

Prison Rape Elimination Act (PREA) & Preventing Sexual Misconduct

Sexual misconduct in corrections doesn't just happen out of the blue. Typically, there are red flags that we ignore or choose to keep silent about. Imagine a two-way road with road markers dividing the on-coming traffic. Have you ever been travelling down a road and found yourself driving on those bumpy road markers? What did you do? Undoubtedly, you moved back into your lane. Those road markers were the **warning signs** that you were crossing the line. What if you were the *passenger* and you noticed the driver was always driving on the road markers? Would you say anything? Why or why not?

When it comes to staff/volunteer misconduct, it is not acceptable to remain silent about it. We need to be aware of the warning signs and report suspected misconduct immediately. We also need to be professional and provide effective supervision of youth.

The chapter includes an overview of the law, as well as TYC policy and practices related to sexual misconduct. There is emphasis on reporting of alleged sexual misconduct as well as the role of staff and volunteers in prevention and intervention. PREA became federal law in September 2003, and it is designed to ensure correctional facilities establish policies and practices to protect those who are incarcerated from sexual violence by staff or other offenders in the facility. Members of the public and government officials are often unaware of the epidemic nature of the issue.

Thanks to PREA, there is increased visibility of the issue and accountability for government facilities, private facilities, and every individual who works in corrections.

The Prison Rape Elimination Act was created to eliminate sexual violence within corrections. PREA mandates apply to all TYC institutions, community-based corrections, and contract facilities. TYC volunteers are also subject to this law. Among other things, PREA establishes a **zero tolerance standard** for the incidence of sexual violence in corrections in the United States and increases the accountability of officials who fail to *detect, prevent, reduce, and punish* sexual violence. It was also established to protect the Eighth Amendment rights of federal, state, and local prisoners, or in our case, the youth. Sexual abuse of persons in custody is cruel and unusual punishment—a violation of our nation's Bill of Rights.

This law protects both male and female youth. It is about basic human rights and human dignity.

The Prison Rape Elimination Act (PREA) of 2003 notes the following:

- Sexual violence in corrections often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault – if they receive treatment at all.
- Most corrections staff (and volunteers!) are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.
- While studies show the rate of HIV and AIDS in juvenile correctional facilities is low, sexual violence places youth at risk for the spread of the virus as well as the spread of sexually transmitted diseases (Hepatitis B and C).
- Sexual violence has a tremendous emotional impact on survivors, many of whom suffer from the effects of trauma.
- Sexual violence often exacerbates racial tensions when the violence is interracial in nature. This is particularly true in correctional populations that are divided among racial lines.

The 9 Purposes of PREA

1. Establish a *zero-tolerance* standard for the incidence of sexual violence in corrections in the United States.
2. Make the prevention of sexual violence a top priority in corrections.
3. Develop and implement national standards for the *detection, prevention, reduction, and punishment* of prison rape.
4. Increase available data and information on the incidence of sexual violence.
5. Standardize the definitions used for collecting data on the incidence of sexual violence.
6. Increase the accountability of officials who fail to *detect, prevent, reduce, and punish* sexual violence.
7. Protect the Eighth Amendment rights of federal, state, and local prisoners, or in our case, the youth. The sexual abuse of persons in custody is cruel and unusual punishment - a violation of our nation's Bill of Rights.
8. Increase the efficiency and effectiveness of federal expenditures through grant programs such as health care; mental health care; disease prevention; crime prevention; investigation and prosecution; prison

construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness.

9. Reduce the costs that sexual violence imposes on interstate commerce. (Without PREA, the costs incurred by the federal, state, and local jurisdictions to administer correctional programs increases substantially by the spread and incidence of HIV, AIDS, and STD's, and thereby, causes increased health and medical expenditures as well as mental health care expenditures.)

A Bureau of Justice Statistics survey in 2005-2006 found that allegations of sexual violence in juvenile facilities are made at a higher rate than in adult prisons. Therefore, it is vital that we understand what sexual misconduct is, how to report it and, more importantly, how to prevent it.

The TYC has a zero tolerance policy on any form of sexual misbehavior and has implemented numerous safeguards to ensure the safety of both youth and staff. Among these actions are:

- establishing a twenty-four hour hotline, the Incident Reporting Center (IRC),
- providing trauma-informed care and cognitive therapy to youth,
- changing the physical plants,
- increasing the ratio of staff-to-youth supervision,
- establishing a centralized Office of Inspector General (OIG) to conduct investigations,
- creating a Special Prosecution Unit to insure consistency in enforcing TYC's zero-tolerance policy concerning sexual abuse, and
- implementing safe-housing assessments to make appropriate residential placements.

TYC also retained a consultant to conduct an agency-wide and facility-specific review to identify how it can improve its approach to eliminating sexual assault through new or refined policies, procedures, or practices.

All sexual misconduct is prohibited, and in some instances, will lead to criminal prosecution. All allegations of sexual misconduct will be investigated. The Department of Justice defines sexual misconduct as "any behavior or act of a sexual nature directed toward an inmate by an employee, volunteer, official visitor or agency representative."

Texas Law

Senate Bill 894 was passed during the 76th Legislature. This legislation amended Texas Penal Code, Section 39.04 Violations of the Civil Rights of a Person in Custody; Improper Sexual Activity with a Person in Custody. This amendment made it a criminal offense for employees of correctional facilities, including contract employees, to have sexual intercourse or sexual contact with persons in custody.

Texas Penal Code, Section 22.011 defines sexual contact as “any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.”

Any TYC employee who engages in sexual intercourse or sexual contact with a youth in our custody is not only committing sexual misconduct, he or she is **breaking the law**. Violation of this law is punishable by state jail time and/or a fine. The perpetrator may also have to register as a sex offender.

Mandates in Texas Law

Establishment of the Office of Inspector General (OIG) in TYC for the purpose of investigating crimes committed by staff.

Establishment of the Office of Independent Ombudsman for the purpose of investigating, evaluating, and securing the rights of the TYC youth.

Confidential youth access to a toll-free number for the purpose of reporting information related to the abuse, neglect or exploitation of TYC youth. Staff may also report through the toll-free number which we will soon discuss.

Reporting procedures, including staff designated at the facility and Central Office to handle reports of sexual abuse.

61.055[0] Zero-Tolerance Policy

(a) The Commission (TYC) shall adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of children in the custody of the Commission. Texas Family Code 261.102 states “A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.”

It is important for youth, parents, staff, volunteers, and the public to know that TYC has zero tolerance for sexual abuse of youth.

Q: What does “zero tolerance” mean?

A: All suspected incidents of sexual misconduct will be investigated. Appropriate actions will be taken regarding protection of victims and discipline of perpetrators. Any staff or volunteer found to have engaged in sexual intercourse or sexual contact with a youth will be prosecuted to the full extent of the law.

Zero tolerance also means you are required to report all suspected sexual misconduct. It is the law!

**REPORT ALL
SUSPECTED
INCIDENTS OF ABUSE,
NEGLECT, AND
EXPLOITATION**

866-477-8354

Texas Penal Code Chapters 21 & 22 include several codes making it illegal to expose oneself or have sexual contact with any child under the age of 17. Remember, it doesn't matter how old the youth is when they are incarcerated. There is no "age of consent" in TYC. All sexual contact between staff and the youth is strictly prohibited by law.

Youth will NOT face any consequences for staff-on-youth sexual contact.

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There is No Consent for Sexual Behavior in TYC!

Youth-on-Youth:

Perceived consent may not be 'consent' in reality. Other youth may exercise an influencing degree of intimidation and control.

Staff-on-Youth:

Incarcerated persons are never regarded as being in a position to grant legitimate consent. Staff have enormous power over a youth. Because of this difference youth can never be seen as giving consent. This is not any different than a teacher and student, therapist and client, etc.

TYC Policy

- **GAP 93.37-Alleged Sexual Abuse, Neglect & Exploitation**— The Texas Youth Commission has zero tolerance for any form of sexual abuse of youth under TYC jurisdiction. This rule establishes prohibited conduct and behaviors that are broader than those established by statute as violations of law. This rule sets forth standards for reporting and investigating alleged sexual abuse of TYC youth. This rule also addresses screening and housing placement procedures for youth who may be potential victims or perpetrators of sexual abuse.

You must report all suspected incidents of sexual abuse, neglect and exploitation immediately. There are no consequences for reporting sexual misconduct. TYC cannot retaliate against a staff or volunteer for reporting alleged sexual abuse, neglect and exploitation of a youth. It is the law and your responsibility.

- **VLS.03.01 – Workplace Conduct** establishes standards of work and personal conduct for volunteers. Volunteers are expected to be courteous and professional in dealing with youth and others inside the agency and to be cooperative and compatible in their dealings with other volunteers and employees.

- **PRS.01.09 – Staff/Youth Relationship** states that the nature of the relationship of TYC staff/volunteers and youth is of critical importance in efforts to influence youth in a positive manner. Employees and volunteer found to have engaged in any prohibited behavior when interacting with TYC youth are subject to disciplinary action.
- **GAP 93.1 – Basic Youth Rights** states that TYC recognizes that each youth in the TYC system has certain basic rights including the right to protection from physical and psychological harm.
- **GAP 07.03-Incident Reporting**—states that critical incidents must be reported immediately to the Office of Inspector General-Incident Reporting Center (IRC) and a written report to the Chief Local Administrator. Critical incidents under this policy include alleged sexual abuse of a youth, alleged sexual misconduct by a youth, escape of a youth, death of a youth, serious suicide attempt, use of OC spray and other incidents.
- **GAP 93.33-Alleged Abuse, Neglect & Exploitation** provides for the investigation of allegations of abuse, neglect or exploitation in programs and facilities under Texas Youth Commission (TYC) jurisdiction. This rule provides standards for investigations and for the compilation of investigation information. The purpose of all provisions in this rule is the protection of youth.

You must report all suspected incidents of abuse, neglect and exploitation immediately. There are no consequences for reporting alleged misconduct. TYC cannot retaliate against a staff or volunteer for reporting alleged abuse, neglect and exploitation of a youth. Again, it is the law and your responsibility.

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Myths

It is hard to understand why a staff or volunteer would either engage in sexual misconduct or fail to report suspected misconduct. The more we understand this complex problem, the more we can do to prevent it. Often, the correctional culture and work environment can impact staff attitudes and ultimately contribute to the problem of sexual misconduct.

Myth #1: Staff know their professional boundaries, it is common sense. Corrections personnel roles are shifting from an “enforcer” role to that of a “change agent” or “helper”.
Inadequate training.

Myth #2: Sexual misconduct in facilities is a male staff on female youth issue.

While the issue of sexual misconduct was initially recognized and addressed in women’s prisons, the data from institutional settings show that sexual misconduct occurs among all “quadrants” – female staff/male youth, female staff/female youth, male staff/female youth and male staff/male youth. Youth-on-youth sexual contact is often same sex contact since most of our facilities contain all boys or all girls.

Myth #3: Youth “consent” to inappropriate relationships.

Texas Statutes, TYC policies, and several court decisions have clearly stated that youth cannot “consent” to illegal and inappropriate conduct with staff. This is true for all of our youth, even those 17 years and up. There is a power imbalance between incarcerated youth and staff.

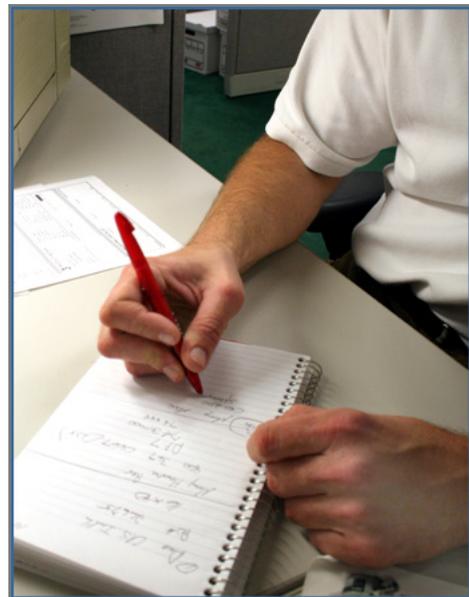
Myth #4: Youth manipulate staff into these situations.

While some youth may try to gain favors by exploiting certain staff, it is **not the attempt** by the youth, but the **response of the staff member** that carries the consequences.

Myth #5: Staff will tell their superiors if they suspect inappropriate conduct by a peer.

The facility’s managers and supervisors set the example and “tone” of professional conduct. In addition, they must inform staff what they require or desire to be reported.

If you do not report suspected sexual misconduct you are contributing to an unsafe environment. Staff who are behaving inappropriately are not focused on doing their job properly. **The sense of order and safety is compromised for everyone.**



Myth #6: Telling youth about a facility’s zero tolerance policy and how to report suspected sexual misconduct produces false allegations by youth who want to “get even” with a staff member.

Only about 10% of childhood sexual abuse is reported nationally. When you combine that with stigma in the correctional environment, youth are even less likely to report their own abuse.

TYC Reporting of Alleged Sexual Misconduct

Youth may report alleged sexual misconduct a variety of ways:

- Calling the abuse hotline 866-477-8354
- Filing a grievance—this process is outlined in your upcoming Youth Rights training

- Reporting to staff, volunteers, or contractors
- Reporting to law enforcement
- Family complaint

Let's discuss the reporting steps for TYC staff, volunteers and contractors.

There are additional requirements for how reports by staff are handled by the CLA. Below are the steps for you to follow:

1. **Immediately** notify the **OIG - IRC** via the **abuse hotline** (866-477-8354) and obtain a tracking number.
2. Submit a **written report** with **tracking number** to the Chief Local Administrator. You must provide the following information:
3. Identity of persons involved
4. Location and time of relevant events
5. Identity of others who may provide further information
6. Submit report as soon as you notify the IRC, but **no later than the end of your current shift.**

All reported allegations will be investigated. Staff may not retaliate against youth or other staff/volunteers for reporting abuse.

In addition to reporting within TYC, you may also report to the appropriate law enforcement agency, the Department of Family and Protective Services (DFPS), or the Office of the Ombudsman.

Our policy, which has a provision for reporting abuse within TYC, is in compliance with the law. However, if you are ever in doubt about what to do, contact your supervisor or the Chief Local Administrator immediately.

The facility administrator must take *immediate* steps to protect the alleged victim, and separate him/her from the alleged perpetrator. Other steps that may be taken include, but are not limited to:

- Transfer to another dorm or placement on the campus
- Administrative transfer to another facility or program

Again, the youth are separated immediately regardless of whether the investigation has begun. The administrator must evaluate who should be moved—alleged victim or alleged perpetrator—and to where. Every situation is different and it's important to talk to the alleged victim to determine what he or she needs to feel safe. It is important to do this in a sensitive, confidential manner to the extent possible. The move should be handled in a sensitive manner to minimize any negative impact on a victimized youth. **The goal is to ensure the youth's safety without embarrassing or humiliating the youth.**

TYC Investigations

If a report presents an immediate risk of physical or sexual abuse that could result in the death or serious harm to the youth, the initial response by an OIG investigator will take place within 24 hours after the OIG is notified of the report.

Otherwise, within 2 working days of receiving the notice of the allegation, the OIG Supervisor over the Incident Reporting Center (or designee) will review the incident and refer the case for investigation and resolution. TYC staff must protect the area of the alleged assault until the proper authorities arrive to process the scene. It is important that anything that may be considered evidence during the investigation remain undisturbed.

The assigned investigator will begin collecting evidence, including (but not limited to):

- Witness statements
- Physical evidence
- Photographs
- Security videos

It should be noted that anyone who is accused in a criminal investigation has the right to remain silent. All others are expected to cooperate with the investigation.

The investigator will make a finding of “confirmed” or “not confirmed” based on a preponderance of the evidence which will be detailed in a written report. The report is submitted to the Supervisor within 30 calendar days of assignment, unless there is justification for the delay as outlined in policy.

Upon review and approval by the appropriate OIG Supervisor, the investigation is closed and the report is forwarded to the Chief Local Administrator (CLA) within 3 workdays. A report may also be provided to law enforcement for purposes of investigation or prosecution.

The CLA will ensure that the youth, the family and the accused are notified of the results of the investigation. The CLA takes the necessary actions based on findings in the report to rectify the situation and prevent similar situations from taking place in the future.

Staff and volunteers have a right to file a grievance to challenge disciplinary actions resulting from an official investigation. Generally, grievances are resolved within 21 days. However, if the case was handled as a criminal investigation, the findings are “non-grievable.” Parents, guardians, youth and the CLA also may appeal the findings to the Executive Director.

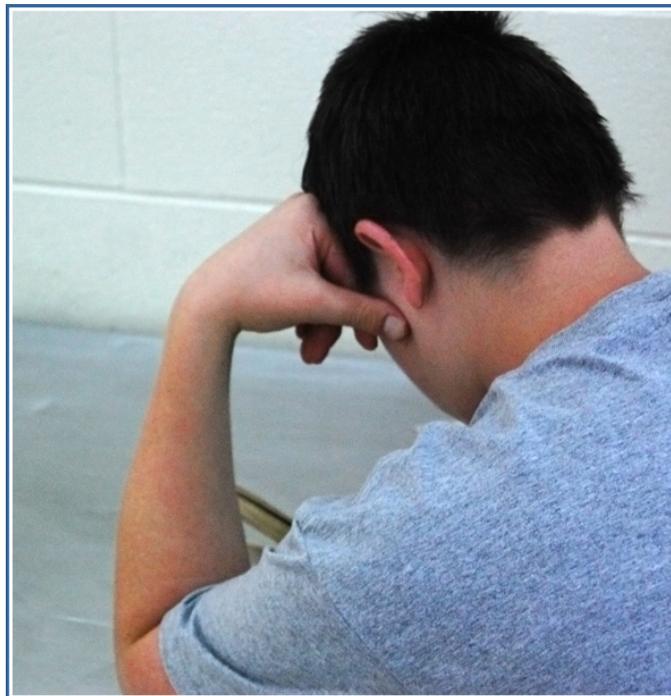
Victim Services

Medical services and counseling will be provided by specially trained personnel, which may include non-TYC personnel such as a counselor from a Rape Crisis Center or a Sexual Assault Nurse Examiner. Such special services must be provided as soon as possible.

As per TYC policy, victims of any type of sexual assault will:

- Receive a mental health assessment
- Receive a medical assessment—may include a forensic medical exam as determined by trained medical personnel
- Be provided protective housing, as needed
- Be provided emergency counseling, as needed

The youth should be referred immediately for these services through the infirmary, the hospital or other approved entities. If a youth requests additional medical or psychological services, immediately refer the youth to the infirmary and notify your supervisor.



Dynamics of Correctional Culture

Correctional culture is a complex concept that is influenced by many factors. Different institutions within the same agency can even have different cultures.

Punishment vs. Rehabilitation

In the 1980's and 90's, a "get tough on crime" mentality permeated society leading to changes in sentencing laws for juveniles. This has led to insensitivity over the plight of incarcerated persons, including false, inhumane beliefs such as:

- Those perceived as lesbian, gay, bisexual or transgender bring sexual violence upon themselves
- Those who have committed violent crimes deserve to be sexually assaulted

Code of Silence

As a TYC volunteer, you have a responsibility to advocate for the safety of our youth. Remaining silent amounts to protecting a predator or a person using their power to hurt another person. **Administrators cannot retaliate against you for reporting alleged sexual misconduct.**

Balance of Power

Staff are in a position of power based simply on the fact that they are staff, and volunteers are in a position of power based simply on the fact that they are adults. When staff or volunteers engage in sexual misconduct, they are using their power to victimize the youth. Whether or not they verbally threaten the youth, the threat is implied. Engaging in sexual acts with a TYC youth is an abuse of power which will lead to prosecution.

A power structure exists among the youth as well. Some youth may be considered as having a "higher" status based on factors such as being in a gang. Those considered to be of higher status can exert power over more vulnerable youth. Sexual assault or other forms of victimization among the youth can and do occur without proper staff supervision.

Adolescent Development

Youth are not little adults. They are still developing physically, mentally, emotionally and cognitively. Characteristics include:

- Identity development
- Concerned with peer acceptance and belonging
- Changes in physical appearance
- Sexual exploration

Healthy sexual development includes masturbation in private, holding hands/romantic feelings, hugging, kissing, and fondling. **Note: Though considered healthy sexual behaviors outside of custody, these behaviors are still prohibited in TYC facilities** such as kissing, fondling and sexual intercourse.

In juvenile corrections, we face the delicate task of balancing the safety of youth in our custody with what might be considered age-appropriate sexual behavior.

Remember: There is no sexual contact permitted in TYC - period.

Lesbian, Gay, Bisexual, & Transgender Youth

Lesbian, gay, and bisexual are terms referring to one's sexual orientation. The American Psychological Association defines sexual orientation as "one's sexual attraction to men, women, both, or neither." **Gender identity** refers to a sense of oneself as male or female. **Transgender** "is an umbrella term used to describe people whose gender identity (sense of themselves as male or female) differs from that usually associated with their birth sex."

According to a report by the Child Welfare League of America, both gender identity and sexual orientation are established at an early age. Gender identity is generally established by 3 years of age. Sexual orientation is usually established long before a youth has become sexually active, generally age 10, but some by the age of 5. It is important to note that many youth do not "come out" (even to themselves) until mid-to-late adolescence.

Staff and volunteers may also have personal beliefs about LBGT youth than can interfere with effective supervision. All staff and volunteers are expected to carry out the duties of their job in a fair and neutral manner. Staff and volunteers should avoid discussing their personal opinion on sexuality with the youth.

It is important to note that LGBT youth commonly suffer from chronic stress related to harassment, coming out to friends and family or having one's sexual orientation discovered.

In a national study of LGBT youth, one in three reported being harassed due to their sexual orientation, 85% reported hearing homophobic remarks from peers and nearly a fourth of the youth heard these remarks from teachers or school staff, with very few teachers ever intervening to help them!

LGBT youth are particularly vulnerable within juvenile facilities. In focus groups conducted by the Child Welfare League of America, “ALL (LGBT) youth who participated reported having experienced verbal harassment in juvenile justice facilities on a regular basis.” In addition, many reported being sexually assaulted by staff or other youth in these facilities.

A Scenario of Victimization & Trauma

Jim is a 16-year-old youth who arrived at your facility 3 months ago. He confided in his case manager that several other youth were beating him up at night and taking his food. The case manager responded, “If you come in here acting like a sissy, they will take advantage of you. You need to stand up for yourself; otherwise you are going to have a rough life in here. ”

Jim asked to file a grievance in hopes of being moved to another dorm. But, decided against it after staff warned that a grievance could make things worse because it would anger the other youth. Jim felt anxious, scared and depressed. He told himself, “I’m just going to have to do what I have to do.”

Days later, one of the JCOs overheard a coded conversation among the youth leading him to believe that Jim had been sexually assaulted recently after “lights out.” The staff asked Jim directly, but he denied anything had ever happened. Eventually, staff dropped the matter after noticing that Jim no longer appeared fearful and seemed to have made friends with one of the older boys on the dorm. The friendship seemed unlikely, and staff went so far as to thank the other boy for being nice to Jim.

Staff were shocked when the two boys were caught having sex. Finally, a thorough investigation revealed that Jim had been violently sexually assaulted by 3 boys on the dorm and lived under constant fear that it would happen again. Jim eventually became known as the other boy’s “punk,” submitting to the boy’s sexual demands in return for protection from the others. Jim stated that he felt



degraded and powerless and submitted to the role only because he felt he had no choice.

Dynamics of Sexual Violence

Just Detention International (formerly Stop Prisoner Rape) reports that:

- Boys are more likely to be abused by other boys in juvenile corrections.
- Girls are more likely to be abused by staff.
- Girls with a history of prostitution are especially vulnerable to sexual victimization by staff.

Staff predators may seek to take advantage of the girls' low sense of self-worth, feelings of powerlessness, and exhibition of sexually inappropriate behaviors.

Youth promiscuity is often the result of past victimization. Professional boundaries are the key to dealing with youth who are promiscuous. Set limits and be clear with the youth about what is appropriate versus inappropriate behavior.

Post Traumatic Stress Disorder and Rape Trauma Syndrome

Psychological trauma can result from a distressing experience that overwhelms an individual's ability to cope with the emotions. Victims of sexual assault often experience psychological trauma as a result of their victimization.

Some symptoms of psychological trauma include:

- Thoughts of suicide
- Anxiety
- Worsening of pre-existing mental health conditions
- Memory and concentration problems
- Eating and/or sleeping problems

More severe forms of trauma associated with sexual assault can lead to a diagnosis of **Post Traumatic Stress Disorder (PTSD)** or **Rape Trauma Syndrome**.

PTSD is a psychological diagnosis that is caused by an event which involved a threat to someone's life or physical well-being and caused intense fear. Events may include war, natural disasters, sexual assault, or any event which caused the person intense fear.

PTSD victims may experience:

- Intense nightmares and flashbacks
- Lack of interest in activities
- Numb emotions
- Sleep problems
- Avoidance of certain people
- Places or things that remind him or her of the occurrence

- A variety of other intense feelings

All people react differently to sexual assault, so there isn't a "right" way or a "wrong" way. Youth who are assaulted will need support and sensitivity from staff.

Impact of Staff/Volunteer Sexual Misconduct

When staff or volunteers are involved in any way with sexual misconduct, they counter-effect interventions and the treatment residents are receiving by:

- Modeling poor social skills and anti-social behavior.
- Reinforcing anti-social attitudes or beliefs of our youth which is the opposite of what we are trying to do in CoNEXTions©.
- Victimizing youth who have been victimized throughout their life and are already emotionally vulnerable due to their past history of abuse or neglect.
- Jeopardizing facility security. When youth do not feel safe, it impacts the overall safety and security of the entire facility.
- Violating the constitutional rights of youth - The Eighth Amendment rights of state and local prisoners, including youth, are protected through the due process clause of the Fourteenth Amendment.
- Exposing the entire facility and agency to civil and criminal liability, and undermining public support for the agency.
- Jeopardizing the role of volunteers in the agency and volunteer-led programs.

Sexualized Work Environment

Staff and volunteers need to ensure that the environment in which they work and the youth live is not one in which conduct of a sexual nature is commonplace. Such an environment is known as a sexualized environment. A sexualized work environment is one in which the behaviors, dress, and speech of either staff and/or youth create a sexually charged workplace.

While youth can contribute to a sexualized environment, staff and volunteers are ultimately responsible for modeling appropriately.

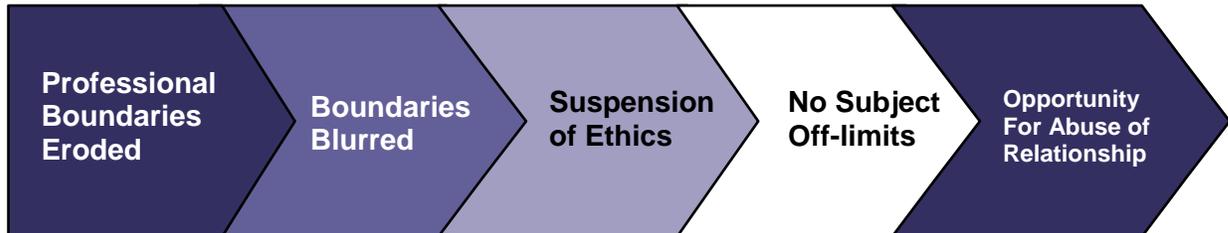
Indicators of a Sexualized Work Environment

- Over-familiarity between staff and youth.
- Staff/Staff relationships are unprofessional.
- Staff off-duty conduct impacts on-duty work.

- Everything comes back to “sex”.
- Inappropriate dress.

Strategies to Prevent a Sexualized Work Environment

Adhere to the zero tolerance policy of all inappropriate sexual conduct. This includes jokes, put-downs, slang and name calling, and of course, any sexual contact. Eliminate any appearances of permissive behavior or favoritism.



Always remember that no interactions are overlooked by the youth. Do not discuss your personal relationships or nightlife with or around the youth. Maintain a professional relationship with youth and avoid the appearance of over familiarity. Strictly enforce rules regarding personal boundaries, dress and touching. Don't watch youth unnecessarily when they are in various states of undress. Remove any and all inappropriate materials from staff bulletin boards and break rooms.

Red Flags of Staff Sexual Misconduct

- Staff showing favoritism or intervening for a particular youth.
- Staff confronting other staff about a youth.
- Sexual or personal banter between staff and staff or staff and youth such as horse playing or inappropriate jokes.
- Drastic change in behavior or appearance of a youth or staff.
- Youth/staff rumors.
- Staff bringing in large amounts of food, soda or snacks or sharing such with a certain youth.
- Overheard conversations between staff and youth which are sexualized in nature or refers to physical attributes of staff or youth.
- Staff becoming over-involved with the youth's family, legal issues or other aspects of their personal life.
- Staff accessing files, logbooks, etc...



when not related to their own cases or shifts.

- Staff with a “special” relationship with a particular youth.
- Staff spending an unexplainable amount of time with a particular youth.
- Staff taking youth out of their dorms at unusual times.
- Youth pregnancy or diagnosis of a sexually transmitted disease (STD).

Review of Vulnerable Youth Characteristics

Size - Smaller youth often considered vulnerable.

Peers - Those who are loners, aren’t in a gang or tend to hang out with other “vulnerable” youth may be targeted.

Age - Younger youth are often taken advantage of by older, more sophisticated youth.

Sight or hearing impaired - Such youth may be taunted or preyed upon by other youth.

Physical disabilities - Such youth may be taunted, preyed upon, or considered unable to defend themselves.

Limited English Proficiency - Such youth may have a limited ability to communicate to staff and may be unwilling or unable to report victimization.

Sexual orientation or gender identity - Lesbian, gay, bisexual and transgender youth, (or those perceived as such) are often uniquely vulnerable.

Mental/emotional stability - Youth considered mentally or emotionally unstable, often stigmatized or taken advantage of.

Maturity - Youth who are developmentally immature may be taken advantage of by more sophisticated youth.

Prior victimization - Youth who have suffered abuse and trauma may have behavioral and emotional issues that make them vulnerable.

Number of months or years in lock-up - Youth who are new to the system may be taken advantage of; other youth gain status from “knowing the ropes” and/or are respected by other youth for being locked-up a long time.

Shy, timid or low self-esteem - Youth with these characteristics may be perceived as “weak” or not likely to stick up for themselves or tell.

Extortion - Youth who have been extorted previously are often susceptible to being extorted again by others (ex. forced to perform sexual favors for protection).

Disliked by staff - If youth perceive that a certain youth is disliked by staff they may feel it is acceptable to victimize the youth.

Common Characteristics of Youth Perpetrators

In addition to characteristics which place youth at risk of victimization, recent research has identified some common characteristics of youth who do “prey” upon other youth within the system, often identified as “aggressive” youth.

Characteristics of potential perpetrators include:

- Prior incarceration
- Street Smart and/or gang affiliation
- May have prior history of committing sexual violence
- Has a history of engaging in violence and disregarding the rights of others
- May exhibit voyeuristic/exhibitionistic behavior
- Try to control dorm through threats, intimidation and fear: Often, the aggressor is known by other youth, so look for changes in group behavior when a particular youth is present. Also, the aggressor may use strong arm tactics that is often preceded with verbal harassment. So, address all verbal harassment!
- Subtle intimidation in the showers, school, during meals or elsewhere
- May try to trap potential victim by making loans, sharing food, etc.: Aggressors often begin to trap their victims by being friendly initially; so, NEVER assume that two youth are “friends” or are romantically involved and “just had a falling out” or had a so-called “lovers quarrel” when one of the youth complains about the other at a later time, especially if the one complaining is a newer youth to the facility.

Signs of Possible Sexual Abuse

When youth fear or experience a sexual assault, there are several reactions staff can identify that will let us know what is happening. These include:

- Withdrawing or isolating themselves
- Development of depression or hopelessness—unexplained tearfulness or crying
- Developing anxiety, fear or paranoia
- Developing suicidal thoughts or feelings
- Self-abuse or suicidal behaviors
- Refusal to shower, eat or be in less supervised areas
- Increase in medical complaints and questions – particularly concerns regarding sexually transmitted diseases
- Gain or loss of substantial weight

If you notice any of these signs, speak with the youth and report it!

Ways to Prevent Sexual Assault of Youth

- Know and enforce rules regarding sexual conduct - adhere to zero tolerance.
- Be professional at all times and adhere to a code of professional and personal ethics.
- Maintain professional boundaries by being fair, firm and consistent.
- Avoid being alone with youth in 1:1 situations.
- Respect the youth's privacy when changing clothes, taking showers or using the bathroom. While a certain level of supervision is necessary at all times, do not stare at youth or watch them unnecessarily while they are undressed.
- Assume all reports of sexual misconduct are credible.
- Identify characteristics of victims and predators, and use this information in housing placement and daily supervision. GAP.85.24 Assessment for Safe Housing addresses requirements for identifying vulnerable youth and youth who may pose a threat to others in order to make safe housing assignments.
- Ask regularly about the youth's adjustment to the facility and whether they are having any problems.
- Inform youth and their families as to the facility's policies, including their rights within the facility, the specific reporting procedures for sexual assault allegations and what protections youth have against retaliation.
- Teach youth how to minimize their risk of becoming a victim of sexual abuse. Strategies that may minimize this risk include:

- Knowing their rights under state and federal law; youth receive a brochure at the orientation unit which explains their basic rights, the zero tolerance policy, how to file a grievance and how to contact the abuse hotline; zero tolerance and abuse hotline posters are also posted throughout every facility
 - Letting staff know if they are being threatened or bullied by other youth
 - Staying in staff's sight at all times
 - Avoiding doing favors for others and trading things as this could lead to them being forced to provide sexual favors
 - Avoiding peers who are aggressive and intimidating
 - Reporting all abuse or suspected abuse using any method that makes them comfortable such as telling a JCO, Case Manager, Nurse or family member. They call also call the toll-free abuse hotline number or file a grievance.
- Model appropriate behavior both within and outside of the facility.
 - Immediately report any prior relationships or connections with new/current youth. Follow your intuition when noticing "red flags".
 - Even as a volunteer you can practice effective supervision. You must have your eyes and ears open at all times. Observe carefully and draw inferences about what is going on.
 - When in doubt of what to do in a situation involving yourself or others, consult your supervisor or facility management.

Handling Disclosures from Youth

As a volunteer, a youth may disclose to you that he/she has been sexually assaulted either by staff or another youth. You are required to immediately report the allegation. In addition, the way you conduct yourself after a youth has made such a disclosure is very important.

Volunteers are not expected to provide counseling; specially trained mental health professionals should counsel sexual assault victims. However, you may be the first person the youth confides in, and if you do not respond appropriately, you can emotionally harm the youth even further.

Here are some tips on how to respond:

- Ensure that he/she understands the limits of confidentiality (that you must report the allegation), but that information will only be shared with others on a need-to-know basis.
- Be sensitive, supportive and affirming.

- Don't question them about whether they fought back, screamed, gave in, or why they didn't report it sooner. Remember that he/she is the victim.
- Ask the youth if they are hurt, bleeding, etc. If the assault just happened, get them medical attention right away. In addition to addressing their health needs, an exam can be performed to collect evidence.
- Listen carefully and validate the youth's feelings.
- Don't dismiss, downplay or cast doubt.
- Don't bombard the youth with questions to satisfy your curiosity. Questions will come as part of the investigation.
- Suspend judgments about the youth based on your own beliefs (ex. she brought it on herself, he's gay anyway).
- Express concern for his/her safety, and take seriously any reported threats of intimidation or violence. Immediately contact the supervisor if steps need to be taken to protect the youth from other youth or from a staff person.
- If a youth makes a threat of self harm, immediately contact the supervisor on duty and take appropriate steps to ensure the youth's safety.
- Document the youth's report, but don't ask the youth to repeat things over and over.
- Officially report the allegation by calling the Incident Reporting Center (IRC) with the TYC Office of Inspector General. You will get a tracking number. Submit a written report to the Chief Local Administrator (CLA) with the tracking number.



Sexual Harassment and Discrimination

The Texas Youth Commission has established procedures to provide a safe, professional, and pleasant work environment for staff and volunteers as well. Intimidating, offensive, or harassing sexual conduct interferes with our work and our services to the youth and the public. All inappropriate sexual conduct is strictly prohibited and will not be tolerated. This rule applies to employees,

volunteers, contractors, delivery persons, vendors, and any other person having contact or doing business with TYC.

TYC is an equal opportunity employer and strives to provide a work environment free from discrimination based on race, color, religion, sex/gender (including sexual harassment), national origin, age, disability, or genetic information. TYC managers and supervisors are responsible for basing all employment-related decisions on job-related, non-discriminatory factors, and for complying with all laws that apply to the employment relationship. TYC employees and volunteers are responsible for



refraining from discrimination or harassment on the basis of race, color, religion, sex, age, or disability, and for promptly reporting any violations of this policy.

Procedures for Reporting

Any employee or volunteer who feels that they have been subject to inappropriate sexual conduct must report it immediately. Any employee or volunteer who observes or learns about inappropriate sexual conduct directed toward another employee or volunteer must report it immediately. This includes conduct by an individual who is not a TYC employee, such as customers, volunteers, contract personnel, consultants, vendors, and service and delivery persons.

Immediately report any inappropriate sexual conduct to your immediate supervisor, the community relations coordinator, the superintendent, or the chief of complaints resolution in central office. If one of the persons listed above is alleged to have engaged in the behavior, report such conduct to one of the other listed person.

Stopping Sexual Harassment in Correctional Facilities

Sexual Harassment is a form of employment discrimination based on sex which is a violation of Title VII of the Civil Rights Act of 1964, as amended, and the Texas Commission on Human Rights Act, as amended. The United States Equal Employment Opportunity Commission has issued guidelines defining sexual harassment.

Sexual Harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual , or

- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

Harassment by a member of the same sex is sexual harassment.

Some of the common reasons people hesitate to talk about sexual harassment are because they:

- are very embarrassed and don't want to talk about it with anyone
- fear nothing will happen or the complaint won't be taken seriously
- fear reprisal from the harasser, especially if the harasser is in management
- may be concerned about receiving a label of troublemaker
- are afraid of being fired, demoted or passed over for promotion
- blame themselves
- are told to be woman or man enough to handle it themselves
- don't want to get anyone in trouble
- are reluctant to talk to someone because no one else seems to mind the harasser's behavior
- quit instead of talk about it, or they do not know who or how to talk about it.



Workforce Behaviors to Watch For

Verbal & Non-verbal Examples:

- unwanted pressure for sexual favors
- unwanted letters, calls or materials of a sexual nature
- unwanted pressure for dates
- unwanted sexual teasing, jokes, remarks, questions or stories
- referring to an employee/volunteer as a girl hunk, doll, honey, etc.
- whistling at someone
- cat calls
- making kissing sounds, howling, smacking lips
- sexual comments/compliments about a person's clothing, anatomy or looks
- turning work discussion to sexual topics
- personal questions about social or sexual life
- telling lies or spreading rumors about a person's personal sex life
- using racial epithets or telling race-based jokes
- using stereotypes
- making sexual comments or innuendoes
- asking about sexual fantasies, preferences, or history
- unwanted sexual looks or gestures
- looking a person up and down (elevator eyes)
- staring at someone
- facial expressions, winking, throwing kisses, or licking lips

- sexual gestures with hands or body movements
- giving personal gifts
- displaying sexually suggestive items or items that tend to alienate or discriminate against persons of other ethnicities, race, color, or national origin



Physical Examples:

- unwanted deliberate touching or blocking
- unsolicited neck/back massage
- giving personal items or a sexual nature
- standing close or brushing up against a person
- following a person
- hugging, kissing, patting, or “footsie”
- invading a person’s body space
- granting job favors to those who participate in consensual sexual activity
- blocking a person’s path
- following a person around
- actual or attempted rape or sexual assault

How to Protect Yourself against Charges of Sexual Harassment

- conduct yourself in a mature, responsible manner
- keep your hands to yourself
- do not talk about sex on the job
- keep compliments casual and impersonal
- avoid jokes, words, phrases and gestures with sexual meanings
- assume that friendly people are only friendly
- respect a person’s personal space
- do not respond to flirting or suggestive behavior
- do not let someone’s “come on” make trouble for you

How to Minimize Your Chances of Being Sexually Harassed

- know your rights
- conduct yourself in a mature, responsible manner
- if approached, make your refusal calm, unmistakable, impersonal, and final. **BE ASSERTIVE**
- immediately report all instances of sexual harassment

Illegal employment discrimination based on sex occurs when the sexual conduct of verbal or physical nature results in:

- victim losing a tangible benefit (Quid Pro Quo)
- conduct interferes with the victim's ability to perform the job; or
- conduct creates a hostile or intimidating work environment for the victim. (when the unwelcome sexual conduct only creates a hostile or intimidating work environment it must be pervasive depending on the severity of the conduct).

Remember:

1. Consent doesn't guarantee that the behavior is welcome
2. Behavior welcome from one person, is not necessarily welcome from another
3. Behavior that was welcome once may not be welcome now