

PRISON RAPE ELIMINATION ACT (PREA)

5.1 PRISON RAPE ELIMINATION ACT

Manual: Detention Policy & Procedures
Chapter: PREA
Effective: 09/19/22



POLICY

Ada County Juvenile Detention has a zero-tolerance policy for any sexual activity, threats to engage in non-consensual sexual activity, or solicitation to engage in sexual activity between juvenile and juvenile, staff and juveniles, volunteers or contract personnel and juveniles, whether consensual or non-consensual. Any officers, employees, contractors, and volunteers involved in this type of behavior will be subject to administrative and criminal sanctions (see Idaho Code sections 18-6110, 18-1501, 18-1506, 18-1506A, 18-1508, 18-1508A and 18-6101.1).

Juvenile on juvenile sexual activity, rape, sexual conduct, and sexual contact as defined in this policy is prohibited. Juveniles participating in this type of behavior will receive appropriate discipline and may be charged with a new crime. Depending on the age of the juvenile and the charge, the juvenile may be charged as an adult.

PURPOSE

To ensure that Ada County Juvenile Detention operates in accordance with the Prison Rape Elimination Act of 2003 (PREA, Public Law 108 – 79, 108th Congress).

DEFINITIONS

Sexual abuse includes:

- Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident.
- Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of a resident by another 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:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus.
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
- 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 a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
- Contact between the mouth and the penis, vulva, or anus.
- 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.
- 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.
- 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.
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above.
- 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.
- Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer:

- An invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using the toilet or requiring an inmate to expose their buttocks, genitals, or breasts; or taking images of all or part of an inmate’s naked body or of an inmate performing bodily functions.

Sexual harassment includes:

- 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.
- 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.

Investigation finding definitions:

- *Substantiated* - an allegation that was investigated and determined to have occurred.
- *Unfounded* - an allegation that was investigated and determined not to have occurred.
- *Unsubstantiated* - an allegation that was investigated and determined not to have occurred.

PROCEDURES

- 1) All behaviors listed above under “definitions” are considered prohibited sexual behavior.
- 2) All staff, volunteers, and contractors are required to immediately report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that has occurred in the facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation to the Shift Supervisor, Assistant Detention Manager, Detention Manager, or Director of ACJS.

- a. ACJS staff will accept reports made verbally, in writing, anonymously, and from third parties and will promptly document any verbal reports.
- 3) All staff, volunteers, and contractors are required to immediately report any knowledge, suspicion, or information that a resident, volunteer, contractor, or staff member is being retaliated against for reporting an incident of sexual abuse or harassment and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation to the Shift Supervisor, Assistant Detention Manager, Detention Manager, PREA Coordinator, or Director of ACJS.
- 4) All detention, medical, and mental health staff are required by Idaho Statute 18-1605 to report any abuse of a juvenile to the Department of Health and Welfare within 24 hours of the report.
- 5) All staff will treat violations of sexual abuse and sexual harassment with confidentiality and will not discuss the matter outside of their chain of command, human resources, or the investigators of the alleged abuse or harassment.
- 6) ACJS will have a PREA Coordinator who will be appointed by the Director of ACJS. The PREA Coordinator will have the time and authority to develop, implement, and oversee agency efforts to comply with the rules and standards of the Prison Rape Elimination Act.
- 7) Any new contract or contract renewal for the confinement of juveniles will include the obligation to adopt and comply with the PREA standards.
- 8) ACJS will not contract with, hire, or promote anyone who may have contact with the residents who has:
 - a. Engaged in sexual abuse in a prison, jail, lockup, confinement facility, or juvenile facility.
 - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, implied threats of force, or coercion.
 - c. Has been civilly or administratively adjudicated to have engaged in the activity described in 8b of this section.
 - d. ACJS will consider any incidents of sexual harassment in determining whether to hire or promote anyone or enlist the services of any contractor who may have contact with the residents.
 - e. All new hires will be subject to a criminal background, fingerprint, and child abuse registry check prior to employment.
 - f. ACJS will conduct criminal background, fingerprint and child abuse registry checks every five years of current employees and contractors.
 - g. Material omissions regarding misconduct or providing false information about past misconduct in the hiring or promotion process will be grounds for termination.
- 9) ACJS will maintain adequate staffing and video monitoring to prevent sexual abuse and sexual harassment.
 - a. ACJS will maintain staff ratios at minimum of 1:8 during waking hours, and 1:16 during resident sleeping hours.
 - b. Supervisory staff will conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment.
 - i. This practice will be done on both day and night shifts, at random times and days of the week.

- ii. Detention staff is prohibited from alerting other staff members that these unannounced rounds are occurring.
 - iii. The unannounced rounds will be documented the Wellbeing log.
- 10) No less than once a year the detention staffing plan will be assessed to ensure that ratios are met, video monitoring systems are adequate and blind spots are identified, and resources are available to make necessary changes.
- a. The staffing plan will be assessed by the Detention Manager, PREA Coordinator, and Detention Supervisors.
 - b. A yearly report will be written and signed off by the Director of ACJS on the staffing plan assessment.
 - c. The assessment will consider the following:
 - i. IDAPA rules for juvenile detention in the state of Idaho.
 - ii. Findings from internal and external oversight bodies.
 - iii. Components of the physical plant including blind spots, technology used for monitoring residents, or areas where residents may be isolated.
 - iv. Composition of the resident population.
 - v. Number and placement of staff and supervisors.
 - vi. Programs occurring on a particular shift.
 - vii. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
 - viii. Any other relevant factors discussed during the assessment.
- 11) All detention staff including the medical department will be required to attend at least 1 hour of PREA training per year. The training will cover the following topics:
- a. Zero tolerance for sexual abuse and harassment.
 - b. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures.
 - c. Resident's rights to be free from sexual abuse and sexual harassment.
 - d. The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment.
 - e. The dynamics of sexual abuse and sexual harassment in juvenile facilities.
 - f. The common reactions of juvenile victims of sexual abuse and sexual harassment.
 - g. How to detect and respond to signs of threatened and actual sexual abuse.
 - h. How to preserve physical evidence of sexual abuse.
 - i. How to avoid inappropriate relationships with residents.
 - j. How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents.
 - k. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
 - l. Medical staff will also be trained in the following:
 - i. How to detect and assess signs of sexual abuse and sexual harassment.
 - ii. How to preserve physical evidence.
 - iii. How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment.
 - iv. How and to whom to report allegations of suspicions of sexual abuse and sexual harassment.

- m. The Assistant Detention Manager or designee will document through employee signature that the employees understand the training they have received.
- 12) All volunteers and contractors who have contact with the residents will receive training on the zero-tolerance policy regarding sexual abuse and sexual harassment and their responsibilities for sexual abuse and sexual harassment prevention, detection, and response policies and procedures prior to them having access to the residents.
- a. The level and type of training provided for volunteers and contractors will be evaluated based on the level of contact they may have with the residents and the frequency they come into detention.
 - i. Volunteers and contractors who come in on a regular basis will be required to complete the online volunteer contractor training.
 - ii. Those visitors to detention that do not meet the definition of a volunteer or contractor including but not limited to Department of Health and Welfare employees, social workers, therapists, and doctors that conduct assessments on the residents for the court of jurisdiction that come into detention on an infrequent basis will be provided an informational sheet on PREA and their duty to report. This informational sheet will be explained to them by an ACJS staff member and must be signed acknowledging the receipt and understanding of training.
 - b. The Assistant Detention Manager will maintain documentation that all volunteers and contractors have received this training.
- 13) Residents will be informed of methods of safely reporting sexually prohibited behavior in an age-appropriate manner.
- a. The resident rights form completed during intake will explain their rights and responsibilities and ACJS's zero tolerance policy toward sexual abuse and sexual harassment.
 - b. The resident handbook will explain how to report sexual abuse and sexual harassment as well as a list of outside agencies they may contact for support.
 - c. Detention staff will complete resident training on the Prison Rape Elimination Act within the first ten days they are booked into detention. This training will include:
 - i. Agency's zero tolerance policy regarding sexual abuse and sexual harassment.
 - ii. How to report sexual abuse and sexual harassment.
 - iii. Their right to be free from retaliation for reporting such incidents.
 - iv. The agencies policy for responding to such incidents.
 - d. Documentation of the PREA training will be maintained in the daily log in IJOS, the roster from the group will be given to the Assistant Detention Manager, and a sticker will be placed on the resident's detention case record with the date of their PREA training.
- 14) Third party reports of sexual abuse or harassment will be received by the PREA Coordinator through the PREA phone number (1-208-577-4808). This number is posted on the agency website.
- 15) Juveniles may report sexual abuse, sexual harassment, retaliation by staff or residents, staff neglect or violating their responsibilities that may have contributed to such incidents through the following means:
- a. Informing staff directly.

- b. Using the grievance process.
 - c. Calling the PREA number (4808) on the phone.
 - d. Calling or writing the Advocates Against Family Violence (AAFV).
- 16) Detention will have a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical staff, clinical staff, investigators, and management.
- a. This report will be updated on a yearly basis.
 - b. The Assistant Detention Manager will keep a hard copy of the plan with the PREA files.
- 17) Upon learning of an occurrence or suspected occurrence of prohibited sexual behavior in the facility, detention staff will do the following:
- a. Ensure the victim is safe and separate offender(s), victim(s) and witnesses.
 - b. Follow the procedures as outlined in [chapter 6 New Crimes and Preservation of Evidence](#).
 - c. Immediately contact the Supervisor on duty unless the Supervisor is involved, in that case go to the Detention Manager
 - d. The Detention Manager will contact the Director of ACJS, medical staff, the detention counselor, and in the case of staff misconduct will contact Human Resources.
 - e. Upon receiving an allegation of sexual abuse or sexual harassment the Detention Manager or designee will contact the victim's parent or legal guardian.
 - f. All allegations of sexual abuse or harassment will be investigated.
 - i. The Detention Manager or designee will direct staff to call law enforcement and Human Resources to determine who will handle the investigation
 - ii. Law enforcement will conduct all investigations that are deemed criminal.
 - iii. Human Resources will conduct administrative investigations.
 - iv. If ACSO determines the case is not criminal and no staff were involved a trained investigator from ACJS may conduct the investigation.
 - v. At the completion of the investigation a report will be written documenting the physical and testimonial evidence, reasoning behind credibility assessments, and investigative facts and findings.
 - vi. The report will include an effort to determine whether staff actions or failures to act contributed to the abuse.
 - vii. Written reports will be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
 - g. Detention staff will cooperate fully with investigators.
 - h. If the victim refuses to give the name of the perpetrator, the investigation shall continue.
 - i. The departure of the alleged abuser or victim from the employment or control of the facility will not provide a basis for terminating an investigation.
 - j. Medical staff will be notified immediately if an emergency exists. In all other cases of prohibited sexual behavior, medical will be notified to determine if an examination is needed.
 - k. Victims will be transported to St. Alphonsus hospital for a Sexual Assault Forensic Exam (SAFE).
 - l. The AAFV will be contacted (208-459-4779) and an advocate will respond to the hospital and be there for the victim throughout the process.
 - m. The Department of Health and Welfare will be contacted.

- n. Counseling will be provided for all victims of prohibited sexual behavior through Warm Springs Counseling Center per the memo of understanding ACJS has with Warm Springs Counseling Center.
 - o. Follow up medical treatment for victims will be provided as needed consistent with the community level of care at no cost to the victim.
 - p. If the prohibited sexual behavior involves detention staff or other personnel related to detention, Human Resources will determine if they are to be placed on administrative leave with or without pay until an investigation is completed. It could also lead to termination and or criminal charges.
 - q. Detention staff will complete an Incident Report prior to leaving shift.
 - r. ACJS will employ multiple protection measures for victims of sexual abuse and for staff or residents that report any sexual abuse or harassment, including but not limited to:
 - i. Housing changes for resident victims or abusers.
 - ii. Program changes.
 - iii. Emotional support services for resident or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
 - iv. Removal of alleged staff or resident abusers from contact with victims.
 - s. The Detention Manager or designee will report the allegation to the juvenile's attorney or other legal representative of record within fourteen days of receiving the allegation.
 - t. For at least 90 days following a report of sexual abuse the Detention Manager or their designee will monitor the conduct or treatment of residents or staff that reported the sexual abuse or harassment, victims of sexual abuse or harassment, and those in fear of retaliation for cooperating with the investigation of an incident of sexual abuse or sexual harassment for possible retaliation and shall act promptly to remedy any such retaliation.
 - i. Any resident or staff member that reports sexual abuse, harassment or retaliation will receive a weekly status check from the Detention Manager or designee to see if the protection measures are adequate and to see how the resident is doing in detention.
 - ii. ACJS will monitor resident discipline reports, housing or program changes, or negative performance reviews or reassignments of staff.
 - iii. ACJS will continue to monitor beyond 90 days if the initial monitoring indicates a continuing need.
 - iv. ACJS's obligation to monitor for retaliation will terminate if the agency determines that the allegation is unfounded
 - u. Following the investigation, the victim will be informed if the allegation has been determined to be substantiated, unsubstantiated, or unfounded. These will be documented in writing and placed with the investigation files
- 18) Ongoing medical and mental health care will be offered for sexual abuse victims and abusers.
- a. ACJS will offer medical and mental health evaluation and as appropriate treatment to all residents who have been victimized by sexual abuse within the facility.
 - b. The evaluation and treatment will include as appropriate, follow up services, treatment plans, and when necessary continued care following their placement in other facilities or their releases from custody.
 - c. Resident victims of sexually abusive vaginal penetration while incarcerated will be offered pregnancy tests.

- d. If pregnancy results from sexually abusive vaginal penetration while incarcerated victims will receive timely and comprehensive information and access to all lawful pregnancy related medical services.
- e. Resident victims of sexual abuse while incarcerated will be offered tests for sexually transmitted infections as medically appropriate.
- f. Treatment services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigations arising out of the incident.
- g. ACJS will attempt to conduct mental health evaluations of resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.
- h. For residents that have experienced sexual abuse outside of the facility and not due to a PREA related incident and they would like to access emotional support services they may:
 - i. Speak with the medical or clinical departments
 - There is no financial cost with accessing ACJS medical or clinical department.
 - ii. Write or call the AAFV for support (address and number are provided in the resident handbook and on posters in the living areas).
 - Ada County will not cover any costs associated with accessing AAFV outside of the scope of our contract with them or any private providers.

19) Reporting to residents

- a. Following a resident's allegation that a staff member has committed sexual abuse against a resident, ACJS will subsequently inform the resident (unless the allegation has been determined to be unfounded) whenever:
 - i. The staff member is no longer posted where they may have contact with the resident.
 - ii. The staff member is no longer employed with ACJS.
 - iii. ACJS learns that the staff member has been indicted on a charge related to sexual abuse within the facility.
 - iv. ACJS learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
- b. Following a resident's allegation that they have been sexually abused by another resident, the agency will subsequently inform the alleged victim whenever:
 - i. ACJS learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility.
 - ii. ACJS learns the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- c. All such notifications or attempted notifications will be documented.
- d. ACJS is not obligated to report to the resident if the resident is no longer in custody of ACJS.

20) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Detention Manager or designee will notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and will also notify the appropriate investigative

agency within 72 hours after receiving the allegation. An Incident Report will also be filed with our agency.

- a. If ACJS receives notification from another agency that a resident disclosed that they were sexually abused or harassed while in our custody the Detention Manager or designee will ensure that the allegation is investigated in accordance with the PREA standards.

21) If an investigation establishes that a report of prohibited sexual behavior was falsely made, a report will follow. The case will be referred to the Prosecutor's office for review and possible prosecution.

22) Staff, contractors, and volunteers will be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

- a. Termination will be the presumptive disciplinary action for staff who have engaged in sexual abuse.
- b. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than engaging in sexual abuse) will 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.
- c. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal.
- d. Any contractor or volunteer who violates the agency sexual abuse or sexual harassment policies will be prohibited from contact with the residents and any potential criminal activity will be reported to law enforcement and to relevant licensing bodies.

23) Disciplinary sanctions for residents

- a. If during the investigation, it is reported by the investigators or prosecutors that there is a preponderance of evidence to substantiate an administrative finding that the juvenile engaged in juvenile-on-juvenile sexual abuse or following a criminal finding of guilt for juvenile-on-juvenile sexual abuse, the juvenile shall be subject to disciplinary sanctions pursuant to formal disciplinary process outlined in [policy 7-2 Discipline](#).
 - i. Any disciplinary sanctions will be commensurate with the nature and circumstance of the abuse committed, the juvenile's discipline history, and the sanctions imposed for comparable offenses by other juveniles with similar histories and shall consider whether a juvenile's mental disabilities or mental illness contributed to their behavior.
 - ii. In the event a sanction results in the isolation of a juvenile, ACJS will not deny the juvenile daily large-muscle exercise or access to any legally required educational programming or special education services, unless the juvenile has demonstrated that their behavior clearly jeopardizes the safety and security of staff or other juveniles.
 - iii. Juveniles in isolation will receive daily visits from medical or mental health care staff.
 - iv. Residents will have access to other programs to the extent possible.
- b. The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

- c. 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 will not constitute false reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- d. All sexual activity between residents is prohibited and is subject to disciplinary action. However, such activity may not be deemed sexual abuse if through the course of the investigation it is determined the activity is not coerced.

24) Data collection and review

- a. The facility will conduct a PREA incident review within thirty days of the conclusion of every sexual abuse investigation.
 - i. The review team will be made up of management and supervisors.
 - ii. The review team will assess staffing levels, assess video monitoring, consider the motivation behind the incident, consider whether the incident indicates a need to change policy or practice.
 - iii. The review team will prepare a report if its findings and implement changes as recommended.
- b. ACJS will compile yearly data on sexual abuse incidents in detention into a report that is approved by the agency head and made available to the public through the agency website. The report will contain:
 - i. Yearly statistics of reports of sexual abuse and sexual harassment in detention.
 - ii. Corrective actions taken.
 - iii. An assessment of agency's progress in meeting PREA.
 - iv. All personal information will be removed from the report.
 - v. The report will state what information was redacted.
- c. ACJS will participate in the yearly Survey on Sexual Violence from the Bureau of Justice Statistics.
- d. The Assistant Detention Manager will securely store all sexual abuse investigations, training records, unannounced rounds, yearly reports, and incident reviews.
- e. The data collected will be stored for at least ten years.

25) ACJS will comply with all required audits PREA compliance and take corrective action to policy and procedures as needed to maintain compliance with the audits completed by the Department of Justice.

5.2 INVESTIGATIONS

Manual: Detention Policy & Procedures
Chapter: PREA
Effective: 06/26/23



POLICY

All allegations of sexual assault, sexual abuse, and sexual harassment including third party and anonymous reports will be investigated promptly, thoroughly, and objectively in compliance with the Prison Rape Elimination Act. Trained investigators will collect information to examine the seriousness of a complaint and to determine based on the preponderance of the evidence whether there has been a violation of law, policy, procedure, rule, or standard of conduct.

PURPOSE

To provide guidance on investigations relating to the Prison Rape Elimination Act (PREA)

PROCEDURES

- 1) Ada County Sheriff's Office (ACSO) is the primary investigator for PREA incidents per the memorandum of understanding (MOU) signed May 18th, 2021. Per the MOU:
 - a. Upon request by ACJS, ACSO shall provide investigative services to ACJS and its detention staff for any allegation of staff sexual misconduct or youth on youth sexual abuse and /or harassment which involves potentially criminal behavior.
 - b. ACJS staff shall cooperate with ACSO's investigators throughout the investigative process.
 - c. Upon the conclusion of the investigation, ACSO shall provide its investigation report to the ACJS Director, whether that investigation established that a crime occurred or not, so that ACJS can address the situation appropriately and effectively.
 - d. If ACSO's investigation results in substantiated allegations of conduct that appear to be criminal, ACSO shall submit its investigation report to the appropriate prosecuting attorney's office or city attorney's office.
 - e. ACSO shall follow its internal protocol, policies, and procedures when conducting its investigation.
 - f. ACSO's investigators conducting the investigation at ACJS shall have the knowledge, experience, and training on PREA, sexual abuse investigations involving juvenile victims, and related matters required to perform the investigative services.
 - g. Sexual abuse, assault, and harassment investigations will be conducted in accordance with guidelines established by PREA, applicable Idaho sexual assault investigation protocols, and best practices.
- 2) Ada County Human Resources (HR) will conduct all administrative investigations when a staff member is alleged to be involved.
 - a. ACJS shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.
 - b. HR in conjunction with the Director of ACJS will determine if the staff member will be placed on administrative leave with or without pay during the investigation.

- c. HR will work with ACSO to ensure the administrative investigation does not impede any potential criminal investigation.
- 3) HR will provide a report of their findings to the Director of ACJS and their recommendations for corrective/disciplinary action which will include the following:
 - a. Verbal or written reprimand
 - b. Transfer or demotion
 - c. Imposition of a performance improvement plan
 - d. Suspension or termination of employment
- 4) If ACSO determines no crime has occurred and no staff are involved in the allegation, and the residents involved are still in custody, HR may have a trained investigator from ACJS conduct the internal investigation of the resident's behavior to see what policies and rule violations have occurred.
- 5) The investigation should be commenced promptly within 24 to 48 hours of the complaint.
 - a. The investigation may be delayed due to not having an investigator available, a referral to an outside investigator, or criminal investigation, the behavior is of the past and is no longer occurring, or the behavior is non-physical and non-threatening.
 - b. Per PREA standard 115-371(d) when a resident recants an allegation, the agency is still required to investigate the allegation.
 - c. If the behavior is no longer occurring, there is still an obligation to investigate the behaviors that prompted the initial complaint.
 - d. The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminations an investigation.
- 6) ACJS is required to initiate investigations upon learning of the complaint, whether verbal or in writing.
- 7) Employee's bringing verbal complaints forward will be asked to write an Incident Report outlining the specifics of the complaint to include the date, time, location, witnesses, and specific statements. Those bringing verbal complaints will be asked to be placed in writing.
- 8) Prior to the start of the investigation, the scope of the investigation will be determined on a case-by-case basis by ACSO, HR, Director of ACJS, Detention Manager, and PREA Coordinator. The scope of the investigation is the following:
 - a. Who will conduct the investigation
 - b. Summary of issues
 - c. List of witnesses
 - d. Timeline to complete
 - e. Consultation with Human Resources
 - f. Administrative and/or Criminal Investigation decision
 - g. Preservation of evidence
 - h. The separation of the complainant and the accused
 - i. Determine if the interviews be recorded
- 9) After the scope has been identified, the investigator will interview and notify witnesses to include the complainant, victim, and the accused that an investigation will be commencing. This

notification should also address retaliation and confidentiality. At the conclusion of the investigation, the information will be provided on a need-to-know basis.

10) The investigator will do the following:

- a. Establish a case file and assign case number.
- b. Collect documents and evidence, including available physical and DNA evidence and any available electronic monitoring data.
- c. Obtain a list of people who need to know (NtK) about the investigation.
- d. Review the involved residents, employees, or known witnesses to see if there are any pending or recent disciplinary actions.
- e. Review video footage from the area where the alleged incident occurred.
- f. Gather list of initial interviews.
- g. Develop list of interview questions and gather feedback on the questions from the NtK.
 - i. The questions listed below are intended to help guide the interview process. However, each investigation is different, and the Investigator may deviate from these questions to help determine the nature and scope of the incident questions to ask:
 1. What happened?
 2. When did it happen?
 3. Where did the offense take place? Describe in detail.
 4. How did it make you feel?
 5. What did you see?
 6. Who was there?
 7. What have others told you?
 8. Have you discussed this with others? Who?
 9. Has it happened before? If so, what are the details?
 10. Was it reported in the past? Why or why not?
 11. Do you know anyone else with similar concerns?
 12. Are there issues you want to discuss, or think are important?
 13. Who else should be interviewed?
 14. Was there a delay in reporting the conduct? Explain the delay.
 15. Did the victim tell the accused to stop? What was the reaction?
- h. Once you have developed the questions, start the interviews in the following order:
 - i. Complainant
 - ii. Victim (if different from the complainant)
 - iii. Accused
 - iv. Witnesses
- i. Conduct interviews.
 - i. Compelled interviews may be done by law enforcement.
 - ii. HR will consult with ACSO before conducting compelled interviews as this may be an obstacle to subsequent criminal prosecutions.
 - iii. ACJS staff will not conduct compelled interviews.
- j. Write an interview report.
 - i. In the interview report, note the interviewee's demeanor/credibility.
 1. Uncomfortable?
 2. Argumentative?

3. Hostile?
4. Nervous?
5. Overly Agreeable?
6. Note the consistency of witness timelines and chronology.
7. Note any biases of the witnesses.
8. Note any inconsistencies of interviewee and video footage.
- k. Discuss any additional interviews with NtK.
- l. Discuss with NtK any special concerns regarding draft final report.
- m. Write draft final report for NtK and seek feedback prior to finalizing report.
- n. Submit final report to NtK.
- o. File the case file along with reports, notes, and any evidence.
- p. Submit to prosecutors if conduct appears criminal.

11) The report will contain the following information:

- a. Summary of the issues.
- b. Copy of the policy requiring investigation to be conducted.
- c. Date of the investigation commencement and the conclusion date.
- d. Name of the investigator.
- e. Date the complaint was received.
- f. Name of the complainant, department, and position.
- g. Name of the accused, department, and position.
- h. Name of all witnesses interviewed.
- i. Summary of key findings of fact, include the inconsistencies in the information, credibility of the witnesses, and how credibility was assessed.
- j. Copies of relevant documentation with a thorough description of physical, testimonial, and documentary evidence and attached copies of all documentary evidence where feasible.
- k. If the investigation rises to the level of a criminal investigation a copy of the police report will be attached to the administrative report.
- l. Summary of the conduct and if it violates policy and procedures

12) When writing the report, the investigator will only determine if a violation of any policy has transpired.

- a. If allegation appears to be criminal the Prosecutor's Office will determine if and what charges are to be filed.
- b. If the allegation is against a staff member, then the Director of ACJS, Detention Manager, and Human Resources will determine what level of corrective action or discipline is required.
- c. If the allegation is against a resident, then the Detention Manager or designee will determine the level of corrective action or discipline required per policy 7-2 Discipline.

13) The results of the investigation will be communicated to the complainant, victim, and the accused on a need-to-know basis after the investigation has concluded. If ACJS did not perform the investigation, ACJS will request information from the investigative agency to inform the resident.

- 14) Documentation relating to the investigation will be maintained in a separate, confidential investigative file for as long as the accused is incarcerated or employed by the agency, plus five years.
 - a. Any record of corrective action or disciplinary action imposed is maintained in the employee file.
- 15) Within 30 days after an investigation is completed an incident review will take place.
 - a. The incident review team will be made up of management, supervisors, Director of ACJS, and the PREA Coordinator.
 - b. The incident review team will assess staffing levels, assess video monitoring, consider the motivation behind the incident, and consider whether the incident indicates a need to change policy or practice.
 - c. The incident review team will prepare a report of its findings and implement changes as recommended.
 - d. Copies of the report will be attached to the investigation report.

Related standards IDAPA 05.01.02 220, Idaho Code § 18-6110 (2009)

[Return to Contents](#)