

ATLANTIC YOUTH CENTER STANDARD OPERATING PROCEDURE

CHAPTER Physical Care; PROCEDURE NO. 5.14

SUBJECT POLICY: PRISON RAPE ELIMINATION ACT

ADDENDUM: NJ Juvenile Justice Commission PREA POLICY:
PART 5A. INVESTIGATION PROCEDURES

JANUARY 2016

Section 16.2 Report to OOI; Determination as to level of investigation

(a) Upon learning of an alleged incident of sexual abuse or sexual harassment against a juvenile the Superintendent or designee shall immediately report the allegation to the Office of Investigations by telephone.

(b) Within one business day of receiving such notice, the Director of Investigations or designee shall determine whether the allegation involves conduct that:

1. Constitutes sexual abuse, in which case responsibility for investigating the allegation shall lie with the Office of Investigations. or

2. Constitutes sexual harassment, or otherwise is deemed to be a PREA violation that does not rise to the level of sexual abuse, in which case the allegation shall be referred to either the Deputy Executive Director, Operations or the Director of Community Programs, as appropriate, for a Facility PREA Investigation (FPI), as provided for in Section 16.3; or

3. Is not a violation of PREA, but would otherwise warrant an OOI investigation, in which case OOI shall log the matter in as a non-PREA case; or

4. Is so inconsequential as to not warrant any formal investigation, in which case the matter shall be referred back to the Superintendent.

(c) All allegations of sexual abuse shall be treated as an unusual occurrence or event under the provisions of N.J.A.C. 13:95-21 and 13:103-10.8(f);

(d) Notwithstanding (b), above:

1. An allegation of sexual abuse made against a staff member assigned to the Office of investigations, shall be referred by the Executive Director or designee to the Office of The Attorney General for direction on how to proceed with the investigation; and

2. All investigations of alleged incidents alleged to have occurred at either the Commission's Central Office, the Tramburg facility in Bordentown, or at an office of JP&TS shall be conducted by OOI.

Section 16.3 Facility PREA Investigation (FPI); referrals back to OOI

(a) Upon referral for an FPI under Section 16(b)2, above, the Deputy Executive Director, Operations or the Director of Community Programs, as appropriate, shall assign the case for investigation to designated investigating staff who have received PREA incident investigation training, as required under Section 8(d), above, which are:

1. A JCO with the rank of Lieutenant or above, in a case involving allegations originating in a Secure Facility; or

2. A Regional Administrator or Superintendent, in a case involving allegations originating in a Community Program.

(b) If at any time during the course of an FPI facts emerge which indicate possible sexual abuse, the designating investigating staff shall immediately refer the matter to both the PREA Coordinator and the Director of Investigations for review, and it shall be processed thereafter as a sexual abuse matter if either or both of them deem such action appropriate. Otherwise, the matter shall be returned to the investigating staff for further processing as an FPI.

Section 16.4 Scope of Investigation

All investigations under this Part 5A shall comply with the provisions of 28 C.F.R. 115.371, *Criminal and administrative agency investigations*.

Section 16.5 Written findings; investigation time limits;
Forwarding finding to Executive Director and Superintendent

(a) At the conclusion of a PREA investigation the Director of Investigations or designee or the FPI investigator, as applicable, shall issue written findings documenting that the allegations have been determined by the preponderance of the evidence to be either:

1. Substantiated;
2. Unsubstantiated; or
3. Unfounded.

(b) Absent circumstances requiring additional time, an OOI investigation will be completed within 90 days of the determination under the provisions of Section 16.2(b)1, below; and an FPI will be completed within 30 days of assignment under the provisions of Section 16.3(a).

1. An investigation may be extended upon a determination that more time is necessary in order to for it to be concluded properly.

2. Such determination shall be made for an OOI investigation by the Director of Investigations, and for an FPI by the Superintendent.

3. Each determination shall be documented on a form maintained as part of the case file, and shall be renewed as necessary every 30 days.

(c) Upon completion of an FPI the findings shall be forwarded to the Director of Investigations.

(d) A copy of all investigation findings shall be forwarded by the Director of Investigations to the Executive Director or designee; in addition, a copy of the findings of an OOI investigation shall be forwarded to the Superintendent.

(e) Investigating personnel shall promptly disclose to the Superintendent information necessary or appropriate to safety and to the orderly operation of the Facility.