

<b>Policy Name:</b>	<b>ZERO-TOLERANCE STANDARDS AND GUIDELINES FOR SEXUAL HARASSMENT, ASSAULT OR RAPE INCIDENTS AND PRISON RAPE ELIMINATION ACT (PREA) (6.13)</b>
<b>Domain:</b>	<b>ADMINISTRATIVE AND SERVICE ENVIRONMENT</b>
<b>Policy Location:</b>	<b>WHWH, INC. POLICIES AND PROCEDURES MANUAL</b>
<b>Date of Adoption:</b>	<b>08/26/2013</b>
<b>Approved by:</b>	<b>Jason Crews, WHWH Inc. Executive Director</b>
<b>Effective Date:</b>	<b>08/26/2013</b>
<b>Date(s) of Revision:</b>	<b>03/19/2014 (Supersedes WHWH PROCEDURES: PERPETRATOR/VICTIM SERVICE SAFETY), 09/05/2014, 05/14/2018, 09/04/2018</b>
<b>References:</b>	<b>COA ASE; WHWH POLICY 6.4 ABUSE REPORTING; WHWH POLICY 1.4: PROTECTION FOR REPORTERS OF SUSPECTED MISCONDUCT (WHISTLEBLOWER PROTECTION); PRISON RAPE ELIMINATION ACT (PREA) 2003 Adapted from: DCS Administrative Policies and Procedures 18.8</b>

Wayne Halfway House, Inc. is committed to a zero-tolerance standard for all forms of sexual abuse/assault/misconduct/harassment or rape within its facility and is committed to reducing the risk of sexual abuse, sexual harassment, assault, misconduct and rape through appropriate private provider implementation of the Prison Rape Elimination Act (PREA) as outlined in Public Law 108-79, Section 3.

The purpose of this policy is to provide guidelines for zero-tolerance for all forms of sexual abuse, assault, misconduct, harassment or rape, and the implementation of the Prison Rape Elimination Act (PREA) to provide a safe, humane, and appropriately secure environment free from threat of sexual abuse, assault, misconduct, harassment or rape.

The following related procedures outline how Wayne Halfway House, Inc. will implement this zero-tolerance approach to preventing, detecting, and responding to sexual abuse, assault, misconduct, harassment or rape, including all sections of the procedures and any revisions thereof.

Failure by any staff member to follow the related procedures will result in disciplinary action up to and including termination. Sanctions for violations (other than engaging in sexual abuse or any other criminal sexual act) will be determined by the employee's supervisor in consultation with the Executive Director, or solely by the Executive Director commensurate with the nature and circumstances of the acts committed or omitted, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff members with similar histories.

Any employee, contractor, or volunteer who is found to have perpetrated or participated in sexual abuse, assault, misconduct, rape, harassment of a resident, or harassment of a witness to these acts, will be terminated. Any employee, contractor, or volunteer who engages in sexual abuse of any type will be reported to law enforcement agencies, the Department of Children's Services and any other licensing agencies. Any further contact with current or future residents of Wayne Halfway House, Inc. programs by such person shall be prohibited.

Wayne Halfway House, Inc. shall comply with the Final Rule of the Prison Rape Elimination Act (PREA) of June 20, 2012 (Federal Law 42 U.S.C. 15601) and all applicable PREA standards and the agency's policies and procedures. Wayne Halfway House, Inc. administration and staff shall make themselves familiar with, and at all times shall observe and comply with all PREA regulations which in any manner affect the performance under this Contract. Wayne Halfway House, Inc. must subject itself to a Department of Justice (DOJ) PREA Audit at least once every three (3) years beginning August 20, 2013 and will be solely responsible for paying for a PREA Audit as required by this contract. Failure to comply with the PREA standards and related policies of said entity, Wayne Halfway House, Inc./Hollis Academy, may result in termination of the contract.

<b>PROCEDURES:</b>	<b>ZERO-TOLERANCE STANDARDS AND GUIDELINES FOR SEXUAL HARASSMENT, ASSAULT OR RAPE INCIDENTS AND PRISON RAPE ELIMINATION ACT (PREA) (6.13.a)</b>
Source Policy:	ZERO-TOLERANCE STANDARDS AND GUIDELINES FOR SEXUAL HARASSMENT, ASSAULT OR RAPE INCIDENTS AND PRISON RAPE ELIMINATION ACT (PREA) (6.13)
Effective Date:	08/26/2013
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References:	COA ASE; WHWH POLICY 6.4 ABUSE REPORTING; WHWH POLICY 1.4: PROTECTION FOR REPORTERS OF SUSPECTED MISCONDUCT (WHISTLEBLOWER PROTECTION); PRISON RAPE ELIMINATION ACT (PREA) 2003 Adapted from: DCS Administrative Policies and Procedures 18.8

A. **PREA Coordinator:** The Executive Director will assign a PREA Coordinator with sufficient time and authority to develop, implement, and oversee Wayne Halfway House, Inc. compliance with PREA standards and related DCS requirements.

**B. Assessment Process:**

1. During the intake process, DCS form *CS-0946 Assessment, Checklist, and Protocol for Behavior and Risk for Victimization* will be administered to residents within twenty-four (24) hours of admission (or 72 hours if the resident is admitted on a weekend or holiday).
2. The "*At-Risk Protocol*" section of form *CS-0946* will be initiated and completed on all residents who are identified as vulnerable for at-risk sexual victimization or identified as having the potential to victimize/perpetrate, especially in regard to sexually aggressive behavior.
3. Designated staff will develop appropriate treatment interventions that may include further assessments or screenings by a mental health professional for identified residents prior to assigning the resident to a program, education, work, or room assignment to decrease the risk of sexual victimization/perpetration.
4. If further screening or assessments indicate that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, designated staff will ensure that the resident is offered a follow-up

- meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening.
5. If the resident discloses that victimization occurred while the resident was confined at another facility/agency and he has not previously disclosed this, the staff member to which the information was disclosed will report the alleged abuse incident directly and immediately to the **DCS Child Abuse Hotline at 1-877-237-0004** and then to the Department of Children's Services Family Services Worker and the Wayne Halfway House, Inc. Head of Security.
  6. In addition to 5 (above), upon receiving an allegation that a resident was sexually abused while confined at another facility, the Executive Director or his or her designee shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The Executive Director or designee shall document in the resident's file that such notification has been made and whether it was made within 72 hours of receiving the allegation.
  7. If the screening indicates that a child/youth has previously perpetrated sexual abuse/assault/misconduct/harassment, whether it occurred in an institutional setting or in the community, designated staff will ensure that the resident is offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening.
  8. If additional, relevant information about a resident is received by the facility after the initial screening, the Counselor/Case Manager or designated staff member will reassess the resident's risk of victimization or abusiveness within 30 days of the resident's date of admission, based on the previous assessment and the additional information.
  9. If a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness takes place, the resident's risk level will, when warranted, be reassessed.
  10. Discipline of a resident is prohibited for refusing to answer (or for not disclosing complete information related to) the following questions:
    - Whether he has a mental, physical, or developmental disability
    - Whether he is or is perceived to be gay, bisexual, transgender, intersex, or gender non-conforming
    - Whether he has previously experienced sexual victimization
    - His own perception of vulnerability

### C. Resident Education:

1. During the intake process, residents will receive information explaining in an age-appropriate fashion, (this) Wayne Halfway House, Inc. zero-tolerance policy regarding sexual abuse/assault/misconduct/harassment and how to report incidents or suspicions of sexual abuse or sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

2. Written and verbal information on PREA will be provided and explained to all residents within forty-eight (48) hours of arrival (or 72 hours if the resident is admitted on a weekend or holiday) and will include at a minimum:
  - a. Wayne Halfway House, Inc.'s zero-tolerance policy regarding PREA
  - b. Prevention/intervention
  - c. Self-protection and how to avoid risk situations
  - d. Consequences for engaging in any type of sexual activity while at the facility
  - e. How to obtain medical and mental health treatment and counseling
  - f. How to safely report sexual abuse, including
    - Reporting the abuse incident directly to the **DCS Child Abuse Hotline at 1-877-237-0004**
    - Reporting the abuse incident to Wayne Halfway House, Inc. personnel
    - Filing a grievance as outlined in WHWH Policy 9.3 [GRIEVANCE POLICY FOR RESIDENTS/FAMILIES](#) (and its associated procedure); DCS Policy 24.5-DOE Youth Grievance Procedures, and
    - Reporting the abuse incident to their John L. Attorney or Guardian ad Litem.
3. PREA information will be included in the Resident Handbook.
4. Appropriate provisions will be made as necessary for residents who are of limited English proficiency, have disabilities (including those who are deaf or hard of hearing, those who are blind or have low vision), and those with low intellectual functioning, psychiatric, or speech or reading disabilities. Spanish-speaking only residents will be provided with an interpreter for assessments and to provide educational materials. In addition, the resident handbook with PREA materials will be provided in Spanish (NOTE: Spanish-speaking only residents are the only non-English proficient residents referred to the program thus far). Other residents in need will be evaluated on a case-by-case basis as to the most appropriate way to provide materials, and provisions will be made for each within the same time limits as other residents. Wayne Halfway House, Inc. will not rely on resident interpreters for PREA information and education except in urgent circumstances where safety may be compromised.
5. All residents are required to sign DCS form *CS-0939, Youth Acknowledgment and Notification of Prison Rape Elimination Act (PREA)* to acknowledge they have been notified and informed of PREA and on how to report incidents of sexual abuse/assault/misconduct/harassment.
  - Copies of the signed form will be sent to the resident's parents/guardians, family services worker, and
  - The original signed form will be maintained in the resident's case file.
6. If a resident requests to consult with an attorney, the guardian ad Litem will be contacted.
7. Wayne Halfway House, Inc. will maintain documentation on file of all resident participation in PREA education sessions.

8. The applicable staff member will document in TFACTS the PREA activities and efforts for educating and information residents.

#### **D. Reporting Allegations:**

1. Duty to Report – As per Tennessee Code Annotated 37-1-403 and 37-1-605 Pursuant to TCA 37-1-403 and 37-1-605, any person who has knowledge of or is called upon to render aid to any child/youth who is being sexually abused, sexually assaulted or sexually harassed has the duty to report such abuse. In terms of PREA standards, this duty to report includes but is not limited to any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency. Staff members may have this knowledge by any means including personal witness or reports made verbally, in writing, anonymously, by third parties or by any other means and must in all cases be reported. Any allegation received from another institution or agency must be reported and investigated in the same manner according to PREA standards and DCS mandates.
2. All allegations of sexual abuse must be reported immediately to the DCS Child Abuse Hotline at 1-877-237-0004. In order to provide for immediate action to be taken to assure resident safety, to preserve any evidence, and for immediate reporting to the Department of Children's Services Quality Assurance Division, any staff member observing or having knowledge of any abuse or neglect must report it to their shift supervisor and/or the Executive Director concurrent with making the report to DCS.
3. Failure to comply with "duty to report" requirements will result in disciplinary action up to and including termination and/or criminal charges.
4. Apart from reporting to the designated supervisors and designated state and local services agencies, staff members are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
5. Residents may report allegations of sexual abuse, assault, misconduct, and/or harassment internally or externally. They may also report, internally or externally, retaliation by other residents or staff members for reporting sexual abuse and harassment and staff neglect or violations of responsibilities that may have contributed to these incidents. If they choose to report internally, they may do so by telling any staff member or by filing a grievance (such grievance would be treated as an emergency or urgent situation and would be handled immediately).
6. Residents may report allegations of sexual abuse/assault/ misconduct/harassment externally to a public or private entity or office that is not part of the agency. This includes but may not be limited to:
  - a. Local law enforcement agencies and may remain anonymous upon request
  - b. Department of Children's Services Family Services Workers
  - c. **DCS Child Abuse Hotline at 1-877-237-0004**
  - d. Their John L. Attorney or Guardian ad Litem

7. Residents may report allegations of sexual abuse at any time regardless of when the incident is alleged to have occurred. Residents are not required to nor should they attempt to resolve with staff an alleged incident of sexual abuse. Incidents are not required to be and should not be referred to the staff member who is the subject of the complaint.
8. Residents may get assistance in filing requests for administrative remedies relating to allegations of sexual abuse from third parties, including other residents, staff members, family members, attorneys, and/or outside advocates. Those third parties may also file such requests on behalf of residents. If the resident declines to have third-party assistance in filing a grievance alleging sexual abuse, staff members of Wayne Halfway House, Inc. must document the resident's decision to decline.
9. Third parties, including parents, advocates, other residents, or any other person may report allegations of resident sexual abuse or sexual harassment internally by contacting any staff member or by filing an emergency grievance. It is suggested that in order to provide for immediate action, the third party directly contact the Executive Director or the Head of Security at 1-931-722-3272 and notifying the person answering the telephone that the situation is an emergency. This notification procedure and contact information shall be provided in the parent letter, resident handbook, Family Services Worker information letter, and be posted in the common area of the facility.
10. Wayne Halfway House, Inc. and its employees will follow WHWH Policy 6.4 [ABUSE REPORTING](#) for specific persons to be notified for sexual abuse reporting.
11. Wayne Halfway House, Inc. and its employees must ensure that the name of the person or persons reporting the allegation is kept confidential.
12. Retaliation or negative consequences for reporting sexual abuse/harassment or cooperating with sexual abuse/harassment investigations will not be tolerated and will result in disciplinary action up to and including termination. All staff members are required to report immediately and according to WHWH policy retaliation against residents who reported sexual abuse or sexual harassment. Staff members have a duty to and must also report staff neglect or violations of responsibilities that may have contributed to an incident or retaliation.
  - a. For a period of ninety (90) days following a report, the Executive Director will appoint a staff member on site to monitor the treatment of the resident or staff that made a report, and the resident who was reported to be abused, to identify attempts at retaliation or negative consequences and will act immediately to remedy any such actions. Monitoring will include, but not be limited to:
    - Resident disciplinary reports or room changes
    - Negative performance reviews or staff reassignments
    - Periodic status checks of residents
  - b. Wayne Halfway House, Inc. will continue monitoring beyond ninety (90) days if evidence indicates a continued need.
  - c. If any individual involved in a report expresses fear of retaliation, Wayne Halfway House, Inc. will take appropriate measures to protect that individual.



- d. Wayne Halfway House, Inc.'s responsibility to monitor will terminate if the allegation is unfounded.
13. Pursuant TCA 37-1-413, any person who either verbally or by written/printed communication reports false accusations of sexual abuse commits a Class E felony. Refer to DCS Policy 14.15 Reporting False Allegations of Child Sexual Abuse for additional information on falsely reporting child sexual abuse. A report made in good faith upon reasonable belief of the alleged incident will not constitute a false report and may not be used as grounds for disciplinary action.
  14. After an incident is reported to Child Abuse Hotline for a resident of Wayne Halfway House, Inc.:
    - a. Special Investigations designated staff IMMEDIATELY notifies:
      - Executive Director of Network Development (Private Provider Agencies)
      - Executive Director of Wayne Halfway House, Inc.
      - Local Police Department
      - Youth's Family Service Worker
    - b. Family Service Worker IMMEDIATELY notifies:
      - Parents/Guardians
    - c. In addition to a. and b. above, upon receiving any allegation of sexual abuse, the Executive Director or his or her designee shall promptly report the allegation to the alleged victim's parents or legal guardians, unless Wayne Halfway House, Inc. has official documentation showing the parents or legal guardians should not be notified. If the alleged victim is under the guardianship of DCS, the report shall be made to the alleged victim's Family Services Worker instead of the parents or legal guardians. If a juvenile court retains jurisdiction over the alleged victim, the Executive Director or designee shall also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation.

**E. Response to allegations of sexual abuse:**

1. In response to an allegation of sexual abuse, a written plan will be enacted as follows:

Upon receiving notice of an incident of sexual abuse by a resident, or if an employee witnesses or unexpectedly encounters an assault taking place, the employee will:

- a. Ensure the resident is safe and kept separated from the perpetrator;
- b. Immediately notify their Supervisor;
- c. Secure the incident area, not allowing anyone (residents, staff members, or others) to enter the area until law enforcement or Child Protective Services indicates that this is no longer necessary;

- d. If the abuse or assault took place within a time period in which physical evidence may be present, request that the alleged victim does not change clothes, shower, wash, brush teeth, rinse mouth, eat, drink, or use the toilet until after law enforcement arrives and determines that all physical evidence is obtained in connection with the violation;
  - e. Call local law enforcement;
  - f. Report the incident to the Department of Children's Service Child Protective Services **DCS Child Abuse Hotline at 1-877-237-0004**;
  - g. Notify the Head of Security and Executive Director;
  - h. Notify other DCS personnel as appropriate
  - i. Notify others according to WHWH Policy 6.1 RISK PREVENTION AND MANAGEMENT, [INCIDENT REPORTING](#) procedure.
  - j. Wait for law enforcement and DCS Child Protective Services to arrive and investigate. Do not perform any investigation, (do not interview the alleged victim or alleged perpetrator other than to gain information necessary to make the report to Child Protective Services and law enforcement, do not attempt to collect any evidence, and do not perform any other form of investigation), as this is prohibited and is only to be performed by law enforcement and DCS Child Protective Services.
  - k. Wayne Halfway House, Inc. leadership will notify the facility's mental health clinician of the incident of sexual abuse and the need for provision of victim support and possible emergent trauma-related care in the interim. The mental health clinician will arrange to provide such support and care, unless the resident is immediately removed from the program and placed in another care setting.
2. Upon learning that a resident is subject to a substantial risk of imminent sexual abuse, staff members on duty shall take immediate action to protect the resident. This will include but not be limited to separating the resident from any potential perpetrator of abuse or perpetrator of harassment about reporting imminent abuse, providing protection as needed, and notifying the Head of Security or his/her designee for further instruction.
  3. If the first staff responder is not a security staff member, that responder is required to request that the alleged victim not take any actions that could destroy physical evidence (see 1.d. above) and the staff responder shall immediately notify the Head of Security, or if not available, the Executive Director.
  4. Refer to Protocol-First Responder Guidelines for Sexual Assault for guidelines on responding to sexual assaults.
  5. The resident shall be taken to the local hospital emergency room for examination, collection and preservation of evidence, and treatment. Staff members shall document this in the Serious Incident Report.
  6. If the resident refuses medical treatment recommended by Child Protective Services or law enforcement, the staff member to whom the resident verbalizes the refusal or to whom CPS, law enforcement, or medical personnel communicate the refusal shall complete documentation on form CS-0000 PREA Refusal of Medical Treatment, documenting that medical treatment was offered to the resident whether the offer for medical treatment was:



- a. Refused by the resident, or
  - b. Accepted by the resident but refused to be examined after arriving at a medical facility.
7. Wayne Halfway House, Inc. shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any jail, lockup, or juvenile facility. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The victim shall be offered medical and mental health services consistent with the community level of care. If the victim remains in the program, counseling and other services will be provided, to include but not necessarily be limited to:
  - a. Wayne Halfway House, Inc. will develop a safety action plan that includes a review/adjustment, if necessary, of appropriate housing, bed, program, education and work assignments to keep the resident safe and free from sexual abuse.
  - b. An assessment by a mental health professional.
  - c. Mental health counseling as needed.
  - d. Unimpeded access to emergency medical treatment and crisis intervention services.
  - e. Timely information about and timely access to tests for sexually transmitted infections, as medically appropriate.
  - f. Wayne Halfway House, Inc. shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations. Wayne Halfway House, Inc. shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible. Wayne Halfway House, Inc. shall inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
8. No resident will be denied access to treatment resources and/or services for failing to fully disclose details to internal investigators, outside law enforcement investigators, and/or medical/mental health staff.
9. Treatment services shall be without financial cost to the victim.
10. If a resident remains in program after being found by DCS investigation to have committed sexual abuse or sexual harassment, he will be referred for a mental health evaluation within 60 days of learning of such abuse history. He will be offered the opportunity to participate in and cooperate with counseling or therapy recommended by the mental health practitioner to address and correct underlying reasons or motivation for abuse, as well as to establish and carry out a safety plan. Should he refuse to participate in and cooperate with such services, he will be subject to recommendation for termination from any Wayne Halfway House, Inc. program.

11. If a resident remains in program after being found by DCS investigation to have committed sexual abuse or sexual harassment, and he is to receive sanctions for his behavior, see WHWH Policy and Procedures 8.5 [DISCIPLINARY REPORTS](#) which states, "When determining sanctions, the following factors shall be considered... Whether a resident's mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, should be imposed."
12. Wayne Halfway House, Inc. shall discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

#### F. Investigations:

1. DCS ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse/assault/misconduct/harassment.
2. Refer to DCS policy 14.25 Special Child Protective Services Investigations and Protocol for DCS Internal Affairs to Conduct Prison Rape Elimination Act (PREA) Investigations for details regarding sexual abuse investigation process.
3. A report of child abuse by the alleged perpetrator may be classified as "substantiated" by Child Protective Services Investigations if there is preponderance of evidence, in light of the entire record, which substantiated the individual committed physical, severe or child sexual abuse, as defined in TCA §§ 37-1-102 or 37-1-602. Refer to DCS policy 14.7 Child Protective Services Investigation Track.
4. As stated in WHWH Policy 6.4 [ABUSE REPORTING](#): "**The Department of Children's Services will conduct all investigation of the allegations. While the need for agencies to gather necessary information in order to make the report is recognized, agencies are prohibited by DCS from conducting an independent investigation into the validity of the report. It is NOT within the realm of authority of any staff member or the Executive Director to investigate or make any determination as to the validity of the report.**"
5. Wayne Halfway House, Inc. and its employees shall cooperate with outside investigators, and the Executive Director shall endeavor to remain informed about the progress of the investigation. Documentation of each attempt to remain informed shall be kept in the resident's file with the Sexual Abuse Incident Review form and associated documents (see section H of this policy/procedure).
6. Child Protective Services notifies the Department of Children's Services Family Services Worker and the Head of Security of the outcome of the investigation. If necessary, the Head of Security will request the relevant information from Child Protective Services in order to inform the resident. When the Head of Security learns the outcome of the investigation, the Head of Security or his/her designee will inform the alleged victim directly as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
7. Following a resident's allegation that a staff member has committed sexual abuse against the resident, Wayne Halfway House, Inc. shall subsequently inform the resident (unless Child Protective Services has determined that the allegation is unfounded) whenever:

- a. The staff member is no longer posted within the resident's unit (during the investigation, the staff member shall not be in any area with the resident without being directly supervised);
  - b. The staff member is no longer employed at the facility;
  - c. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - d. The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
8. Following a resident's allegation that he has been sexually abused by another resident, Wayne Halfway House, Inc. shall subsequently inform the alleged victim whenever:
    - a. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
    - b. The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
  9. Documentation of notifications as required in 5, 6, and 7 above shall be provided and maintained in the resident's file on a page or pages following the applicable Serious Incident Report.
  10. A copy of any documentation submitted or received by Wayne Halfway House, Inc. pertaining to investigation of alleged sexual assault or sexual harassment will be retained by Wayne Halfway House, Inc. for:
    - a. A period of no less than the last day of employment of an allegedly perpetrating employee, plus five (5) years, or
    - b. Seven (7) years after the resident's twenty-second (22nd) birthday. Records may be maintained either as hard copy or electronically.

#### **G. Documentation:**

All incidents of sexual abuse/assault/misconduct/harassment and rape must be documented in appropriate TFACTS incident reporting section as outlined in DCS policy 1.4 *Incident Reporting*.

#### **H. Sexual abuse incident review:**

1. Wayne Halfway House, Inc. will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation involving a PREA-related incident, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.
  - a. The review will occur within thirty (30) days of the close of every sexual abuse investigation and Wayne Halfway House, Inc. notification by DCS of the close of the investigation involving a PREA-related incident, unless the outcome was unfounded.
  - b. As specified in section F.4 of this policy and procedure, the Executive Director or his/her designated staff member in charge of the Sexual Abuse Incident Review

shall endeavor to remain informed about the progress of the investigation.

Documentation of each attempt to remain informed shall be kept in the resident's file with the Sexual Abuse Incident Review form and documents.

- c. The review team will consist of management level staff/designees, as applicable, with input from line supervisors, investigators, and medical and/or mental health practitioners.

2. The review team will:

- 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 was motivated by:
  - Race
  - Ethnicity
  - Gender identity
  - Gay, bisexual, transgender (LGBT) or intersex identification, status, or perceived status, or
  - Gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility
- c. Examine the area in the facility where the incident allegedly occurred and assess whether physical barriers in the area 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; and
- f. Prepare a report of its findings and recommendations including, but not limited to determinations made pursuant to paragraphs 2.a. through e. of this Section, and any recommendations for improvement and submit the report to the Executive Director, the PREA Compliance Manager, and DCS as required.
- g. Wayne Halfway House, Inc. will implement the recommendations or will document reasons for not doing so and provide this information to the Department of Children's Services as required.

**I. Training:**

1. Appropriately trained employees will help deter sexual assaults during the performance of their duties by:
  - a. Knowing and enforcing rules and procedures regarding sexual conduct of youth and staff;
  - b. Maintaining professionalism at all times; and
  - c. Treating any allegation of sexual assault seriously and following appropriate reporting procedures.

2. All Wayne Halfway House, Inc. staff and persons listed below will receive training in compliance with PREA Standards:
  - a. All volunteers who have contact with residents will be trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
  - b. All Wayne Halfway House, Inc. employees and contractors that have direct contact with residents will receive training during orientation or in-service and through annual refresher training thereafter.
  - c. Such training shall be tailored to the unique needs and attributes of residents of juvenile facilities and to the gender of the residents of Wayne Halfway House, Inc. The employee shall receive additional training if the employee is reassigned from a facility that houses only female residents.
  - d. All Wayne Halfway House, Inc. employees who may have contact with residents shall complete training on:
    - The Wayne Halfway House, Inc. zero-tolerance policy for sexual abuse and sexual harassment;
    - How to fulfill their responsibilities under Wayne Halfway House, Inc. sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
    - Residents' right to be free from sexual abuse and sexual harassment;
    - The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
    - The dynamics of sexual abuse and sexual harassment in juvenile facilities;
    - The common reactions of juvenile victims of sexual abuse and sexual harassment;
    - 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 residents;
    - How to avoid inappropriate relationships with residents;
    - How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents;
    - How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and
    - Relevant laws regarding the applicable age of consent.
  - e. Wayne Halfway House, Inc. will ensure that all full and part time medical and mental health care practitioners who work regularly in its facilities receive training. This training shall include:

- 1) How to detect and assess signs of sexual abuse and sexual harassment;
  - 2) How to preserve physical evidence of sexual abuse;
  - 3) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
  - 4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.
  - 5) If medical staff employed by the Wayne Halfway House, Inc. conduct forensic examinations, such medical staff will receive the appropriate training to conduct such examinations in compliance with PREA Standards.
  - 6) Medical and mental health care practitioners will also receive the training mandated for employees under PREA Standards § 115.331 or for contractors and volunteers under PREA Standards § 115.332, depending upon the practitioner's status at the facilities.
3. All Wayne Halfway House, Inc., volunteers and contractors shall sign form CS-0940, Employee Acknowledgement and Notification of Prison Rape Elimination Act (PREA) to acknowledge they have read the DCS zero-tolerance policy and understand the training they have received.
  4. Wayne Halfway House, Inc. will maintain documentation on all employees, volunteers and contractors who receive training on PREA.

**J. Supervision and monitoring:**

1. Wayne Halfway House, Inc. provides services to both perpetrators and victims of violent crimes. Some individual residents are both perpetrators and victims of violent crimes. The security systems of the facility have been planned to provide maximum supervision and monitoring of interactions between all residents. Even with such, certain steps shall be taken to ensure monitoring of interaction between those who are primarily identified as perpetrators and any resident who is primarily identified as a victim of a violent crime. NOTE: Violent crimes include those of both a non-sexual and sexual nature.
  - a. Wayne Halfway House, Inc. staff members shall use the information from the PREA risk screening(s) as well as information contained in the resident's file and any other information obtained after admission to assess his level of risk for either victimization or perpetration of sexual abuse, assault, misconduct, harassment or rape. If a resident has been identified as being a past victim of a violent crime or incident, including but not limited to all forms of sexual abuse, assault, misconduct, harassment or rape, the resident's housing assignment will be closely monitored by staff to ensure the safety and security of each resident.
  - b. Wayne Halfway House, Inc. does not and cannot place residents in involuntary segregated housing.
  - c. In making housing and programming assignments for transgender or intersex residents, Wayne Halfway House, Inc. considers on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the



- placement would present management or security problems. Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident. A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration. Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- d. Lesbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status, nor shall agencies consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive.
  - e. No resident who has been identified as being a past victim of a violent crime including but not limited to all forms of sexual abuse, assault, misconduct, harassment or rape shall be left without supervision in any area with a resident who has been identified as being a perpetrator of a violent crime.
  - f. If a resident is identified as being a past or current victim of a violent crime, including but not limited to all forms of sexual abuse, assault, misconduct, harassment or rape, his Counselor/Case Manager shall document in his case file any noted impact of interaction with a perpetrator of a violent crime and shall bring this to the attention of the Clinical Supervisor for recommendations. If needed, the Treatment Plan shall be updated to reflect these recommendations.
  - g. For any resident who has been identified as being either a perpetrator of a victim of a violent crime, the resident's program Counselor/Case Manager shall coordinate services and protective measures with the Head of Security. The Head of Security shall notify YSO/Childcare Workers, Wayne Academy staff members, and any other staff members who are responsible for supervision of residents that the resident is either a victim or perpetrator so that they can enact safety measures. This notification is considered "need-to-know" information and confidentiality policies and procedures shall be followed in the notification. Information shall be limited to that necessary for treatment planning, room assignments, work, education, and program activities.
2. Wayne Halfway House, Inc. develops, implements, and documents a staffing plan at least annually that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. All staff members shall comply with the staffing plan except during limited and discreet exigent circumstances and shall fully document any deviations from the plan during such circumstances. The staffing plan takes into consideration:
    - a. The adequacy of current video monitoring;
    - b. Staffing levels that meet or exceed DCS and accreditation standards;
    - c. Any findings of inadequacy from judicial proceedings, Federal investigative agencies, internal or external oversight bodies;
    - d. All components of the physical facility (including blind spots, areas where residents or staff may ever be isolated, etc.);
    - e. Number and placement of supervisory staff;

- f. Programs occurring on each shift;
  - g. Any applicable State of local laws, regulations, or standards;
  - h. The prevalence of substantiated or unsubstantiated incidents of sexual abuse
  - i. Any other relevant factors.
3. The staffing plan and any amendments are reviewed during each quarterly PQI Committee meeting, and a summary is included as part of the Annual Risk Assessment.
  4. The PREA Coordinator will consult and cooperate with DCS in its annual (or more frequently if necessary) assessment to determine, and document whether adjustments are needed to:
    - a. The staffing plan,
    - b. Prevailing staffing patterns,
    - c. Wayne Halfway House, Inc.'s deployment of video monitoring systems and other monitoring technologies, and
    - d. The resources Wayne Halfway House, Inc. has available to commit to ensure adherence to the staffing plan.
  5. Intermediate-level or higher-level supervisors shall conduct and document unannounced search rounds to identify and deter staff sexual abuse and sexual harassment. These rounds shall take place on all shifts. Staff members shall not alert other staff members that these supervisory rounds are occurring. This is a standing PREA/DCS order/requirement and is to be posted at the front desk in the Search Documentation form notebook.

#### **K. Data:**

##### **1. Data Collection**

Wayne Halfway House, Inc. will collect accurate, uniform data for every allegation of sexual abuse at its facility and from each of its subcontractors using Serious Incident Reports, the Sexual Abuse Incident Review form, and the State of Tennessee Department of Children's Services Survey of Alleged PREA Incidents. The full set of definitions from DCS Policy 18.8 Zero-Tolerance Standards and Guidelines for Sexual Abuse, Sexual Harassment, Assault or Rape Incidents and Prison Rape Elimination Act (PREA) is included in the glossary at the end of these procedures.

- a. The PREA Coordinator will record, maintain, review, and collect data using the SSV Data Collection Form Wayne Halfway House, Inc., which contains definitions of terms necessary to accurately complete the form. The form includes the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. If the Survey of Sexual Violence form is updated from year to year, the SSV Data

Collection Form Wayne Halfway House, Inc. shall be changed to include data necessary to complete the updated form.

- b. Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.
- c. The PREA Coordinator will present sexual abuse data for the previous quarter in each quarterly Performance and Quality Improvement Committee meeting. Aggregated data will be included in Annual Risk Assessment.
- d. Upon request, Wayne Halfway House, Inc. will provide all such data from the previous calendar year to the Department of Children's Services.

## 2. Data Review for Corrective Action

- a. Wayne Halfway House, Inc. will review data collected and aggregated pursuant to PREA Standards § 115.387 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

- Identifying problem areas;
- Taking corrective action on an ongoing basis;
- Preparing an annual report of its findings and corrective actions for the agency.

- b. Wayne Halfway House, Inc.'s report will be approved by the Executive Director and made readily available to the public through inclusion in the Performance and Quality Improvement Annual Report and the Wayne Halfway House, Inc. website.
- c. Wayne Halfway House, Inc. may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of the facility but will indicate the nature of the material redacted.
- d. Wayne Halfway House, Inc. will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website.

## 3. Data Storage, Publication, and Destruction

- a. Wayne Halfway House, Inc. will ensure that data collected pursuant to PREA Standards § 115.387 are securely retained.
- b. Wayne Halfway House, Inc. will make all aggregated sexual abuse data for its programs and programs with which it subcontracts readily available to the public at least annually through inclusion in the Performance and Quality Improvement Annual Report.
- c. Before making aggregated sexual abuse data publicly available, Wayne Halfway House, Inc. will remove all personal identifiers.
- d. Wayne Halfway House, Inc. will maintain sexual abuse data collected pursuant to PREA Standards § 115.387 for at least ten (10) years after the date of its initial collection unless Federal, State, or local law requires otherwise.

## Glossary:

Term	Definition
<b>Abusive sexual contacts:</b>	Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person.
<b>Congregate care:</b>	Congregate care is designed to meet the needs of children/youth who are unable to live at home or in a Resource Family and require temporary care in a group or residential setting. Congregate care provides structure, counseling/therapy, behavioral intervention and other services identified in a child's permanency plan for children with moderate to severe clinical needs.
<b>Contractors:</b>	Any person or corporation, other than an employee, providing any service to Wayne Halfway House, Inc. (i.e., food services, medical, dental and mental health services, etc.) for an agreed upon form of compensation. Contractors may include other local government agencies that contract with Wayne Halfway House, Inc. or who supervise adult inmate work crews.
<b>Hostile work environment:</b>	Harassment, speech or conduct that is, based on the judgment of a reasonable person, severe or pervasive enough to create a hostile or abusive work environment, based on race, religion, sex, national origin, age, disability, veteran status, or, in some jurisdictions, sexual orientation, political affiliation, citizenship status, marital status, or personal appearance.
<b>Lesbian, Gay, Bisexual, Transgender, or Questioning (LGBTQ):</b>	A person who identifies as Lesbian, gay, bisexual, transgender or questioning.
<b>Non-consensual sex acts:</b>	Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and contact between the penis and the vagina or the penis and the anus including penetration, however slight; or contact between the mouth and penis, vagina, or anus; or penetration of the anal or genital opening of another person by hand, finger, or other object.
<b>PREA Coordinator:</b>	The PREA Coordinator is the staff person designated with the responsibilities of developing, implementing, and overseeing compliance with PREA standards.
<b>Prison Rape Elimination Act (PREA) 2003:</b>	<p>PREA is the first United States federal law passed dealing with the sexual assault of prisoners. The bill was signed into law on September 4, 2003. PREA covers all adult, as well as juvenile detention facilities; the definition of prison for the purposes of the act includes "any juvenile facility used for the custody or care of juvenile inmates." U.S. Congress, within the text of PREA, noted that young, first-time offenders are at an increased risk of sexually motivated crimes. Juveniles held in adult facilities are five times more likely to be sexually assaulted than juveniles held in juvenile facilities.</p> <p>PREA directed the attorney general to promulgate standards for all confinement facilities including, but not limited to, local jails, police lockups, and juvenile facilities. See 42 U.S.C. § 15609(7). DOJ has</p>

	<p>promulgated standards for prisons and jails (28 C.F.R. §§ 115.11 – 115.93), lockups (28 C.F.R. §§ 115.111 – 115.193), residential community confinement facilities (28 C.F.R. §§ 115.211 – 115.293), and juvenile facilities (28 C.F.R. §§ 115.311 – 115.393).</p> <p>The Act applies to all public and private institutions that house adult or juvenile offenders and is also relevant to community-based agencies. It addresses both inmate-on-inmate sexual abuse and staff sexual misconduct.</p> <p>Additionally, on May 17, 2012, the President directed “all agencies with federal confinement facilities that are not already subject to the Department of Justice’s final rule” to develop rules or procedures that comply with PREA.</p> <p>A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, will include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards.</p> <p>Any new contract or contract renewal will provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards</p>
<b>Professional Visitors:</b>	Any person having access to any of the agency who provides a professional service to children/youth or employees, including but not limited to, attorneys, paralegals, paraprofessionals, investigators, clergy, unpaid interns, or researchers.
<b>Sexual abuse:</b>	Includes, but is not limited to, subjecting another person to any sexual act or contact between an employee, volunteer, contractor, or agency representative, and a youth by force, persuasion, inducement, or enticement; any sexual act or contact in which an employee, volunteer or agency representative participates or forces any youth to engage; subjecting another person who is incapable of giving consent by reason of their custodial status, physical or mental state; or rape, sexual molestation, prostitution or other form of sexual exploitation.
<b>Sexual assault:</b>	<p>Any sexual touching or contact, including but not limited to rape, sodomy or unlawful touching. Child sexual abuse also means one or more of the following acts:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen</li> <li><input type="checkbox"/> Any contact between the genitals or anal opening of one person and the mouth or tongue of another person</li> <li><input type="checkbox"/> Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose</li> <li><input type="checkbox"/> Intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator</li> <li><input type="checkbox"/> Intentional exposure of the perpetrator’s genitals in the presence of a child, or any other sexual act intentionally perpetrated in the</li> </ul>

	<p>presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose</p> <p><input type="checkbox"/> Sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to solicit for or engage in prostitution or engage in sexual exploitation.</p>
<b>Sexual harassment:</b>	<p>Includes, but is not limited to, all of the following, whether by employees, volunteers, contractors, other agency representatives, or youth: Sexual advances; sexually offensive language, comments or gestures; influencing, promising or threatening any youth's (or employee's) safety, custody status, privacy, housing, privileges, work or program status, in exchange for personal gain or favor of a sexual nature; creating or encouraging an atmosphere of intimidation, hostility or offensiveness as perceived by any individual who observes the sexually offensive behavior or language.</p>
<b>Sexual misconduct:</b>	<p>Any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, official visitor, or agency representative. Romantic relationships between employee and youth are included. Consensual or non-consensual sexual acts include: intentional touching of the genitalia, anus, groin, breast, inner thigh or buttocks with the intent to abuse, arouse, or gratify sexual desire or completed, attempted, threatened or requested sexual acts; or occurrences of indecent exposure, invasion of privacy or voyeurism for sexual gratification which is an invasion of a youth's privacy by an adult by peering at a youth in private situations outside of those required by supervisory policies, requiring a youth to expose any part of the body for any purpose except for medical treatment or searches pursuant to DCS policies, and includes indecent exposure to the youth or allowing a youth to expose himself or herself to an adult present in the facility. Sexual misconduct also includes, but is not limited to, conversations or correspondence that suggests a romantic relationship between and youth and any party referenced above, demeaning references to gender or sexual preference, or sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.</p>
<b>Sexualized work environment:</b>	<p>A work environment in which the behaviors, dress, and speech of either employees and/or youth create a sexually charged workplace. Sexually explicit talk, inappropriate emails, posted cartoons, jokes, or unprofessional dress characterizes a sexualized work environment. In a sexualized work environment, often employees' off-duty behaviors, dating, and other activities intrude into the everyday work environment. In a sexualized work environment talk or actions have sexual overtones. A sexualized work environment severely erodes the professional boundaries between employees and between employee and youth.</p>
<b>Volunteer:</b>	<p>Any person who, by mutual agreement with the agency, provides service without compensation, or who voluntarily assists children/youth or DCS in the course of the volunteer's duties.</p>