been penetration or contact between the mouth and penis, vulva or anus; or where there is an injury that may indicate penetration, or contact between the mouth and penis, vulva or anus, the victim will be immediately referred to the outside medical facility that was previously identified for clinical assessment and gathering of forensic evidence by professionals who are trained and experienced in the management of victims of sexual abuse. The outside medical facility's trained examiner will make the final determination regarding evidence collection. Staff who can provide support to the victim must accompany the youth. In the event that a youth refuses to be examined at the medical facility, such refusal must be properly documented on the appropriate form(s). Facilities must make efforts to establish a Memorandum of Agreement (MOA) with the medical facility. These efforts must be documented and part of the local operating procedure.

To preserve evidence, an allegation of rape or penetration requires that a youth not be allowed to engage in any activities such as hygiene, washing, bathing, showering, eating, drinking, brushing teeth, chewing gum, and eating or drinking (unless medically necessary). Youth should also be discouraged from urinating or defecating as that may destroy evidence prior to being presented at a hospital or clinic for the gathering of such evidence.

2. In all other cases of alleged sexual abuse that do not involve penetration as described above in Section IV, E,1, the victim must be brought to the facility medical department for examination.
3. Staff must attempt to make available a victim advocate from a rape crisis center and must document effort to provide rape crisis services.
4. OCFS health staff must follow the procedures in [PPM 3243.42 Communicable Diseases and Disease Control](#) as needed for management of high risk exposures, paying particular attention to the following areas:
 - a. the Bureau of Health Services must be notified of the occurrence of a high risk exposure;
 - b. provision must be made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and release of information for purposes of medical management of both the victim and alleged perpetrator;
 - c. prophylactic treatment and follow-up for sexually transmitted diseases must be offered to all victims, as appropriate, if not already done in the emergency room;
 - d. follow-up must be done by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up; and
 - e. a report must be made to the facility or program administrator or designee to assure separation of the victim from his or her alleged abuser.
5. The parent/legal guardian must be notified of any allegations of inappropriate

conduct involving their child.

6. Pregnancy testing, as well as comprehensive information and access to all lawful pregnancy related medical services, and timely contraception and STD prophylaxis, must be provided in a timely manner.
7. All medical, mental health and counseling services must be provided at no cost to the youth.

F. Staff First Responder Duties

Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the report must:

1. separate the victim and alleged abuser;
2. preserve and protect the scene until appropriate steps can be taken to collect any evidence;
3. request the alleged victim not take any actions that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, swimming, drinking or eating; and
4. take steps to prevent the alleged abuser from destroying physical evidence, such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

G. Reporting and Investigations

1. All OCFS employees, contractors, and volunteers are required to report knowledge of any alleged, threatened or actual violations of this policy to their supervisor, any on-duty employee above them in the chain of command, the on call administrator (AOC) or the facility/program director. They also have the ability to privately report sexual abuse and sexual harassment of youths to the Justice Center. OCFS employees are mandated reporters and as such, must report incidents of sexual abuse and sexual harassment to the Justice Center. Failure to report may result in administrative, criminal or disciplinary sanctions appropriate to individual's status. ([PPM 3456.01 Justice Center-Related Reportable Incidents in OCFS Residential Facilities and Programs](#))
2. Every allegation of threatened or actual sexual abuse or sexual assault constitutes a reportable incident and must be called into the Central Communications Unit (CCU) in accordance with [PPM 3429.00 Reportable Incidents](#). CCU staff must then enter all available information regarding the incident into the Juvenile Justice Information System (JJIS).
3. OCFS requires that an investigation be conducted and documented whenever a violation of this policy is alleged. The Justice Center has responsibility for investigation of all PREA related allegations and incidents. A report is to be made in accordance [OCFS PPM 3456.01 Justice Center Related Reportable Incidents in OCFS Residential Facilities & Programs](#).

4. Upon receiving an allegation that a youth was sexually abused while confined at another facility, the facility director of the facility that received the allegation must notify the facility director of the other facility or appropriate office of the agency (if not an OCFS operated facility) where the alleged abuse occurred and must also notify the appropriate investigative agency. Such notification must be provided as soon as possible, but no later than 72 hours after receiving the allegation. The notification must be documented and a Reportable Incident Report generated.
5. **Multiple Sexual Allegations Response Plan** – In the event that (a) youth(s) within an OCFS/DJJOY facility makes multiple allegations regarding sexual misconduct or sexual harassment by staff (2 within a week or 3 within a month) at one facility, the facility has the option to employ the Multiple Sexual Allegation Response Plan. This plan has been developed to allow for the Justice Center to perform an expedited and thorough investigation into specific allegations so as to minimize the disruptive impact upon facility operations and programming. The decision to utilize this specialized plan requires the authorization of the Associate Commissioner for Program Services. This plan must be maintained in the Facility Red Book. ([PPM 3246.00 Ready Emergency Data Book \(R.E.D. Book\)](#))
6. If the notified facility is an OCFS operated facility, the facility director that receives such notification must refer the matter for investigation as required by this policy.

H. Protection against Retaliation

1. OCFS has established policies to protect all youths and staff that report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other youths or staff (see [PPM 3443.00 Youth Rules](#) and [PPM 2613.00 Employee Reporting of Personal Threats](#)). Each facility must designate which staff members or departments are charged with monitoring retaliation.
2. OCFS must employ multiple protection measures, such as housing changes or transfers for youth victims or abusers, removal of alleged staff or youth abusers from contact with victims, and emotional support services for youths or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations (see [PPM 3456.01 Justice Center-Related Reportable Incidents in OCFS Residential Facilities and Programs.](#), [PPM 2613.00 Employee Reporting of Personal Threats](#) and [PPM 2615 Work Place Violence Prevention Program](#)).
3. For at least 90 days following a report of sexual abuse, the facility must monitor the conduct or treatment of youths or staff who reported the sexual abuse and of youths who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by youths or staff, and must act promptly to remedy any such retaliation. Items that will be monitored include any youth disciplinary reports, housing, or program changes, negative performance reviews and reassignments of staff.
4. OCFS Home Office staff must conduct periodic status checks on youth. OCFS must continue such monitoring beyond 90 days if the initial monitoring indicates a

continuing need.

5. The agency's obligation to monitor must terminate should the agency determine that the allegation is unfounded.

I. Sexual Abuse Incident Reviews

1. Within 30 days of the conclusion/receipt of the investigation the facility must conduct a sexual abuse incident review of all allegations (substantiated and unsubstantiated), unless the allegation has been determined to be unfounded. Reviews must be conducted by a team of staff, grade 18 and above, and must include input from direct care staff, investigators, and medical and mental health practitioners. The review team must:
 - 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 actual or perceived race, ethnicity, sex (e.g. intersex), gender identity (e.g. transgender identity), sexual orientation (e.g. gay, bisexual, lesbian), status, gang affiliation or was motivated by other group dynamics at the facility;
 - c. examine the area in the facility where the incident allegedly occurred to assess whether physical layout 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;
 - f. prepare a report of its findings, including but not necessarily limited to determinations made pursuant to this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager; and
 - g. the facility must implement the recommendations for improvement, or must document its reasons for not doing so.

J. Documentation

1. All records associated with claims of sexual abuse/assault, including incident reports, investigative reports, juvenile information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling must be marked "Confidential" and retained in accordance with an established schedule and PPM 3450.00 Case Record Management.
2. [OCFS 4928 Facility Classification Form](#), as a part of the youth's case record, is a confidential document and must be maintained in accordance with PPM 3450.00 Case Record Management.
3. All trainings mandated by this policy must be documented as required by the

Bureau of Training.

K. Disciplinary Actions

1. Staff Disciplinary Sanctions

- a. Staff must be subject to disciplinary sanctions as determined by OCFS and consistent with collective bargaining agreements up to and including termination for violating agency sexual abuse or sexual harassment policies.
- b. Termination must be the presumptive disciplinary sanction for staff that has been substantiated for sexual abuse.
- c. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- d. All dismissals of violations of OCFS sexual abuse or sexual harassment policies, or resignations by staff who would have been dismissed or subject to dismissal proceedings if not for their resignation, must be reported to law enforcement agencies, unless the activity was clearly not criminal, and reported to any relevant licensing bodies.

2. Corrective Action for Contractors and Volunteers

- a. Any contractor or volunteer who engages in sexual abuse must be prohibited from contact with youths and must be reported to law enforcement agencies (unless the activity was clearly not criminal) and to relevant licensing bodies.
- b. The facility must take appropriate remedial measures and must prohibit further contact with youths.

3. Interventions and Disciplinary sanctions for youth

- a. A youth may be subject to disciplinary sanctions pursuant to the OCFS's disciplinary procedures.
- b. Disciplinary sanctions imposed by the facility must be commensurate with the nature and circumstances of the abuse committed, the youth's disciplinary history, and the sanctions imposed for comparable offenses by other youths with similar histories.
- c. The disciplinary process must consider whether developmental disability or mental illness contributed to a youth's behavior when determining what type of sanction, if any, should be imposed.
- d. Consideration must be given to providing the offending youth therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse. However, the facility may not require

participation in such interventions as a condition of access to general programming or education.

- e. The facility may only discipline a youth for sexual contact with staff upon a finding that the staff member did not consent to such contact.
- f. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred must not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- g. Sexual activity between youth is prohibited, however for such activity to constitute sexual abuse, there must be no assent to the activity or it must be forcible or coerced.

L. Notifications to Youth

1. Following an investigation into a youth's allegation of sexual abuse occurring in an OCFS facility, OCFS must inform the youth as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. Following a youth's allegation that a staff member has committed sexual abuse against the youth, OCFS must subsequently inform the youth (unless OCFS has determined that the allegation is unfounded) whenever:
 - a. The staff member is no longer posted within the youth's unit;
 - b. The staff member is no longer employed at the facility;
 - c. OCFS learns that the staff member has been indicted on a charge related to sexual abuse within the facility; and/or
 - d. OCFS learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility.
3. Following a youth's allegation that they have been sexually abused by another youth, OCFS must subsequently inform the alleged victim whenever:
 - a. OCFS learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - b. OCFS learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
4. All such notifications or attempted notifications must be documented. DJJOY's obligation to report under this standard must terminate if the youth is released from OCFS custody.

M. Data Collection and Review

1. The DJJOY PREA Database is the central repository for all information regarding

allegations of sexual abuse and sexual assault. Data must be entered into DJJOY PREA Database using standardized data fields and standardized definitions.

2. This database of all reported allegations, threats or actual violations of this policy will be maintained by DJJOY for reporting compliance with the provisions of the Prison Rape Elimination Act of 2003.

**(Facility name)
Local Operating Procedure**

Prevention, Detection & Response to Sexual Abuse and Sexual Harassment (PPM 3247.01)

Approved By:	Date Issued:	Number of Pages: 3	Appendix Pages: N/A
Related Laws: Correction Law § 168-a(2) Penal Law Article 130 Sex Offenses Sections 130.00(1) through 130.90(2) Prison Rape Elimination Act (PREA)	Division/Office: Juvenile Justice and Opportunities for Youth	Contact Office/Bureau/Unit: Facilities Management	
Supporting Regulations: N/A	American Correctional Association Standards (ACA): 4-JCF-3D-01-3D-09		
Regulatory Bulletins & Directives: N/A	Local Operating Practice: Required		
Related Policies: PPM 1810.00 Reporting Crimes (1810.00) PPM 2021.04 Employee Screening for Child Abuse and Maltreatment (2021.04) PPM 2026.03 Criminal History Screening PPM 2613.00, Employee Reporting of Personal Threats PPM 2615 Work Place Violence Prevention Program). PPM 2651.00 Employee Discipline (2651.00) PPM 3243.42 Communicable Disease and Disease Control (3243.42) PPM 3246.00 Ready Emergency Data Book (3246.00) PPM 3247.03 Supervision of Youth (3247.03) PPM 3247.17 Addressing Allegations of Employee Misconduct (3247.17) PPM 3402.00 Limited Secure & Non-secure Facilities Admissions	Related Forms: OCFS 2167 Video Surveillance and Staffing Plan OCFS 4928 Facility Classification Form		

<p>and Orientation (3402.00) PPM 3402.01 Secure Facilities Admissions and Orientation (3402.01) PPM 3429.00 Reportable Incidents (3429.00) PPM 3442.00 Lesbian, Gay Transgender and Questioning Youth (3442.00) PPM 3450.00 Case Record Management PPM 3456.01 Justice Center-Related Reportable Incidents in OCFS Residential Facilities and Programs</p>	
<p>Supersedes: PPM 3247.01 Prevention, Detection and Response to Sexual Abuse, Assault and Harassment (3/18/2014)</p>	
<p>Summary: This policy outlines the Office of Children and Family Services zero-tolerance policy concerning sexual abuse, sexual assault and sexual harassment of Office of Children and Family Services youth as well as procedures for prevention, detection and response within Office of Children and Family Services operated facilities.</p>	

I. PRACTICE

- A. Each facility must designate a PREA Compliance Manager with sufficient time and authority to coordinate efforts to comply with the PREA standards. The designated compliance manager must be so noted on the facility's organizational chart.
- B. Each facility must develop local procedures for the immediate response to allegations of sexual abuse, assault and harassment as well as procedures for responding to imminent threats of sexual abuse or assault that include:
 - 1. Who is notified?
 - 2. Who needs to respond to the scene?
 - 3. Steps to be taken for the immediate safety of the victim?
 - 4. Who is responsible for notifying the Justice Center?
 - 5. Who arranges transportation to the appropriate medical facility?
- C. Opposite gender viewing of youth under circumstances when breasts, buttocks or genitalia would normally be exposed (shower/hygiene time, performing bodily functions, and changing clothes) are generally prohibited. The following local operating procedures are designed to prevent such viewing:
 - 1.
 - 2.
 - 3.

- D. Admission screening will be conducted upon admission using form OCFS-4928. The following staff (listed by title and ranked as primary, secondary and tertiary) are trained and authorized to complete the OCFS-4928:
- 1.
 - 2.
 - 3.
- E. Within 10 days of admission to an OCFS operated facility all youth must receive comprehensive, age-appropriate education, either in person or video, about their rights to be free from sexual abuse and harassment, and free from retaliation for reporting allegations of sexual abuse, assault or harassment. This education will be completed using the OCFS publication, "Checking In For: Your Safety at OCFS DJJOY". Youth will receive this program as follows:
1. Current youth
 2. New admissions
 3. Transfers
- F. For all allegations of sexual abuse or assault the victim will be immediately referred to the medical facility with which the facility has previously established a Memorandum of Agreement (MOA) for clinical assessment and gathering of forensic evidence by professionals who are trained and experienced in the management of victims of sexual abuse and assault. The following medical facility(s) and crisis counseling service providers must be utilized:
- 1.
 - 2.
 - 3.
- G. All residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations must be protected from retaliation by other residents or staff. The following staff members or departments are charged with monitoring retaliation:
- 1.
 - 2.
 - 3.