



PREA Implementation Toolkit

Resources for Indiana's Juvenile Detention Facilities
to Assist with Implementation of the Prison Rape Elimination
Act (PREA) Standards for Juvenile Facilities

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About This Toolkit

In 2003, Congress passed the Prison Rape Elimination Act (PREA), the first federal civil statute focused specifically on addressing sexual violence in juvenile facilities, jails, prisons, and other facilities. PREA established a nationwide zero-tolerance standard for sexual abuse and sexual harassment in custodial settings. Importantly, PREA also required the U.S. Department of Justice to issue a set of standards – binding on all juvenile facilities throughout the country – that are aimed at helping facilities prevent, detect, and respond to sexual abuse and sexual harassment.

The PREA standards, released in June 2012, establish a number of requirements for juvenile facilities. These requirements are designed ensure that officials take necessary steps to prevent, detect, and respond to sexual abuse and sexual harassment. However, the standards also hold the promise of making facilities safer places for children overall.

In 2015, the Indiana Department of Correction, Division of Youth Services (DYS), partnered with four of the state’s juvenile detention facilities to work on implementation of the PREA standards, with the goal of developing tools and resources to share with other juvenile detention facilities throughout the state: the Allen County Juvenile Center, the Bartholomew County Youth Services Center, the Madison County Youth Center, and the Marion County Juvenile Detention Center. With technical assistance from the Center for Children’s Law and Policy (www.cclp.org) in Washington, DC, and the Youth Law T.E.A.M. of Indiana (<http://youthlawteam.org/lawteam.html>), DYS and the four juvenile detention facilities collaborated on PREA compliance efforts, culminating in PREA compliance audits of each facility and the creation of this toolkit.

The toolkit compiles resources from the project and explains how they can be useful as part of local officials’ efforts to implement the PREA standards in their detention facilities. All linked documents are also available on the Indiana Department of Correction website. Please note that adaptation or use of any of the resources contained in this toolkit will not automatically guarantee that a facility will pass a PREA audit. For questions about any of the content contained in or referenced by this toolkit, please contact:

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Facility Profiles

Bartholomew County Youth Services Center

The Bartholomew County Youth Services Center is under the direction of the Circuit Court Judge, with a rated capacity of 16, an average daily population of 6, and an average length of stay of 18 days. The facility serves both male and female youth.

Why was PREA implementation important at the facility?

Youth at the facility are at a higher risk of sexual assault and harassment because they may have had previous experiences that make them vulnerable to this issue. We do not want to see any more harm done to our youth. Also, we want to see them grow and learn while they are here, and if they don't feel safe, they will never be able to reach their potential.

What was the most difficult thing about PREA implementation?

The most difficult part of PREA implementation was moving beyond seeing it as another chore or requirement. Once staff began doing the work, though, we saw it as a win-win for everyone involved. It makes a difference. We would much rather implement PREA than have to make calls to DCS. We also have a Director who supported the work and allowed us to go above and beyond the minimum requirements.

What was the biggest benefit of PREA implementation?

The biggest benefit is giving our youth a voice. Knowing that we took something that was required and turned it into such a positive thing for our youth and allowing them to have open and honest discussions has been great. It has showed our youth that we value them and their safety. Also, we can see that youth feel empowered with new information and carry it with them when they leave our facility.

Marion County Juvenile Detention Center

The Marion County Juvenile Detention Center (MCJDC) is operated by the Marion Superior Courts and managed by a Chief Operating Officer and the Executive Committee. The facility utilizes a dual-superintendent model for on-site leadership. The Superintendent of Staffing and Security manages day-to-day detention activities and custody staff. The Superintendent of Quality oversees accreditations and quality of life matters.

The facility's design capacity is 112 beds, with a soft capacity of 96 youth. The average daily population is 84 youth, with an average length of stay of 23 days for male youth and 19 days for female youth.

Why was PREA implementation important at the facility?

The work to fully implement PREA into our culture is extremely important to our staff, stakeholders, and youth. This is especially true given some past instances of sexual abuse that occurred under a previous administration. During a PREA Resource Center Certified Auditor Training session in June 2016, PREA Auditors, Department of Justice staff, and Certified Auditor Trainees recognized our staff as being "champion staff" when it comes to PREA and were excited to see the progress we had made. We were also excited to see the level of engagement our youth have in the PREA implementation process, and it is clear they recognize the importance of creating a sexually safe culture for everyone.

What was the most difficult thing about PREA implementation?

The most difficult aspect of PREA implementation for MCJDC has been compliance with the staffing ratios. For the most part, we are able to meet ratios as a whole, but we struggle from time to time to meet ratios during the day when there is a lot of movement in the facility

What was the biggest benefit of PREA implementation?

Without a doubt, the biggest benefit of PREA implementation is ensuring the sexual safety of the facility. We are striving to be accountable, consistent, and transparent in all of our work and, through PREA, we are able to add one more layer of accountability and protection to our operations.

Allen County Juvenile Center

The Allen County Juvenile Center (ACJC) is located in Fort Wayne. The secure portion of the ACJC has 4 general population housing units (3 male, 1 female), and 1 diagnostic unit where all new intakes are housed during an orientation period. The facility has a maximum capacity of 140, with an average daily population of 50 and an average length of stay of 23 days.

Why was PREA implementation important at the facility?

PREA implementation is important to all staff at ACJC. Our goal is not only to make sure that the youth who come through our door receive the services they need, but also to keep them safe. PREA assists in implementing new policies, procedures, and training to educate everyone (staff, residents, volunteers, and contractors) on their responsibilities.

ACJC has over 200 volunteers and contractors and has active Memorandums of Understanding with the Fort Wayne Sexual Assault Treatment Center and the Fort Wayne Police Department's Victim's Assistance program. This shows that not only the staff at ACJC care about the well-being of our youth, but that the entire community does as well. We strive for rehabilitation and successful re-entry, and PREA is a huge part of that process.

What was the most difficult thing about PREA implementation?

The most difficult part about implementing PREA in our facility was the development of new policies and getting the PREA Intake Screening Risk Assessment just right. We wanted to make sure what we put in place would not just be fully compliant, but also assist us in making a difference and protecting the youth of our community.

What was the biggest benefit of PREA implementation?

The biggest benefit of the PREA implementation process is knowing that the youth of ACJC are safe. Implementing PREA in our facility has allowed our administrators and staff to be able to take a more pro-active approach instead of a reactive approach.

Madison County Youth Center

The Madison County Youth Center (MCYC) secure detention and reception center is located in Anderson. MCYC is operated by the Madison County Circuit Court, Division II. The secure detention unit is a 32-bed facility designed to house male and female youth that have been charged with a delinquent act. The reception center serves as a holding facility pending screening and assessments to determine if the arrested youth will be detained or released on a less restrictive measure. The average daily population is 10, and the average length of stay is 21 days.

Why was PREA implementation important at the facility?

PREA implementation attempts to ensure that the youth held within the Madison County Youth Center are safe and free from sexual abuse and sexual harassment. PREA compliance forces us to examine our policies, procedures, and practices to safeguard youth's wellbeing if a situation of sexual abuse or sexual harassment were to take place within our facility. We have been able to establish MOUs with community providers to guarantee that services will be in place prior to the need arising.

What was the most difficult thing about PREA implementation?

Fortunately, we did not have many issues with PREA implementation at our facility. We were able to translate our Resident Handbook into Spanish with help from DYS as part of the project.

What was the biggest benefit of PREA implementation?

PREA implementation has given myself, administration, and staff peace of mind in knowing that youth and staff are informed, trained, and proactive in our zero tolerance policy and efforts to prevent sexual abuse and sexual harassment.

Background Information

What Is the Prison Rape Elimination Act (PREA)?

Passed in 2003, the Prison Rape Elimination Act (PREA) is the first federal civil statute focused specifically on addressing sexual violence in juvenile facilities, jails, prisons, lockups, and other facilities. Passed with bipartisan support, PREA established the National Prison Rape Elimination Commission, which held hearings about sexual abuse and sexual harassment in custody, issued reports on the problem of sexual victimization in secure facilities, and proposed standards for the prevention, detection, and response to sexual abuse and sexual harassment in criminal and juvenile justice settings. The law provided for data collection on sexual victimization in custodial settings, technical assistance to agencies and facilities, funding opportunities, and periodic reviews of facilities with the highest and lowest rates of victimization.

PREA also required the Department of Justice to issue binding national standards, described in more detail below, outlining the steps that facilities must take to address sexual abuse and sexual harassment prevention, detection, and response for individuals in the custody of the juvenile or adult criminal justice systems.

You can view the full text of the PREA legislation by [following this link](#). For more details about PREA's background and information about its passage, [click here to download a paper](#) written by Brenda V. Smith, Professor at the Washington College of Law at American University and one of the individuals who served on the National Prison Rape Elimination Commission.

What We Know about the Extent of Sexual Victimization in Juvenile Facilities

In June 2013, the Bureau of Justice Statistics (BJS) published a special report entitled Sexual Victimization in Juvenile Facilities Reported by Youth, 2012. The report was the second of its kind published by BJS. It captured survey results from 8,707 youth in facilities owned or operated by a state juvenile correctional authority and adjudicated youth held under state contract in locally- or privately-operated juvenile facilities. The survey was restricted to facilities that housed youth for at least 90 days, contained more than 25% adjudicated youth, and housed at least 10 adjudicated youth. This means that the study did not survey most youth being held pre-adjudication in local detention facilities.

Researchers asked youth about their experiences with sexual victimization, from kissing through forced intercourse, with staff and other youth, during the past year at the facility. Some of the study's key findings were that:

- **One in ten youth** (9.5%) reported being sexually victimized at their juvenile facility.
- Youth were **three times as likely** to report sexual abuse by a staff member as they were to report abuse by other youth.
- Lesbian, gay, and bisexual youth were sexually victimized by other youth at **seven times the rate** of straight youth.

The Center for Children's Law and Policy has prepared [a short summary of the study's findings](#), including highlights of some of the key trends. [You can also read the full BJS report](#), which breaks down victimization rates by state and by facility.

The BJS studies are important because they provide the first nationwide data on the reported prevalence of sexual victimization in juvenile facilities. Although there are some limitations to the studies – for example, the studies only asked about certain types of sexual abuse and sexual harassment, they are based solely on youth self-report, and they only surveyed youth in a portion of all juvenile facilities – they represent the most comprehensive and up-to-date information available.

What PREA Requires Juvenile Facilities to Do

On June 20, 2012, the Department of Justice officially published binding national standards for four types of facilities: juvenile facilities, adult prisons and jails, lockups, and community confinement facilities. You can download a full version of the standards with the Justice Department commentary [here](#). A version of the PREA juvenile facility standards without the accompanying commentary is available [here](#). It is important to note that while there is a separate set of standards for community confinement facilities, all custodial juvenile facilities, including group homes and residential treatment facilities, are governed by the juvenile facility standards.

The 50 individual juvenile facility standards contain requirements in a wide range of areas, from intake procedures to medical and mental health services for victims of abuse to data collection and reporting. Although it is important for those working on PREA implementation to read and understand the details in all of the standards, the Center for Children's Law and Policy has prepared a [summary document](#) that can be helpful in understanding the general scope of the requirements.

Answers to Frequently Asked Questions about PREA

Since the PREA standards' release in 2012, a number of questions have arisen about their interpretation and applicability. The PREA Resource Center (PRC), [a website maintained by the National Council on Crime and Delinquency and the Bureau of Justice Assistance](#), serves as a clearinghouse for PREA implementation. The PRC website includes a [Frequently Asked Questions page](#) where officials from the PRC and the Department of Justice respond to inquiries from the field. The FAQ page is a key resource beyond the four corners of the PREA standards, as the Department of Justice has a working group that reviews questions from the field and agrees on the interpretive guidance offered in the responses. The questions below represent some of the most commonly asked questions about PREA and the juvenile facility standards.

Which juvenile facilities have to comply with the PREA standards?

The PREA standards apply to all “juvenile facilities,” regardless of whether a facility is state- or locally-operated. The PRC FAQ page clearly states that the [“PREA standards apply equally to locally operated facilities, such as . . . juvenile detention centers.”](#) Thus, all “juvenile facilities” in the country are subject to the PREA standard’s requirements. Some individuals in the juvenile justice field have misunderstood the scope of the requirements, either believing that they only apply to state facilities, or that they do not apply to contracted entities like group homes and residential treatment facilities. There is a difference between state-operated and local facilities in that state facilities are subject to financial penalties for non-compliance with the PREA standards, which are outlined below. However, the Justice Department intended for the PREA standards to be binding on all juvenile facilities, regardless of the potential financial penalties for non-compliance.

What is a “juvenile facility” for the purpose of compliance with the PREA standards?

The PREA standards define a “juvenile facility” as “a facility **primarily** used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.” 28 CFR § 115.5 (emphasis added). According to the PREA Resource Center, the easiest way to make this determination “is to determine whether, over a period of one year, the facility holds more people for that purpose than for any other purpose.” This means that it does not matter what type of agency or organization operates a facility. If the majority of youth held at the facility are youth held pursuant to the juvenile justice system, it is a “juvenile facility” and is covered by the PREA standards.

The PREA standards do not define what constitutes “confinement,” but the commentary that accompanies the PREA standards makes clear that the definition is broader than just secure juvenile detention and correctional facilities. Community confinement settings

such as group homes are “juvenile facilities” for the purpose of the PREA standards. See 77 Fed. Reg. 37114 (June 20, 2012). The PRC has stated that [foster homes are not considered juvenile facilities](#) for the purpose of PREA.

The PREA juvenile facility standards do not apply to youth who are charged and convicted as adults and placed in adult jails and prisons. The PREA standards for jails and prisons do contain a number of protections for youth housed in adult facilities, and they can provide leverage for advocacy to remove youth from adult prisons and jails. [The Campaign for Youth Justice has prepared materials](#) on this issue.

Is there a financial penalty if a facility does not comply with the PREA standards?

It depends. Each year, PREA requires governors to submit a certification to the Department of Justice for all facilities “under the operational control of the State’s executive branch.” Although the PREA standards do not define the term “operational control,” [the PREA Resource Center has provided guidance on which facilities fall within its scope](#).

Governors have three options when submitting a certification: (1) submit a certification that the state is in full compliance, in which case no funding will be lost; (2) submit an assurance that not less than five percent of grants received from the Department of Justice for “prison purposes” will be used for work on PREA compliance; or (3) accept a five percent reduction in such grants. Thus, if a governor does not submit a certification of full compliance or an assurance, the Justice Department can withhold five percent of Justice Department “prison” funds.

Right now, two grant programs are subject to the five percent reduction: the Bureau of Justice Assistance’s Edward Byrne Memorial Justice Assistance Grant Formula Program and the Office of Juvenile Justice and Delinquency Prevention’s Juvenile Justice and Delinquency Prevention Act Formula Grant Program.

There are additional details about the funding reductions, including some specific guidance about the allowable use of certain funding streams to achieve PREA compliance, [on the PRC website](#).

What about locally-operated juvenile facilities and privately-operated facilities? Are they at risk of losing funding for non-compliance?

The funding reductions only apply to facilities “under the operational control of the State’s executive branch.” However, if a state contracts with a private entity or local agency for the confinement of youth in the juvenile justice system, the PREA standards

require that the state include an obligation to adopt and comply with the PREA standards in any contract with that facility, as well as include a provision for monitoring to ensure that the facility is complying with the standards. If a state fails to follow these requirements for contracted facilities, a governor will not be able to certify full compliance with the PREA standards. [The PRC provides additional guidance on the types of relationships that may constitute a contractual relationship between a state and a locally-operated or private juvenile justice facility.](#)

If a locally-operated or private facility does not contract with the state for the confinement of youth, there is no federal financial penalty for non-compliance. However, as mentioned above, the Department of Justice intended for the standards to apply to all juvenile facilities, regardless of whether there is a loss of funding. There are also a number of other reasons to comply with the PREA standards, outlined below.

If a facility is not facing a financial penalty for noncompliance, why should officials comply with the PREA standards?

Even if a facility is not subject to the governor's certification, there are a number of other reasons why officials should be working toward PREA compliance.

- **Youth have a right to be safe, and adults caring for them have a responsibility to take measures to protect them from harm.** The PREA standards came about as a result of years of research, expert opinion, and lessons from the field about the best ways to prevent, detect, and respond to sexual abuse and sexual harassment. Officials should take advantage of the best knowledge available to meet their obligation to protect the youth in their care.
- **Accrediting bodies that receive federal funding must incorporate PREA's requirements into their accreditation process.** Under the law, organizations such as the American Correctional Association (ACA) must include PREA compliance in their accreditation process, as it is a recipient of federal funds. Many juvenile facilities seek to obtain or maintain ACA accreditation. Those facilities are now required to comply with the PREA standards to obtain or maintain that designation.
- **In litigation over sexual abuse and sexual harassment, courts may look to the PREA standards to determine whether a facility's policies and practices substantially departed from "generally accepted professional standards."** In most jurisdictions, liability stemming from conditions of confinement in juvenile facilities turns on whether officials' actions represented a substantial departure from generally accepted professional practices. See *Youngberg v. Romeo*, 457 US 307 (1982). In the commentary accompanying the PREA standards, the Justice

Department noted that courts may look to the PREA standards as generally accepted professional practice in future litigation over sexual abuse and sexual harassment. Thus, a facility's failure to implement the PREA standards could make it liable for harms to youth in their care stemming from sexual abuse and sexual harassment.

- **PREA compliance will ensure that a facility is prepared and doing all that it can to prevent incidents, even if nothing has ever happened at a facility.** One common reason that officials offer for not working on PREA compliance is that they have not experienced incidents of sexual abuse and sexual harassment in their facilities. However, federal statistics suggest that sexual abuse and sexual harassment is a bigger problem than we may think, and incidents may go unreported. Also, incidents can occur even in well-run facilities. Knowing how to respond quickly and appropriately is crucial. PREA compliance ensures that a facility is not caught scrambling if and when officials receive an allegation of sexual abuse and sexual harassment.
- **PREA is an opportunity to equip staff with new skills to help them work more effectively with youth.** As outlined in Part II of this toolkit, PREA requires that staff receive training on twelve topics, including how to communicate with lesbian, gay, bisexual, transgender, and intersex (LGBTI) youth, the dynamics of sexual abuse and sexual harassment in juvenile facilities, and how to avoid inappropriate relationships with youth. See 28 CFR § 115.331. Staff may not have received much, if any, training on these topics, and this knowledge can help them be more effective in interactions with the youth.
- **Implementation of the PREA standards offers an opportunity to strengthen partnerships with other child-serving organizations and systems.** As part of PREA implementation work, officials can build connections to individuals and organizations that will help them better serve youth in their care. For example, by reaching out to local rape crisis officials to arrange for victim advocacy services for youth who alleged to have been abused, officials can begin conversations about other programming or services that the rape crisis center can offer for youth in the facility. For example, rape crisis advocates may be able to educate youth about dating violence, sexually transmitted infections, or other topics of relevance to adolescents. Similarly, consulting with child welfare professionals who are responsible for investigating and responding to sexual abuse can help a facility understand more about how best to work with victimized youth. Those individuals may also be willing to help train staff.
- **PREA compliance is now included in the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) detention facility assessment**

standards. Over 250 jurisdictions in 39 states and the District of Columbia participate in JDAI, [including many counties in the State of Indiana](#). Those jurisdictions are expected to assess and improve conditions in their juvenile detention facilities using a set of standards that were developed by the Center for Children’s Law and Policy and the Youth Law Center. [The JDAI standards, which were revised in June 2014, now incorporate the PREA regulations for juvenile facilities](#). This means that facilities in JDAI sites should be working toward PREA compliance as part of the jurisdiction’s JDAI reform work.

Is there funding or additional assistance available to help with PREA implementation?

PREA allowed for Congressional appropriations to support PREA compliance work in communities around the country. The Justice Department and the PREA Resource Center have issued a number of Requests for Proposals encouraging jurisdictions to apply for funding to assist with PREA implementation. Officials should [sign up for the PREA Resource Center listserv to be notified of any future funding opportunities](#).

Additionally, the PREA Resource Center allows jurisdictions to submit requests for technical assistance on aspects of PREA implementation. Officials can submit requests for help by [following this link](#). The National Institute of Corrections has also supported the development of a step-by-step PREA implementation toolkit for juvenile facilities, [which officials can download here](#).

What Do the DYS Juvenile Detention Standards Say about PREA Compliance?

As of the publication of this toolkit in May 2018, the Indiana Department of Correction had not yet finalized revisions to the state’s Juvenile Detention Standards. However, the most recent set of proposed standards include several mandatory standards that align with the requirements of the PREA standards. These include:

- Requiring youth to be educated about sexual misconduct prevention, detection, and response policies and procedures at the facility, including the right to be free from sexual abuse and harassment upon intake, within 10 days of arrival, and continually throughout the youth’s stay.
- Conducting immediate investigations of all allegations, threats, or instances of sexual abuse.

- Prohibiting all sexual contact between youth and staff, volunteers, and contractors.
- Complying with applicable state and federal laws, including PREA.

Additionally, many other proposed recommended standards incorporate other aspects of the PREA standards for juvenile facilities, such as youth screening for victimization or likelihood of victimizing others.

Finally, the proposed standards provide that facilities may earn the highest two levels of compliance with the standards – Level 4 and Level 5 – if the facility successfully completes a PREA audit.

Toolkit Resources

Overview

This part of the toolkit outlines resources that are available in different aspects of a facility's PREA implementation work.

Resources are available in each of the following areas:

1. Grievance and Reporting Systems
2. Youth Education
3. First-Responder Protocols
4. Training
5. Staffing
6. Policy Development
7. Investigations and Coordination with Investigating Entities
8. Screening of Youth
9. LGBTQI Youth
10. Hiring, Promotion, Collective Bargaining, and Contracting
11. Public Reporting of Data and Other Information Required by PREA
12. Audits

The toolkit explains why each area is important to effective sexual abuse and sexual harassment prevention, detection, and response systems. Then, the toolkit outlines what the PREA standards require for each issue, as well as the implementation resources that are available from facilities in Indiana. Please note that adaptation or use of any of the resources contained in this toolkit will not guarantee that a facility will pass a PREA audit. Officials will also need to make adjustments to ensure that the content is consistent with local policies and procedures. Please consult the PREA standards alongside your own facility's policies and procedures as you consider how to comply with the standards' requirements.

(1) Grievance and Reporting Systems

Youth in juvenile facilities must know where to turn if they encounter problems or if they experience sexual abuse and sexual harassment. In well-run facilities, youth have several ways of reporting problems that are accessible, confidential, and responsive. In addition, those facilities have taken steps to protect youth from retaliation by staff or other youth, which can deter youth from reporting.

Even in generally well-run facilities, however, youth may not always feel comfortable reporting a problem to officials. They may share information with family members or other third-parties such as defense attorneys, mentors, or service providers. For this reason, family members and third parties also need to know how to report incidents to facility officials.

Strong reporting systems ensure that officials learn about problems when they arise and take quick and appropriate action. Reporting systems help ensure that what may be relatively minor incidents do not escalate into more systemic problems. For these reasons, an effective reporting system is the cornerstone of a coordinated system of preventing, detecting, and responding to sexual abuse and sexual harassment.

What do the PREA standards say?

The PREA standards related to reporting opportunities for youth, family members, and third parties appear at 115.351, 115.352, and 115.354. Under the standards:

- Youth must have multiple internal ways to report sexual abuse and sexual harassment, staff neglect or violation of responsibilities that may have contributed to that abuse and sexual harassment, and retaliation by youth or staff for reporting abuse and sexual harassment.
- Youth must also have access to at least one way of reporting sexual abuse and sexual harassment to an agency or office that is not part of the agency responsible for running the facility. That outside entity must be able to receive and forward reports to the facility and allow youth to remain anonymous if they request.
- Youth must have access to the tools necessary to make a written report, including writing implements and forms or other paper.
- Agencies must establish a mechanism to receive third-party reports of sexual abuse and sexual harassment and publicly distribute information on how to

report sexual abuse and sexual harassment on behalf of youth.

- Facility staff must:
 - Accept verbal reports of sexual abuse and sexual harassment and promptly document them.
 - Accept anonymous reports of sexual abuse and sexual harassment.
 - Accept reports from family members and other third parties, such as attorneys.
 - Allow third parties to assist youth in reporting sexual abuse and sexual harassment. Note: Under the PREA standards, facilities are allowed to condition investigation of grievances filed by third parties other than parents or legal guardians upon the youth's consent to have the request filed on his or her behalf. Facilities may also require the youth to personally pursue the steps in the facility's grievance process. If a facility chooses to do either of these things, though, officials must always document a youth's decision to decline to move forward with an investigation.

- Facility staff cannot:
 - Require youth to use an informal grievance process or otherwise try to resolve with staff incidents of alleged sexual abuse.
 - Require youth to submit a grievance involving alleged sexual abuse to a staff member who is the subject of the complaint.
 - Refer grievances to staff members who are the subject of the complaint.
 - Discipline youth for filing grievances related to sexual abuse unless the facility demonstrates that the youth filed the grievance in bad faith.

PREA also establishes time frames by which officials must respond to grievances related to sexual abuse. The facility must have an emergency grievance procedure for youth who are at substantial risk of imminent risk of sexual abuse, whereby staff forward the grievance to someone who can take immediate corrective action, provide an initial response within 48 hours, and provide a final agency decision within 5 calendar days.

For other grievances related to sexual abuse, the PREA standards require a final decision on the merits within 90 days from initial filing (not including time consumed by youth preparing any administrative appeals), with the possibility of an extension of up to 70 days upon written notification to youth and notification of the date by which a decision will be made. These timeframes, while allowable by PREA, also appear in the standards for adult prisons and jails, where lengths of stay can be significantly longer than those in juvenile facilities.

The PREA standards also require that officials take reasonable steps to ensure that youth with limited English proficiency and youth with disabilities have meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. 115.316. This means that the facility must take steps to make its reporting systems accessible to these youth.

Tools and Resources

- [Sample Youth Grievance Form, Agency Tracking Sheet, and Youth Notification Form](#). The first page is the form provided for youth to make written complaints about conditions or treatment at a facility. The second form is for the agency's internal purposes, allowing it to track and analyze data on grievances that are filed. The third form is what officials can provide to youth as documentation that they have responded to a youth's complaint and that the youth has either accepted the resolution or decided to appeal the issue to a more senior staff member.
- [Sample Grievance Policy](#). This is a draft grievance policy that was created by the Center for Children's Law and Policy to reflect PREA's requirements and other considerations underlying an effective grievance or reporting system. The policy contains spaces where facilities can fill in appropriate information, as well as comment bubbles that describe key considerations when adapting the policy for use in an agency or facility.
- [Sample JDC Grievance Forms](#). These are sample grievance forms that can be adapted for use in your facility.

(2) Youth Education

In order for youth to be able to report harassment, abuse, or concerns in a juvenile facility, they must understand what their rights are, the rules about what is and what is not acceptable behavior for youth and staff, and the ways that they can keep themselves safe. Additionally, youth need to understand how they can report complaints, what will happen if they do, and how the facility will protect them from retaliation if they make a report.

The PREA standards require that facilities educate youth on a range of topics related to sexual abuse and sexual harassment prevention, detection, and response. However, educating youth about sexual abuse and sexual harassment in a developmentally appropriate way that does not re-traumatize youth with a history of abuse can be challenging. Some agencies have focused on creating educational materials that focus on the technical language of PREA and the standards, which means that many youth may not understand the most important messages: the right to be safe, the ways to report problems, and the right to be free from retaliation for making a report.

This section of the toolkit focuses on ensuring that youth receive appropriate education about sexual abuse and sexual harassment prevention, detection, and response.

What do the PREA standards say?

The PREA standards related to youth education appear in standard 115.333. Facilities must educate youth about sexual abuse and sexual harassment prevention, detection, and response in three ways:

- 1) Upon admission, providing youth with age-appropriate information about the agency's zero-tolerance policy and the way to report incidents. This can be accomplished by reading a short script at or around the time of intake and providing the youth with something in writing.
- 2) Within ten days of admission, providing youth with a comprehensive, age-appropriate education regarding the right to be free from sexual abuse and sexual harassment, the facility's policies and procedures for reporting and responding to incidents, and the youth's right to be free from retaliation for reporting incidents.
- 3) Throughout the youth's stay, making key information continuously and readily available or visible to youth through posters, handbooks, or other written formats.

The PREA standards also require that the youth education be accessible to all youth, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as youth who have limited reading skills.

Beyond these requirements, PREA does not include any specifics about the format (e.g., video, staff-led), length, or content of this component of the facility’s youth education program. This has led to wide variability in the quality of materials that are used in juvenile facilities around the country. For example, a number of facilities have developed materials that are not age-appropriate. These materials may focus on using the term “Prison Rape Elimination Act” and the language of the PREA standards themselves, or they may have been adapted materials from adult facilities. Others use imagery or words that evoke fear, sadness, or hopelessness.

Officials do not need to use the term “Prison Rape Elimination Act,” the technical details of the standards, or the verbatim definitions of sexual abuse and sexual harassment in youth education materials. In fact, using such language may frighten youth and may mean that it is less likely that youth will understand important information. For example, consider the PREA standards’ definition of staff-on-youth sexual harassment on the left and a translation into simpler language on the right.

Language from PREA	Language for Youth Education Materials
<p>Sexual harassment includes 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.</p>	<p>Sexual harassment can include someone saying things about your body or body parts, how you look or dress, or who you like or date. It also includes making sexual comments or gestures.</p>

Another common problem is that facilities may not have focused on making their youth education materials engaging. Some agencies have created a youth education video that they show during orientation to help satisfy PREA’s requirements. Videos can be helpful in terms of standardizing important information, but a lack of interactivity may mean that youth tune them out. This is particularly true if the video is one part of a long orientation presentation.

Facilities should identify a skilled facilitator to lead the youth education program. Even videos require a staff member to introduce the subject, ensure that youth have understood the key points, and answer any questions that youth may have. Facilitators must also know what to do if a youth discloses sexual abuse and sexual harassment during a youth education session, as well as how to handle youth's reactions to material.

Tools and Resources

- [Brief Orientation Script](#). This basic script is designed to be read to youth during the intake process to convey basic information about the prohibition on sexual abuse and sexual harassment and the ways of reporting a problem. Facility officials can fill in reporting avenues and adapt this language as they see fit.
- [Youth Education Videos, Facilitator's Guide, and Transcript](#). These materials were adapted from a youth education video created by officials in Idaho for their juvenile facilities. The video represents a creative and youth-friendly approach to a sexual abuse and sexual harassment education video, and it has been adapted for use in any detention facility in the State of Indiana. The facilitator's guide is designed to help staff lead a discussion that reinforces key messages after watching the video. The folder also includes sample videos from DYS of properly conducted pat and frisk searches of male and female youth, which can be shown to youth to demonstrate the appropriate level of physical contact during each type of search. Finally, the transcript can be provided to youth who are deaf or hard of hearing to complement the video.
- [Youth Education Handouts](#). This folder contains sample handouts that provide youth with essential information on a facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. The DYS handout was designed in consultation with the Center for Children's Law and Policy to be an example of youth-friendly, developmentally appropriate educational material for juvenile justice facilities. The link also contains a folder of posters, handouts, and other materials used in detention facilities throughout the state. Facility officials can adapt these examples or use them as a basis for developing new written materials.
- [Key Messages for Youth Education Materials](#). This document contains key messages for youth about their right to be safe, their right to be free from retaliation for reporting, and the ways that they can report a problem. The list was written to reflect the limited literacy and developmental stage of youth in juvenile facilities, as opposed to relying on the language of the PREA standards (which is difficult for youth to understand and may scare younger youth).

(3) First-Responder Protocols

As discussed above effective reporting system is the cornerstone of a coordinated system of preventing, detecting, and responding to sexual abuse and sexual harassment. However, first responders to observed or reported sexual abuse or sexual harassment must understand how to keep youth safe, make appropriate referrals, and preserve any evidence of alleged abuse or harassment.

What do the PREA standards say?

The PREA standard related to staff first responder duties appears at 115.364. Under the standards, the first staff member responding to a report must:

- (1) Separate the alleged victim and abuser;
- (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence (e.g., securing any clothing or bedding; prohibiting cleaning of any space where alleged abuse occurred; protect video footage from being erased);
- (3) Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating (if the abuse occurred within a time period that still allows for the collection of physical evidence); and
- (4) Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating (if the abuse occurred within a time period that still allows for the collection of physical evidence).

Staff must also report to the appropriate individuals and authorities, as required by law and policy.

Some facilities have developed a sample checklist for staff first responders, recognizing the potential stress of fielding a report of sexual abuse and the importance of ensuring that all necessary steps are taken to protect alleged victims, preserve evidence, and make all required reports. The example checklist below is available to modify and use in any facility.

Finally, jurisdictions and medical providers vary in terms of the length of time within which they will attempt to preserve evidence from an alleged abuse victim or abuser.

However, modern evidence collection techniques have allowed officials to gather usable evidence a week or more following an assault. Facility officials should consult with their designated emergency medical provider about their guidelines, but officials should always err on the side of caution when assessing whether it may be possible to obtain usable physical evidence.

Tools and Resources

- [Sample Staff First Responder Protocol Checklist](#). This protocol was developed in consultation with the Bartholomew County Youth Services Center to post in locations in the facility where staff would be likely to make a report of sexual abuse. It can be adapted to reflect a facility's first responder protocols by editing the highlighted text.

(4) Training

A large part of successful efforts to prevent, detect, and respond to sexual abuse and sexual harassment in juvenile facilities involves making sure that everyone understands their role in keeping everyone at a facility safe. This means knowing all of the facility's rules designed to prevent incidents, learning how to spot red flags that may indicate a problem, and understanding how to respond appropriately if and when a youth discloses alleged abuse and sexual harassment.

For this reason, the PREA standards require that facility staff who may have contact with youth receive training on a range of different topics. The standards also recognize that individuals other than facility staff members may have contact with youth in custody, and those individuals may be the ones to receive a report of abuse and sexual harassment. For example, a youth may confide in a facility chaplain or volunteer who comes in to provide programming. These individuals need to know what the facility's rules are and how to respond if they are the recipients of a report of abuse and sexual harassment. Moreover, those who have specialized responsibilities in the wake of a sexual abuse and sexual harassment allegation, such as medical and mental health practitioners and investigators, must have additional expertise to ensure that they meet their responsibilities.

PREA requires different types and levels of training for different individuals who may have contact with youth in a juvenile facility. These groups include facility staff, volunteers and contractors, medical and mental health personnel, and certain individuals who are responsible for investigating incidents involving sexual abuse and sexual harassment.

What do the PREA standards say about training of facility staff?

Facility staff who may have contact with youth must receive training on a range of topics, including:

- The facility's zero-tolerance policy for sexual abuse and sexual harassment;
- How to fulfill their responsibilities under agency 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, gender nonconforming, and intersex 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.

Facilities must document that staff receive and understand this training, provide refresher training on these topics every two years, and provide staff with information on current policies in the years in which they do not receive refresher training. 115.331. A separate standard, 115.315(f) requires that security staff receive training on conducting cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Although the PREA standards do not specify the length, format, or content for staff training, staff must receive training on these topics.

Tools and Resources

- [Sample Detention Staff Training Materials](#). These sample staff training materials were provided by the detention facilities participating in this project. They are available to download and adapt in your facility.
- [Sample DYS Staff Training Refresher, PowerPoint, Trainer’s Manual, and Exercises](#). As part of this project, the Center for Children’s Law and Policy helped DYS develop a refresher training for DYS staff on the core topics related to prevention, detection, and response to sexual abuse and sexual harassment. This refresher focuses on interactive exercises and a discussion of the importance of appropriate boundaries. Facilities can consider incorporating this content into an initial PREA training or using this content as a refresher training for staff who have already received a full initial PREA training.
- [News Articles for Discussion with Notes](#). As part of PREA implementation work, facility administrators can use recent news articles about sexual abuse and sexual harassment in other juvenile facilities to discuss the problems that lead to incidents in those facilities and what staff could have done differently. A

sampling of these articles is available, along with discussion questions and answers to those questions.

What do the PREA standards say about training of volunteers and contractors?

In addition to training for facility staff, the PREA standards require all volunteers and contractors who have contact with youth to be trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policy. 115.332. The length and type of training can vary depending on the type of services that an individual provides and his or her level of contact with youth. For example, volunteers or contractors who are frequent visitors to the facility and those who may be in a position of having unsupervised interactions with youth would require more in-depth training than a guest speaker who is supervised by staff and who only visits the facility a handful of times. However, at a minimum everyone needs to be notified about the facility's zero tolerance policy and how to report sexual abuse and sexual harassment. Additionally, facilities must maintain documentation that volunteers and contractors understand the training that they receive.

The PREA standards define the term "volunteer" as "an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency." 115.5. The definition of "contractor," which is similar, is "a person who provides services on a recurring basis pursuant to a contractual agreement with the agency." These relatively broad definitions can apply to a wide range of individuals who have contact with youth in the facility. The PREA Resource Center has also noted that teachers and administrators at a facility school are considered "contractors" for the purpose of PREA's training requirements, even if the educators do not have any formal contractual relationship with the facility itself.

Because PREA defines "volunteer" and "contractor" as an individual who has a "recurring" engagement with the facility, individuals who have contact with youth only once, for example, to provide a one-time performance or to repair a piece of equipment in a single visit, are not required to receive any training. However, facilities may still want to ask one-time volunteers and contractors to review a summary of the facility's zero-tolerance policy and methods of reporting and sign an acknowledgement form. This step, while not required by the PREA standards, ensures that all individuals have some basic knowledge of how to report if they observe something or if a youth discloses to them.

Tools and Resources

- [Sample Detention Volunteer Training Materials](#). These sample training materials provide volunteers with essential information on efforts to prevent, detect, and

respond to sexual abuse and sexual harassment. Administrators can adapt these materials for use in their own agency or facility.

What do the PREA standards say about training of medical and mental health staff and investigators?

Individuals who are responsible for investigating alleged sexual abuse must also receive specialized training (115.334). Although materials for investigators were not prepared as part of this project, [the PREA Resource Center maintains a website with training resources and tools designed to meet these standards.](#)

The PREA standards also contain specialized training requirements for medical and mental health staff (115.335). The PREA Resource Center has [an online training for medical and mental health professionals, which was developed by the National Commission on Correctional Healthcare](#) that is designed to cover these mandatory training topics outlined in standard 115.335.

However, PREA standards also require all contractors who have contact with youth to be trained on their responsibilities under the agency or facility's own sexual misconduct prevention, detection, and response policy. 115.332. At a minimum, all contractors need to be notified about the facility's zero tolerance policy and how to report sexual misconduct. Additionally, facilities must maintain documentation that volunteers and contractors understand the training that they receive. The training supplement developed below includes supplemental agency-specific information that DYS prepared for its medical and mental health contractors in consultation with the Center for Children's Law and Policy. Facility officials can adapt these materials for their own medical and mental health contractors.

Tools and Resources

- **[DYS Medical and Mental Health Staff Training Supplement.](#)** As mentioned above, the PREA Resource Center has [an online training for medical and mental health professionals, which was developed by the National Commission on Correctional Healthcare](#) that is designed to cover these mandatory training topics outlined in standard 115.335. These materials were prepared by DYS and the Center for Children's Law and Policy to supplement this online training and provide agency-specific information to DYS's medical and mental health staff. It includes a written training supplement and a handout on tips for handling disclosures. Facility officials can adapt these materials for their own medical and mental health contractors. Facility officials should also provide medical and mental health personnel with any applicable sexual abuse and sexual harassment policies and procedures.

(5) Staffing

However, PREA standards also require all contractors who have contact with youth to be trained on their responsibilities under the agency or facility's own sexual misconduct prevention, detection, and response policy. 115.332. At a minimum, all contractors need to be notified about the facility's zero tolerance policy and how to report sexual misconduct. Additionally, facilities must maintain documentation that volunteers and contractors

What do the PREA standards say?

PREA's staffing requirements for juvenile facilities are outlined in 115.313. That standard provides that all juvenile facilities must:

- (1) Develop, implement, and document a staffing plan that provides for adequate levels of direct supervision to protect youth against sexual abuse and, where applicable, video monitoring.
- (2) Consider the list of factors in 115.313(a) when developing the staffing plan.
- (3) Comply with the staffing plan except during limited and discrete "exigent circumstances" and fully document any deviations. "Exigent circumstances" is defined as "any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility."
- (4) At least once a year, consult with the PREA coordinator and determine whether any adjustments are needed to the staffing plan, staffing patterns, video monitoring, and other resources needed to adhere to the staffing plan.

Additionally, "secure juvenile facilities" (which include secure juvenile detention facilities) must maintain at least a minimum staff-to-youth ratio of 1:8 during hours when youth are awake and 1:16 during hours when youth are asleep, except during limited and discrete circumstances that are fully documented. Only security staff may be included in these ratios, who are "employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility. The PREA Resource Center has [put out additional guidance on who qualifies as "security staff"](#) for the purpose of the minimum staffing ratios in secure juvenile facilities, as well as [how to calculate staffing ratios](#). This guidance provides that "[t]ypically, only direct-care staff will count in the minimum mandatory ratios. Direct-care staff supervisors

may generally be counted within the minimum ratios to the extent they are presently assigned to primarily or exclusively supervise residents.”

If a facility is required to maintain as stringent or more stringent staffing ratios through law or policy (such as the DYS regulations), it must continue to maintain those ratios.

Finally, secure juvenile facilities must “implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. The facility must implement the rounds on all shifts and must have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

Tools and Resources

- [Sample Staffing Plan](#). This is a sample staffing plan template that officials can edit and adapt to reflect their own facility operations and consideration of the factors required by PREA.
- [Staffing Plan Deviation Tracking Form](#). This is a sample form that can be completed following any deviation from the facility’s PREA staffing plan during limited and discrete exigent circumstances. “Exigent circumstances” are any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.
- [Developing and Implementing a PREA-Compliant Staffing Plan](#). This publication, prepared by the Moss Group and the Bureau of Justice Assistance, provides guidance on creating a PREA compliant staffing plan. The document provides useful information on what to include in such a plan, as well as documentation that auditors will request as part of their review of staffing plans.

(6) Policy Development

The PREA standards require that all staff who have contact with youth receive training on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures. Although the PREA standards do not require that agencies have every word of the PREA standard in policy, many jurisdictions have chosen to develop a policy that focuses on PREA's main requirements. However, even if an agency chooses to take this approach, a number of policies in other areas will likely require alignment with a PREA or sexual abuse and sexual harassment policy and the PREA standards themselves. Other policies that may require updates include, but are not limited to, grievances, incident reporting, investigations, admissions, classification, and orientation.

What do the PREA standards say?

As mentioned above, the PREA standards do not explicitly require that agencies include every aspect of the standards' requirements in policy. The list below contains the explicit references to needed policies within the PREA standards. Agencies can choose, however, to include other requirements in policy, and many agencies have done so.

- **§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.**
(a) An agency shall have a **written policy** mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.
- **§ 115.313 Supervision and monitoring.**
(e) Each secure facility shall implement a **policy** and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.
- **§ 115.322 Policies to ensure referrals of allegations for investigations.**
(b) The agency shall have in place a **policy** to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

(c) If a **separate entity is responsible for conducting criminal investigations, such publication** shall describe the responsibilities of both the agency and the investigating entity.

- **§ 115.361 Staff and agency reporting duties.**

(a) The agency shall require all staff to report immediately and according to agency **policy** 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; 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.

(c) Apart from reporting to designated supervisors or officials and designated State or local services agencies, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency **policy**, to make treatment, investigation, and other security and management decisions.

- **§ 115.367 Agency protection against retaliation.**

(a) The agency shall establish a **policy** to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.

Tools and Resources

- [Implementing the Prison Rape Elimination Act: Toolkit for Juvenile Agencies and Facilities](#). The National Institute of Corrections supported the development of a step-by step PREA implementation toolkit for juvenile facilities, which officials can use to create new policies and align existing policies to be consistent with PREA's requirements. DYS Sexual
- [Sample Undue Familiarity Policy](#). This is a sample undue familiarity policy from a juvenile detention center in Kentucky, which addresses the use of social media. Facility officials can use this policy as a template to address contact with youth outside of the facility (including through social media), as well as with contact with youth admitted to a facility with whom staff have a prior relationship.

(7) Investigations and Coordination with External Agencies

When officials face allegations of sexual abuse in juvenile facilities, their first response is to promise a full investigation. However, many agencies have not fully thought through the mechanics of *how* those investigations will proceed, particularly if the agency has not handled any recent sexual abuse allegations.

Investigations into alleged sexual abuse of youth in juvenile facilities can be far from straightforward. Determining how to respond raises a series of important questions that facility officials may not have answered before. For example:

- Who will speak to a youth and staff about an allegation? How much information will they try to gather? If facility officials ask too many questions, they may render evidence inadmissible in a future prosecution.
- Who investigates various types of sexual misconduct that may occur? Officials may know that an allegation of sexual abuse warrants a referral to the state's child abuse registry, but it almost always calls for a referral to law enforcement also. Staff sexual harassment of youth may not rise to the level of a law enforcement referral, but it may require reports to other entities, such as the state child abuse registry. Reporting channels may be different depending on whether the alleged abuser is a staff member, youth, or other adult at the facility. Officials need to know who to notify in the different range of situations that may arise.
- What happens in the case of overlapping investigations? In cases of sexual abuse, staff may refer incidents to multiple agencies, such as local law enforcement, the state child abuse registry, an oversight entity charged with managing conditions in juvenile facilities, and an agency's own internal investigators. Officials need to know which investigation will take precedence and how entities will work together to avoid re-traumatizing youth through repeated interviews.
- Who will provide support to youth during an investigation? Sexual abuse is a traumatic experience for youth, and the PREA standards require agencies to make victim advocates available during investigations. These advocates must come from a rape crisis center unless the agency cannot secure a commitment from their local rape crisis center and have documented their attempt to secure such an agreement. However, facility officials may have little or no knowledge of rape crisis services in their community, and they may be unsure how to begin outreach

to those organizations.

- What happens in cases involving willing sexual activity among youth? The PREA standards make it clear that officials must not consider willing sexual activity among youth as sexual abuse for the purposes of PREA. Officials need to determine who will make a determination of whether sexual contact among youth was voluntary, what training may be necessary to make that determination, and what the facility's response will be to willing behavior.

These are just some of the questions raised by investigations into alleged sexual misconduct. Officials must have answers to these important questions and others in order to respond quickly and appropriately to reports of sexual abuse and sexual harassment. This section provides advocates with tools to help ensure that officials have a coordinated and responsive process.

What do the PREA standards say?

The PREA standards contain numerous requirements related to investigations. Rather than restate all of the details of the PREA standards here, the summary below highlights some of the most significant requirements.

- Ensure there are investigations of every allegation of sexual misconduct, including anonymous reports and allegations made by third parties. Criminal allegations must be investigated by an entity with the legal authority to conduct those investigations and refer appropriate cases for prosecution. 115.322, 115.371.
- Publish the agency policy outlining responsibilities for different kinds of investigations on an agency website or make it available through other means if no website exists. 115.322.
- Ensure that any agency officials responsible for investigations into sexual abuse receive specialized training to do so, and that any state agency responsible for investigations receives the same specialized training. 115.334, 115.371.
- Stay informed about investigations by outside entities and notify youth if the alleged perpetrator is no longer posted on the youth's unit, is no longer employed by the facility, or has been indicted or convicted on a charge related to sexual abuse within the facility. 115.371, 115.373.
- Report allegations of sexual abuse to a youth's parents or legal guardians unless there is official documentation that they should not be notified, as well the youth's child welfare caseworker if the youth is under the guardianship of the

child welfare system. If the youth is still under the jurisdiction of the juvenile court, staff must also notify the youth's attorney. 115.361.

- Provide youth who experience sexual abuse access to forensic medical examinations conducted by qualified medical professionals (Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs)), unless the facility has documented that SAFEs or SANEs are not available. 115.321.
- Make victim advocates available to youth during investigations to provide emotional support, crisis intervention, information, and referrals. These advocates must come from a rape crisis center unless the agency cannot secure a commitment from their local rape crisis center, have documented their attempt to do so, and have identified a qualified substitute from a community-based organization or the agency itself. 115.321.
- Conduct an incident review for both substantiated and unsubstantiated allegations. The standards do not require administrators to conduct reviews for "unfounded" allegations where an investigation was conducted and an investigator determined that an incident did not occur, although facilities may choose to go above and beyond the PREA standards and complete an incident review in those situations anyway. As part of these incident reviews, a review team must consider a number of factors outlined in the standards. The team's recommendations for improvement must be implemented unless a facility administrator documents why such improvements cannot be implemented. 115.386.
- Keep information about sexual abuse reports confidential unless reporting to designated supervisors or agencies, or unless necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

As part of PREA implementation work, officials can build connections to individuals and organizations that will help them better serve youth in their care. For example, by reaching out to local rape crisis officials to arrange for victim advocacy services for youth who alleged to have been abused, officials can begin conversations about other programming or services that the rape crisis center can offer for youth in the facility. For example, rape crisis advocates may be able to educate youth about dating violence, sexually transmitted infections, or other topics of relevance to adolescents. Similarly, consulting with child welfare professionals who are responsible for investigating and responding to sexual abuse can help a facility understand more about how best to work with victimized youth. Those individuals may also be willing to help train staff.

Tools and Resources

- [Responses to Sexual Misconduct Planning Matrix](#). This document outlines the different types of sexual misconduct or sexual activity that may occur at a juvenile facility. It also contains fields for officials to fill in how they will respond to each different type of misconduct, as not all incidents should be handled as PREA violations (e.g., willing sexual activity among youth). Facility administrators can work with officials to fill in this grid to ensure that the facility has a differentiated and appropriate response to sexual misconduct and sexual activity among youth.
- [Sample MOUs with Rape Crisis Providers for Victim Advocacy Services](#). Facilities can use these sample MOUs between facilities and rape crisis providers and victim advocacy organizations in Indiana as a basis for agreements with their local rape crisis and victim advocacy organizations.
- [PREA Incident Review Form](#). This sample form can be used by facility officials to document consideration of the required factors outlined in 115.386 as part of sexual abuse incident reviews.
- [PREA Sexual Abuse Investigation Reporting Form](#). Facilities can use this form as a template for documenting the notifications to residents that are required as an investigation of alleged sexual abuse proceeds.

(8) Screening of Youth

An important part of keeping youth safe from sexual abuse and sexual harassment involves making housing and programming decisions that will ensure that particularly vulnerable youth are protected from harm through enhanced supervision or other interventions. Similarly, those youth who may be more likely to victimize other youth should be housed and programmed in a way that minimizes the opportunity for any such victimization.

What do the PREA standards say?

The PREA standards require that within 72 hours of a youth's arrival at a facility, and periodically through a youth's confinement, an agency must obtain and use information about each youth's personal history and behavior to reduce the risk of sexual abuse and sexual harassment by or upon youth at the facility. The list of factors that must be considered are:

- Prior sexual victimization or abusiveness;
- Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
- Current charges and offense history;
- Age;
- Level of emotional and cognitive development;
- Physical size and stature;
- Mental illness or mental disabilities;
- Intellectual or developmental disabilities;
- Physical disabilities;
- The youth's own perception of vulnerability; and
- Any other specific information about individual youth that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other youth at the facility.

This information may be ascertained through conversations with the youth during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral health records, and other relevant documentation from the youth's files. Staff are not required to ask youth about sensitive topics such as prior sexual abusiveness if the information can be obtained through other means (for example, an arrest records check). § 115.341. However, as mentioned in the next section, the PREA Resource Center has made clear

that facility officials have an affirmative obligation to ask all youth about their sexual orientation, and gender identity.

The agency must use this information to make housing, bed, program, education, and work assignments for youth with the goal of keeping all youth at the facility safe and free from sexual abuse.

Tools and Resources

- PREA Standards in Focus: Screening for Risk of Sexual Victimization and Abusiveness. This PREA Resource Center publication outlines key considerations with respect to screening for risk of sexual victimization and abusiveness. It also includes links to other relevant guidance from the PREA Resource Center on how such screenings must be administered.
- Sample PREA Screening Tools. Facility officials can review these sample screening tools that are in use in juvenile detention facilities in Indiana, making modifications to reflect their own facility's operations.

(9) LGBTQI Youth

As mentioned in the introduction to this toolkit, data on sexual abuse and sexual harassment in juvenile facilities shows that certain populations are particularly vulnerable to abuse. For example, the most recent nationwide survey conducted by the Bureau of Justice Statistics found that youth who identified as lesbian, gay, or bisexual were sexually victimized by other youth at seven times the rate of youth who do not identify as such.

Lesbian, gay, bisexual, transgender and gender non-conforming, and intersex (LGBTI) youth in juvenile facilities may encounter harassment by youth and staff because of their identification. Youth who are perceived to be LGBTI may face similar mistreatment. If left unchecked, this harassment can escalate into physical or sexual abuse.

Mistreatment of LGBTI youth can stem from a variety of causes. Staff may not have been trained on the unique needs and considerations associated with LGBTI youth in the juvenile justice system. This may stem from a belief that staff do not need such training because facilities have not encountered many, if any, LGBTI youth even though recent research shows that LGBT youth represent 20% of youth in detention. Without such training, staff may not have the knowledge and skills to work with LGBTI youth in a professional and respectful way. They may also lack the skills to redirect youth who are engaging in harassment and abuse of LGBTI youth.

Facilities may also lack policies on crucial issues related to LGBTI youth. For example, if a youth discloses identification as gay or transgender to a facility staff member, but the youth's parents do not yet know, how will the facility preserve the confidentiality of that information when communicating with the youth's parents, the juvenile court judge, and other juvenile justice officials? A lack of policies, or policies that do not reflect best practices, can lead to serious harm.

What do the PREA standards say?

Because of the heightened rates of victimization, the PREA standards contain a number of special provisions related to LGBTI youth.

First, the standards contain definitions of the terms transgender, gender non-conforming, and intersex (115.5):

- *Transgender* means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- *Gender Non-Conforming* means a person whose appearance or manner does not conform to traditional societal gender expectations.

- *Intersex* means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

The PREA standards do not reference “questioning” youth, which commonly represents the “Q” in the acronym “LGBTQ.” Questioning youth are those youth who are going through a process of questioning or who are unsure of their sexual orientation. Although the PREA standards do not include this term, agencies can choose to include this group of youth when outlining protections required for LGBTI youth under PREA. As with any requirement, the PREA standards represent the minimum of what is required, and administrators can choose to go above and beyond the standards so long as they meet those minimum requirements.

PREA’s protections for LGBTI youth appear in various parts of the standards. However, the requirements generally fall within four categories: (1) staff training on LGBTI youth, (2) housing and classification decisions, (3) searches and supervision, and (4) reviews of incidents involving alleged sexual abuse.

(1) Staff Training on LGBTI Youth

The PREA standards require that facilities train all employees who may have contact with youth on how to communicate effectively and professionally with residents, including LGBTI residents. 115.331. Although the standards do not specify the length and format of such training, there are a number of sample training curricula available on this issue, referenced below.

(2) Housing and Classification Decisions

When youth arrive at a facility, the PREA standards require that staff gather a range of information within 72 hours to make housing and programming decisions. One piece of information is whether any gender nonconforming appearance or manner, or identification or perceived identification as LGBTI, may make a youth vulnerable to sexual abuse. 115.341. Facilities can gather this information by training staff to ask all youth a set of questions about sexual orientation, gender identity, and gender expression in a professional and non-judgmental way. Resources referenced below can help facilities follow experts’ recommendations about how to do so. As mentioned above, the PREA Resource Center has made clear that [facility officials have an affirmative obligation to ask all youth about their sexual orientation, and gender identity.](#)

As part of this process, the PREA standards prohibit staff from automatically placing LGBTI youth in particular housing assignments solely because of their perceived or actual sexual orientation or gender identity, and they prohibit staff from considering LGBTI

identification or status as an indicator of a youth's likelihood to abuse others. 115.342. Staff must decide assignments of transgender and intersex youth to male or female housing units on a case-by-case basis, giving the youth's preferences serious consideration and reviewing the assignments at least twice each year for safety. A number of juvenile justice agencies have gone beyond this minimum requirement, stating that youth are to be housed according to their gender identity unless consultation with the youth or other safety or security needs warrant a different placement. Sample policies that articulate this expectation are included in the resources below.

The PREA standards also include protections designed to prevent youth from being placed in solitary confinement as part of an effort to keep youth safe or to isolate or punish youth who have engaged or may engage in abusive behavior. Facilities may not isolate youth with the goal of keeping them safe unless there are no less restrictive measures available. Youth who are isolated have a number of rights and protections under the PREA standards, including the opportunity for large muscle exercise, access to required educational programming or special education services, daily visits from a medical or mental health clinician, and access to programming to the extent possible. Additionally, administrators must review the need for ongoing isolation at least every 30 days. 115.342, 115.378. A number of juvenile justice agencies have stronger limits on isolation than those that appear in the PREA standards. Some prohibit use of isolation beyond a brief period where necessary to respond to an immediate threat to the safety of the youth or others.

Finally, transgender and intersex youth must also be offered the opportunity to shower separately from other youth. 115.342.

(3) Searches and Supervision

The PREA standards prohibit staff from searching or physically examining transgender or intersex youth solely for purpose of determining their genital status. 115.315. Additionally, the standards require that staff receive training on conducting searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. 115.315.

The PREA standards for juvenile facilities prohibit cross-gender searches of all youth, including transgender and intersex youth, except in limited exigent circumstances. 115.315. In the case of transgender youth, the PREA Resource Center instructs facilities [to ask youth to identify the gender of staff with whom they would feel most comfortable conducting the search in this situation](#) and to honor that request absent exigent circumstances.

(4) Review of Sexual Abuse Incidents

In the wake of alleged sexual abuse at a facility, the PREA standards require administrators to conduct an incident review for both substantiated and unsubstantiated allegations. 115.386. The standards do not require administrators to conduct reviews for “unfounded” allegations where an investigation was conducted and an investigator determined that an incident did not occur, although facilities may choose to go above and beyond the PREA standards and complete an incident review in those situations anyway.

As part of these incident reviews, a review team must consider a number of factors, including whether incidents were motivated by gender identity or lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status. The team’s recommendations for improvement must be implemented unless a facility administrator documents why such improvements cannot be implemented.

Tools and Resources

- [Sample Transgender and Intersex Youth Search Form](#). Agencies can adapt this search form to provide documentation that they are asking transgender and intersex youth about the preferred gender of staff member to search them while at the facility.
- [DYS LGBTQI Youth Refresher Staff Training Materials](#). These sample materials, exercises, and handouts were developed in collaboration with DHS and the Center for Children’s Law and Policy as a refresher for DHS staff that had already received training on working with LGBTQI youth. Facility officials can adapt these materials for use in their own facilities, or they can incorporate components of these materials into new or existing training for staff.
- [Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System: A Guide to Juvenile Detention Reform](#). This publication, authored by Shannan Wilber at the National Center for Lesbian Rights on behalf of the Annie E. Casey Foundation, is the most current and comprehensive set of guidance for juvenile justice systems and detention facilities on the needs of LGBT youth. The publication includes sample policy language as well as the text of questions that should be asked of all youth at intake.
- [The Equity Project](#). This Equity Project is an initiative to ensure that lesbian, gay, bisexual and transgender youth in juvenile justice systems are treated with dignity, respect, and fairness. The website, www.equityprojects.org, contains a wealth of resources, including sample juvenile agency policies on LGBTQI youth, a

free comprehensive staff training curriculum, and other resources.

(10) Hiring, Promotion, Collective Bargaining, and Contracting

The PREA standards require that agencies incorporate certain screening and disclosure requirements into their hiring, promotion, and collective bargaining processes for staff who may have contact with youth. The PREA standards also require that a facility's contractors abide by certain requirements if they may have contact with youth.

What do the PREA standards say?

The PREA juvenile facility standards contain a number of requirements with respect to hiring and promoting staff members who may have contact with youth in a juvenile facility. First, the standards (115.317) prohibit the hiring of anyone who may have contact with youth who:

- (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
- (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
- (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

Second, the standards require that the agency "consider any incidents of sexual harassment in determining whether to hire or promote anyone . . . who may have contact with residents." Unlike the absolute prohibition on hiring outlined above, the PREA standards do not prohibit hiring an applicant with a history of sexual harassment, so long as the agency considers any such incidents of sexual harassment as part of the hiring process.

Third, the standards require an agency to gather specific information about applicants. The agency must:

- (1) Perform a criminal background records check;
- (2) Consult any child abuse registry maintained by the State or locality in which the employee would work; and

(3) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

Fourth, the standards require that, in addition to consulting the sources of information above, the agency “shall also ask all applicants and employees who may have contact with residents directly about previous abuse and sexual harassment described in (115.317)” Agencies must also perform criminal background checks at least every five years or have a system in place to capture this information. The standards also provide that “material omissions regarding such abuse and sexual harassment or the provision of materially false information, shall be grounds for termination.”

PREA also imposes certain requirements on contractors to the agency who may have contact with youth. For the purposes of PREA, a contractor is defined as “a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.” § 115.5. Agencies are prohibited from enlisting the services of contractors who have engaged in any of the conduct outlined above for staff, are required to consider any incidents of sexual harassment, must conduct criminal background and child abuse register checks initially, and must conduct criminal background checks at least every five years.

Finally, the PREA standards require that agencies not include certain information in their collective bargaining agreements. That information is outlined in 115.366, 115.372, and 115.376.

Tools and Resources

- [Hiring Process Outline](#). This outline helps facility officials identify the places where the hiring process meet PREA’s requirements for hiring of staff who may have contact with youth. This outline can serve as a model for how a facility can go about analyzing its own process and documenting how it complies with each requirement. It should be adapted to reflect the facility’s own hiring practices, including any applicable municipal or county hiring policies and practices.
- [PREA Promotion Checklist](#). This sample checklist helps asses the factors required at the time of promotion of staff who may have contact with youth. It is a sample of how a facility could go about ensuring that this information is considered as part of promotion discussions. It can be adapted for use by facility officials.
- [Contracting and Collective Bargaining Requirements](#). This document outlines the different requirements for collective bargaining agreements for agency staff and

for contractors with the agency whose staff may have contact with youth. It can serve as a helpful guide to ensure that contracts with individuals who may have contact with youth incorporate relevant PREA requirements.

(11) Public Reporting of Data and Other Information Required by PREA

Although many of the PREA standards affect only internal agency policies and procedures, the Justice Department regulations also require public posting of certain data and other information.

What do the PREA standards say?

The PREA standards require an agency to post certain information on its website, or otherwise make it available through some other means if the agency does not have a website. There are four main pieces of information that must be posted on a facility's website, pursuant to the PREA standards.

- 1) **The agency's policy to ensure that all allegations of sexual abuse or sexual harassment are referred to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior.** § 115.322. Where a separate entity is responsible for conducting criminal investigations, the policy must describe the responsibilities of the facility and the investigating entity.
- 2) **Information on how third parties, such as family members, can report sexual abuse and sexual harassment on behalf of a youth.** § 115.354. This information must be posted on the agency's website or otherwise be made publicly available (i.e., by posting information in a visiting area; including it into orientation materials).
- 3) **An annual report outlining (1) aggregated data on sexual abuse allegations from agency-operated and contracted facilities, and (2) a written report that compares the current year's data and corrective actions with those from prior years, outlines findings of sexual abuse allegations and corrective actions for each facility and the agency as a whole, and assesses the agency's progress in addressing sexual abuse.** § 115.388; § 115.389. Agencies must prepare this report each year and post it on the agency's website or otherwise make it publicly available if no website exists.
- 4) **Any PREA audits of agency-operated or contracted facilities.** § 115.403. When PREA audits are conducted, the standards require that the auditor's final reports be posted on the agency's website or otherwise made publicly available if no website exists.

Tools and Resources

- [Survey of Sexual Violence – Juvenile Facilities](#). PREA standard 115.387(a) requires that the agency collect “accurate, uniform data for every allegation of sexual abuse at facilities . . . using a standardized instrument and set of definitions” and that agencies collect “at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.” This most recent version of the Juvenile Facility Survey of Sexual Violence (as of May 2018) is the 2016 version of the data collection instrument. The [Bureau of Justice Statistics website](#) will contain any future updates.
- [Sample PREA Annual Report](#). Agencies are free to experiment with formats for their annual report, but the attached editable template can be used as a basis for a facility’s annual report.
- [Sample Website Language](#). There is not one fixed acceptable format for agency PREA webpages. Agencies and facilities have taken a variety of different approaches in terms of the information posted, the level of detail included, and the scope of materials that are included on the website. For example, some webpages go so far as to include volunteer training materials, youth education materials, and related policies and procedures. This attachment contains language that facilities can adapt for use on their own websites. Facilities should not feel obligated to over-use the term “Prison Rape Elimination Act” or “PREA” when conveying key messages.

(12) Audits

Each of the four detention facilities participating in this project went through the PREA audit process and are happy to be resources about their experience with the audit and recommendations for preparation. The following provides basic information about audit requirements, as well as where facilities can look to understand the scope and detail of an auditor's review of particular standards.

What do the PREA standards say?

The PREA standards require agencies to ensure that juvenile facilities receive an audit once during every three-year period. The first three-year period began on August 20th, 2013. At least one-third of an agency's facilities (if it operates multiple juvenile facilities) must be audited annually by an independent entity, trained and certified to perform audits by the Department of Justice. Auditors must also come from an independent entity, defined as (1) a member of a correctional monitoring body that is not part of or under the authority of the agency, (2) a member of an auditing entity such as an inspector general or ombudsperson's office that is external to the agency, or (3) other outside individuals with relevant experience.

Auditors determine compliance with individual standards using a three-tiered ranking system: exceeds standard, meets standard, and does not meet standard. Agencies that do not meet the requirements for one or more standard must develop and implement a corrective action plan within 180 days. You can find more information on the auditing process, including a list of certified auditors within the state of Indiana, [on the PREA Resource Center website](#).

One useful feature of the PREA audit process is that all of the documentation used by an auditor is available to review in advance of an audit. This include:

- **The Pre-Audit Questionnaire**, which includes questions and information requested in advance of the on-site visit.
- **The Auditor Compliance Tool**, which includes the exact pieces of policy and procedure an auditor will review, as well as observations that the auditor will make, and interviews that the auditor will conduct (including the suggested questions for each type of individual interviewed).
- **The Auditor Handbook**, which includes guidance for auditors in assessing compliance with particular standards. For example, page 60 of the auditor handbook has a section describing how many records an auditor should review to determine compliance.

One common question from facility officials is “How long do I have to be in compliance with a standard in order for an auditor to find that my facility meets the standard?” The PREA Resource Center has [published a Frequently Asked Question on this topic](#).

Tools and Resources

- [PREA Pre-Audit Questionnaire](#). This questionnaire includes questions and information requested in advance of the on-site visit.
- [PREA Auditor Compliance Tool](#). This tool includes the exact pieces of policy and procedure an auditor will review, as well as observations that the auditor will make, and interviews that the auditor will conduct (including the suggested questions for each type of individual interviewed).
- [PREA Auditor Handbook](#). The PREA Auditor Handbook includes guidance for auditors in assessing compliance with particular standards. It can help facility officials understand an auditor’s methodology when conducting an audit, including the scope and depth of review of records, data, and other information.