



General Administrative Policy Manual

GAP.93.37

Chapter: Youth Rights and Remedies
Rule: Alleged Sexual Abuse

Effective Date: 12/15/08, T-92

New

ACA Standard(s): 4-JCF-3A-02, 3D-02, 3D-03, 3D-04, 3D-05, 3D-06, 3D-07, 3D-08, 3D-09

Reference: Prison Rape Elimination Act (PREA) of 2003

Reporting of Sexual Abuse | Standards of Care | Standards for Investigations | Management Requirements

I. RULE

a. Purpose.

The Texas Youth Commission (TYC) has zero tolerance for any form of sexual abuse of youth under TYC jurisdiction. This rule establishes prohibited conduct and behaviors that are broader than those established by statute as violations of law. This rule sets forth standards for reporting and investigating alleged sexual abuse of TYC youth. This rule also addresses screening and housing placement procedures for youth who may be potential victims or perpetrators of sexual abuse.

b. Applicability.

This rule applies to TYC-operated and contract care residential facilities.

c. Additional References.

1. For reporting obligations and investigation procedures, see §93.33 of this title.
2. For procedures regarding appeals to the chief executive officer, see §93.53 of this title.
3. For procedures regarding youth orientation, see §91.15 of this title.
4. For procedures regarding preservation of evidence, see §97.11 of this title.
5. For youth grievance procedures, see §93.31 of this title.
6. For restrictions on cross-gender searches, see §97.9 of this title.
7. For referrals to criminal court, see §95.5 of this title.
8. For procedures regarding investigations of youth death, see §99.51 of this title.
9. For procedures regarding administrative disciplinary sanctions for employees, volunteers, and contract personnel, see TYC's personnel policy manual.

d. Definitions.

Sexual Abuse - Includes sexually abusive contact, sexually abusive penetration, indecent exposure, voyeurism, and sexual harassment, as defined below.

1. **Sexually Abusive Contact** - touching without penetration of the genitalia, anus, groin, breast, inner thigh, or buttocks, either directly or through clothing, of another person.
2. **Sexually Abusive Penetration** - contact between the penis and vagina or the penis and anus; contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by hand, finger, or other object.
3. **Indecent Exposure** - the display by a staff member of his/her genitalia, buttocks, or breast in the presence of a youth.

4. **Voyeurism** - an invasion of a youth's privacy by a staff member unrelated to official duties, such as peering at a youth who is showering or undressing in his or her cell or requiring a youth to expose him or herself for reasons unrelated to official duties.
5. **Sexual Harassment** – repeated verbal statements, comments, or behaviors of a sexual nature to a youth by any individual including threats, extortion, bribery, demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language, gestures, or written comments.

e. General Provisions.

1. It is the policy of TYC to ensure that any form of sexual activity between youth or between youth and staff/volunteers/contract employees, regardless of consensual status, is strictly prohibited. Such conduct is subject to administrative disciplinary sanctions and may result in criminal prosecution.
2. Youth under TYC jurisdiction whose placement is in a TYC-operated residential facility or contracted residential program cannot give consent to engage in behavior defined as sexual abuse under this policy, regardless of the youth's age.
3. Retaliation against any youth or employee who reports or assists in the investigation of alleged sexual abuse is strictly prohibited and is grounds for disciplinary action up to and including termination of employment.
4. The facility administrator is the person responsible for the implementation and enforcement of this rule.

f. Reporting of Sexual Abuse.

1. Any TYC employee, volunteer, or contractor who has cause to believe that a youth in any program or facility under TYC jurisdiction has been or may be subjected to an act or threat of sexual abuse or receives a report of sexual abuse or possible sexual abuse, whether verbally or in writing, must immediately notify the proper authorities in accordance with agency policy and state law.
2. Any youth or person advocating on behalf of a youth may report an act or threat of sexual abuse to:
 - A. the TYC Office of Inspector General 24-hour Incident Reporting Center (hotline);
 - B. any TYC staff member, volunteer, contract employee, or any other individual who can report the incident; or
 - C. any law enforcement agency.

g. Actions of the Facility Administrator Regarding a Report of Alleged Sexual Abuse.

The facility administrator, in consultation with the appropriate law enforcement agency, will take the following actions immediately upon receipt of the report:

1. notify the victim's parents or guardian of the report;
2. take immediate steps to protect the victim by ensuring that the alleged victim and alleged perpetrator are physically separated pending an investigation, which may include, but is not limited to:
 - A. dorm transfer or other placement within the facility; or
 - B. administrative transfer to another facility or program; and
3. preserve evidence that may be pertinent to an investigation of the matter.

h. Standards of Care.

1. **Screening.**
 - A. Within 24 hours after each of the following events, each youth will be screened for potential vulnerability to be sexually abused or tendencies of acting out with sexually aggressive behavior or the likelihood of sexually abusing others:

- i. admission to TYC; and
- ii. transfer to another TYC-operated or contract care residential facility.

B. Youth identified as high risk for sexual victimization are monitored and counseled.

C. Youth identified as high risk with a history of sexually abusive behavior are monitored, counseled, and provided appropriate treatment.

2. Placement.

A. When a youth is identified as being at risk for sexual abuse at his/her current dorm or room assignment, the screening staff will request that the facility administrator move the youth to an alternate placement within the facility.

B. If an alternative placement cannot be arranged due to lack of available beds, the facility administrator will develop a written plan of action that provides a safe and secure environment for the victim and ensure the plan is implemented.

C. Upon facility transfer, the receiving staff will review any previous screening regarding sexually abusive behavior or sexual victimization and make a recommendation for placement and mental health services if needed.

D. In cases of youth-on-youth sexual abuse, the alleged perpetrator will be separated from the alleged victim pending the outcome of the investigation.

3. Medical Services.

A. When referred by the TYC Office of Inspector General or local law enforcement, a victim of sexually abusive penetration will be transported immediately to a hospital, clinic, emergency room, or infirmary which can provide for medical examination by a Sexual Assault Nurse Examiner (SANE) or equally qualified medical personnel.

B. A victim of any type of sexual abuse will:

- i. receive a mental health assessment as soon as possible;
- ii. receive a medical assessment as soon as possible;
- iii. be provided protective housing as needed; and/or
- iv. be provided emergency counseling to include independent certified rape crisis counseling, if desired by the victim.

4. Mental Health Services.

A. If a mental health provider (MHP), as defined in §91.87 of this title, determines that a youth needs mental health services, the MHP must notify the appropriate staff of his/her recommendation.

B. Upon notification of the MHP's recommendation for continued mental health services, the appropriate staff will implement the recommendation(s) and document accordingly.

i. Standards for Investigations.

An investigation is conducted and documented in accordance with §93.33 of this title and/or TYC Office of Inspector General criminal investigation procedures whenever sexual abuse is alleged, is threatened, or occurs.

j. Prevention Procedures.

1. Upon admission to TYC or when a youth's residential placement changes, the youth shall be provided with information regarding sexual abuse including prevention/intervention, self-protection, reporting, medical treatment, and mental health counseling. During orientation, the sexual abuse information shall be communicated, verbally and in writing, in a language clearly understood by the youth.

2. To prevent sexual abuse and provide a safe and secure environment, each TYC-operated or contracted residential facility will provide the highest level of supervision of youth to prevent sexual abuse through:
 - A. a staff to youth ratio as required under applicable statute or contract provisions;
 - B. surveillance equipment to aid staff in detecting inappropriate behavior; and
 - C. a structural facility design that allows visual supervision of youth in areas such as shower and restroom areas, dormitories, education buildings, recreational areas, etc.

k. Annual Audit and Certification.

1. TYC's executive commissioner or designee will annually assess safety and compliance and develop action plans to achieve full compliance with PREA standards. The approved internal assessment will be posted for publication on the agency website and provided to appropriate legislative oversight committees.
2. TYC's executive commissioner will certify that the agency is in full compliance or has established an action plan to enable full compliance with the Prison Rape Elimination Act standards based on the results from annual audits conducted by an independent auditor.

l. Annual Reporting.

The agency will participate in the annual surveys and any other ad hoc investigations conducted by the Bureau of Justice Statistics or its contractors/designees.

m. Record Keeping.

All case records associated with claims of sexual abuse, including incident reports, investigative reports, youth information, case disposition, medical and counseling evaluation findings, and recommendation for post-release treatment and/or counseling will be retained in accordance with the agency's record retention schedule.

n. Training Requirements.

All staff will receive annual training regarding the prevention and identification of sexual abuse.

II. MANAGEMENT REQUIREMENTS

a. Reporting an Allegation of Sexual Abuse.

Any staff who witnesses or receives a report of sexual abuse or possible sexual abuse, whether verbally or in writing, must immediately report and document the matter in accordance with GAP.07.03. Reports from paroled or discharged youth concerning abuse that may have occurred in residential facilities or that involved staff members must also be reported in accordance with GAP.07.03.

b. Actions Taken in Response to Allegation of Sexual Abuse.

1. During normal business hours, the superintendent or designee will immediately provide for the youth's physical safety and ensure that the youth is promptly referred to health care staff and/or the MHP for examination and treatment. A report will be made to the superintendent or designee to confirm the separation of the victim from the alleged perpetrator.
2. During evening and night shifts, the administrative duty officer (ADO) will notify the superintendent or designee, on-call nurse and the MHP. The ADO will immediately provide for the physical safety (e.g. separating the perpetrator from the victim) of the youth who reported being sexually abused. Health care staff and/or the MHP will promptly inform the superintendent or designee of their initial findings and treatment recommendations.
3. The staff receiving the report or the superintendent/designee will advise the alleged victim not to shower or otherwise clean him/herself. If the abuse was oral, the victim will be advised to not drink or brush his/her teeth or take any action that could damage or destroy evidence.

4. The OIG or local law enforcement will determine whether a youth will be transported to the emergency room for a SANE exam.
5. Disciplinary action, removal to a more secure setting, and/or filing of criminal charges on the alleged perpetrator may be imposed pending the results of the internal and/or external investigations.

c. Alternative Placement.

1. If the MHP identifies a youth who requires alternative placement, the MHP will collaborate with the superintendent concerning the housing arrangements and monitoring of the youth. If it is determined by the superintendent and the MHP that the youth may be the target of sexual abuse, the youth will be placed in protective custody in accordance with GAP.97.45.
2. In cases where alternative placement cannot be arranged, the superintendent will develop a written plan of action to provide adequate supervision of the youth. This plan must be shared with all facility management staff and a copy will be placed in the youth's master file.

d. Prevention and Staff Training.

1. All residential staff, including staff who monitor contract placements, are responsible for being alert to signs of potential situations in which sexual abuses might occur. Preventing sexual abuse also means that staff should attempt to identify sexually abusive youth, peers, or supervisors.
2. All residential staff, including staff who monitor contract placements, will be trained to recognize the physical, behavioral, and emotional signs of sexual abuse. Staff will also be trained to recognize the signs and symptoms of victimization in youth and typical predatory methods employed by sexual abusers such as grooming, set-ups and extortion.
 - A. For new staff, a discussion of sexual abuse prevention and intervention will be part of orientation training.
 - B. For existing staff, more extensive information about the program will be part of the staff's annual training. In addition to the annual training, specialized training will be made available to staff who are most likely to be involved in the treatment or management of sexually abused youth.
 - C. Pre-service and annual in-service training on sexual abuse will include training for all staff on the following topics:
 - i. sexual abuse;
 - ii. inappropriate relationships with youth;
 - iii. Prison Rape Elimination Act (PREA); and
 - iv. suspected child abuse and neglect.
3. Each youth will receive an information pamphlet summarizing how youth can protect themselves from becoming victims, treatment options available to victims of sexual abuse, and methods of reporting incidents of sexual abuse.

e. Confidentiality.

Information concerning the identity of a victim reporting sexual abuse, and the facts of the report itself, will be limited to those who have a need to know in order to make decisions concerning the youth's welfare and for law enforcement or Office of Inspector General investigative purposes.

f. Policy Review.

The General Counsel, the Director of Integrated Treatment and Support, and the Director of Residential and Community Services, in conjunction with the Office of Inspector General, shall review this policy annually.



Resident Classification/Intake Screening

TEXAS
YOUTH
COMMISSION

Youth Name (Last, First, MI)		TYC #	D.O.B.
Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date Admitted	Date & Time of Interview	

MASTERFILE REVIEW

- Does this youth have a history of assaultive behavior? Yes No
- Does this youth have a history of sexually aggressive behavior? Yes No
- Does this youth have a history of sexual victimization? Yes No

INTERVIEW (attach additional pages as necessary)

- Describe your past experience with sexual activity.

A. Describe any trouble you may have gotten into as a result from your sexual activity.

B. Can you explain about any times you have shown your penis, vagina, breasts, etc (private areas) to anyone else?

Have you ever received treatment, counseling, or evaluation for any of these reasons? Yes No

If yes, explain (where, when, outcome):

- Describe your experiences with a partner who was unwilling to participate in a sexual activity with you.

A. Has anyone ever complained to you or someone else about any situation where you may have made someone do something they did not want to do? Yes No

If yes, explain (what happened, how often, when):

If yes, have you ever received treatment/counseling for this? Yes No

If yes, where? _____ When? _____

What was the outcome? _____



Resident Classification/Intake Screening

TEXAS
YOUTH
COMMISSION

3. Describe times when you have been touched in a way that has made you feel uncomfortable.

If yes, what happened? _____

When? _____ Was it reported? Yes No To whom? _____

4. Tell me about times that you participated in sexual activity that made you feel uncomfortable

When? _____ Was it reported? Yes No To whom? _____

If yes, have you ever received treatment/counseling for this? Yes No

If yes, where? _____ When? _____

What was the outcome? _____

5. Describe times when you ever been teased, harassed, or assaulted because of your appearance, lifestyle, sexual orientation, or gender identity

6. Describe times when you have been teased, harassed, or assaulted for any other reasons.

7. What concerns do you have regarding your safety while in TYC?

*****Any unreported allegations of abuse must be reported in accordance with GAP.93.33*****

OBSERVATION

1. Does the youth appear to be physically vulnerable? Yes No

If yes, describe: _____

2. Are there risk factors that increase this youth's potential for sexual victimization? Yes No

If yes, describe: _____



Resident Classification/Intake Screening

TEXAS
YOUTH
COMMISSION

RISK DESIGNATION

1. Youth is at risk to be:
- | | | | |
|---------------------|------------------------------|-----------------------------|--|
| Assaultive | <input type="checkbox"/> Yes | <input type="checkbox"/> No | If yes to any - special housing must be recommended |
| Sexually aggressive | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
| Sexually victimized | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
2. Is special housing recommended? Yes No
If yes, type of housing recommended: _____
3. Is a report of abuse to the Incident Reporting Center required? Yes No
If yes, date of report: _____ Person making report: _____

FOR SCREENING STAFF ONLY

SCREENING STAFF SIGNATURE

Name of Screening Staff	Title	Signature and Date
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ADMINISTRATOR APPROVAL

Housing Assignment Decision:

- Single Occupant Double Occupant Other, Specify: _____

Name of Superintendent or Designee	Title	Signature and Date
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FOR PSYCHOLOGICAL EVALUATION STAFF ONLY

REVIEW AFTER PSYCHOLOGICAL EVALUATION

Date of Evaluation	Override Screening Results? <input type="checkbox"/> *Yes <input type="checkbox"/> No	*If Yes, youth is at risk to be: Assaultive <input type="checkbox"/> Yes <input type="checkbox"/> No Sexually Aggressive <input type="checkbox"/> Yes <input type="checkbox"/> No Sexually Victimized <input type="checkbox"/> Yes <input type="checkbox"/> No
Name of Psychologist	Signature and Date	

FOR TRANSFER USE ONLY

REVIEW OF INFORMATION UPON TRANSFER

Receiving Facility	Date of Transfer	Special Housing Required? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, Youth Assigned to:
Referral to Psychology Required? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, Date/Time Psychology Notified:		
Name of Reviewing Staff	Title	Signature and Date	