NEW JERSEY JUVENILE JUSTICE COMMISSION
Office of the Executive Director

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SUBJECT:	***PRISON RAPE ELIMINATION ACT(PREA)***		
Attention:	All JJC Staff		
For Information Contact:	PREA Coordinator	**Phone:**	609-341-3196
Next Review:	June 1, 2017	**Pages:**	30.

PART I. GENERAL PROVISIONS

Section I. Purpose and Supersession

(a) The purpose of this Policy is to ensure that Commission operations conform to its zero tolerance toward all forms of sexual abuse and sexual harassment involving juveniles in its facilities, and that they are in compliance with the Federal Prison Rape Elimination Act (PREA) of 2003 (42 U.S.C. Section 15601, et seq.), and with federal regulations establishing PREA standards for juvenile facilities, 28 C.F.R. Part 115, Subpart D.

(b) Should this Policy be in conflict with any other Commission Policy, Management Procedure or other sub-rule source of authority, the terms of this Policy shall govern.

Section 2. Definitions

The following words and terms, when used in this Policy, shall have the meanings set forth below unless the context clearly indicates otherwise:

"**Commission**" means the New Jersey Juvenile Justice Commission, established pursuant to N.J.S.A. 52:17B-170.

"**Classification Committee**" means a group of Commission personnel designated to make decisions related to the assignment or reassignment of juveniles to Commission facilities and to programs and activities within Commission facilities.

"**Community Program**" means a non-secure facility, and includes any substance abuse, assessment and treatment, transitional, or similar program, both residential and non-residential, run by or under the jurisdiction of the Commission.

"**Comprehensive Informational Assessment/Case Action Plan**" or "**CIA/CAP**" means the structured process and format that guides the Commission's case management system;

formalizes a process for compiling and interpreting data collected at intake by identifying and prioritizing a juvenile's needs.

"**Contractor**" means an entity retained by the Commission to perform professional or trade services at a Commission facility, and includes employees, subcontractors, agents and assigns of a contractor.

"**Department of Children and Families**" means the New Jersey Department of Children and Families.

"**Director of Community Programs**" means the Commission staff member, by whatever name or title, charged with oversight and management responsibilities for the overall operation and supervision of the Commission's Community Programs.

"**Director of Investigations**" means the Commission staff member, by whatever name or title, charged with responsibility for the overall operation and supervision of the Office of Investigations.

"**Director of Operations**" means the Commission staff member, by whatever name or title, charged with oversight and management responsibilities for the overall operation and supervision of the Commission's secure facilities.

"**Executive Director**" means the Executive Director of the Commission.

"**Facility**" means a facility or program of the Commission used to house, train or educate juveniles; it does not refer to the central or other administrative offices of the Commission.

"**Facility PREA Investigation**" or "**FPI**" means an investigation of a PREA incident originating in either a secure facility or a community program which is deemed by the Director of Investigations not to involve possible sexual abuse, and which therefore is investigated by trained facility or program personnel under the provisions of Section 16.3.

"**Gay**" means a person who is emotionally, spiritually, physically, and/or sexually attracted to those of the same gender.

"**Gender expression**" means the manner in which a person expresses his or her gender identity to others; a combination of behavior, hairstyles, voice, body characteristics, or other gender-related behaviors.

"**Gender identity**" means a person's internal, deeply felt sense of being male or female, or in between, regardless of the person's sex at birth.

"**Gender nonconforming**" means a juvenile whose appearance or manner does not conform to traditional societal gender expectations.

"**Intern**" means an unpaid staff person working at the Commission incidental to a formal diploma or degree program.

"**Intersex**" means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

"**Juvenile**" means both:

1. Persons who have been adjudicated delinquent and are serving a term of incarceration under the custody of the Commission; and

2. Persons who have been placed on probation by a court and who are residing in or assigned to a Community Program.

"**Juvenile Parole and Transitional Services**" or "**JP&TS**" means the Commission's Office of Juvenile Parole and Transitional Services.

"**Lesbian**" means a person who identifies as a woman and is emotionally, spiritually, physically, and/or sexually attracted primarily to members of the same gender.

"**LGBTQI**" means lesbian, gay, bisexual, transgender, questioning and intersex individuals, including individuals who have self-identified or are perceived by others as LGBTQI.

"**Office of Investigations**" means the unit within the Commission responsible for conducting internal investigations.

"**Ombudsman**" means the Commission staff member, by whatever name or title, who heads up the office responsible for resolving complaints made by juveniles about the facility, the action or inaction of staff or any other matter of concern to the juvenile.

"**Operating Agent**" means any person or other entity under contract with the Commission to perform an essential Commission function including, but not limited to, providing medical, mental health and or substance abuse counseling services to juveniles.

"**PREA Compliance Manager**" means a Commission staff member designated as a PREA Compliance Manager under the provisions of Section 5.

"**PREA Coordinator**" means the Commission staff member designated as the PREA Coordinator under the provisions of Section 5.

"**Probationer**" means a juvenile who has been placed on probation by a court and who is residing in or assigned to a Community Program.

"**Qualified Health Care Professional**" means an employee of either the Commission or of an Operating Agent who is a physician, advanced practice nurse, nurse, dentist, dental

assistant, and any other professional who by virtue of education, credentials, and experience is permitted by law to evaluate and care for juveniles.

"**Qualified Mental Health Care Professional**" means an employee of the Commission or of an Operating Agent who is a licensed psychiatrist or psychologist, or other professional who by virtue of education, credentials, and experience in the provision of mental health assessment and counseling procedures is permitted by law to assess and counsel juveniles.

"**Questioning**" means a person, often an adolescent, who is exploring or unsure about issues of sexual orientation or gender identity or expression in his or her life.

"**Request and Remedy Process**" means the grievance process then in effect, as set forth under either Policy 13ED:01.27 or N.J.A.C. 13:90-1A.

"**Secure facility**" means a facility that employs juvenile corrections officers to provide security, under the provisions of N.J.S.A. 52:17B-174.

"**Sexual abuse**" means both:

1. Sexual abuse of a juvenile by another juvenile; and

2. Sexual abuse of a juvenile by a staff member, contractor, or volunteer.

"**Sexual abuse of a juvenile by another juvenile**" means any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

2. Contact between the mouth and the penis, vulva, or anus;

3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

"**Sexual abuse of a juvenile by a staff member, contractor, or volunteer**" means any of the following acts, with or without consent of the juvenile:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

2. Contact between the mouth and the penis, vulva, or anus;

3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a juvenile, detainee, or resident, and

8. Voyeurism.

"**Sexual harassment**" means both:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one juvenile, detainee, or resident directed toward another; and

2. Repeated verbal comments or gestures of a sexual nature to a juvenile, 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.

"**Sexual orientation**" means the internal experience that determines whether we are physically and emotionally attracted to men, women, both, or neither (asexual).

"**Shift Coordinator**" means the staff person, by whatever name or title, with lead responsibility for overseeing operations during a tour of duty at a Community Program.

"**Shift supervisor**" means the custody staff officer responsible for the maintenance of security during a tour of duty in a secure facility.

"**Staff member**" means

1. Any person employed by the State of New Jersey and assigned to the Commission, and includes full-time employees, part-time employees, per diem employees, and interns; and

2. An employee of an Operating Agent who is assigned to work at a Commission Facility.

"**Superintendent**" means the chief executive officer of a facility.

"**Transgender**" means a person whose gender identity, expression, or behavior is different from that typically associated with their sex assigned at birth.

"**Volunteer**" means an unpaid volunteer performing service under the auspices of the Commission's Chaplaincy Services Unit.

"**Voyeurism**" means an invasion of privacy for reasons unrelated to official duties, such as peering at a juvenile who is using a toilet in his or her cell to perform bodily functions; requiring a juvenile to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a juvenile's naked body or of a juvenile performing bodily functions.

Section 3. Suspected Child Abuse Report

The Suspected Child Abuse Report shall be reproduced by each facility from originals that are made available through the Office of the Director of Operations.

Section 4. Confidentiality

(a) Records and statements in the possession of the Commission relating to juveniles, including all records relevant to allegations of sexual abuse and sexual harassment, are covered by the confidentiality provisions of N.J.S.A. 2A:4A-60, 60.2, and 60.3 may be reviewed when necessary and appropriate in the course of business. However, at no time shall this permitted use of such records and statements release or exempt them from the confidentiality provisions of this section.

(b) All records pertaining to juveniles charged as a delinquent, adjudicated delinquent, or found to be part of a juvenile-family crisis, including records relating to the suicide or suicide attempt of a juvenile, are confidential. All such records:

1. Shall be strictly safeguarded from public access;

2. Shall not be released, except when release is authorized under the provisions of N.J.S.A. 2A:4A-60; and

3. Shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(c) Unless otherwise required by law, statements made by a juvenile in the course of any suicide prevention or mental health screening, and any reports or records created to report the results of such screening shall not be:

1. Disclosed to any party, including prosecutors and law enforcement personnel; and
2. Used in any investigation, or in any delinquency or criminal proceeding then pending or subsequently initiated. (See N.J.S.A. 2A:4A-60.2)

(d) No report or record relating to mental health services provided to a juvenile prior to an adjudication of delinquency, or any other finding of guilt, shall be disclosed or released to a court unless and until after such an adjudication or finding occurs. (See N.J.S.A. 2A:4A-60.3)

(e) A Qualified Health Care Professional and a Qualified Mental Health Care Professional shall obtain informed consent from a juvenile who is 18 years of age or older before reporting information about prior sexual victimization that did not occur in an institutional setting.

(f) Information about prior sexual victimization for a juvenile less than 18 years of age is subject to the reporting requirements set forth in Section 12(a).

(g) Staff shall not disclose a juvenile's sexual orientation or identity as a transgender individual to other juveniles or to outside individuals or agencies, including health care or social service providers or to a juvenile's family or friends, without the juvenile's consent, unless such disclosure is necessary to comply with state or federal law.

1. Staff may communicate information within the Commission about a juvenile's LGBTQI status only when relevant and necessary for treatment, case planning and finding effective services for the juvenile or other juveniles.
2. Any disclosure of confidential information related to a juvenile's LGBTQI status shall be limited to information necessary to achieve a specific beneficial purpose and shall be communicated only to the individuals necessary to achieve that purpose.
3. Staff shall not inquire of a juvenile as to his or LGBTQI status, unless such information is necessary for treatment, case planning and finding effective services for the juvenile or other juveniles.
4. Nothing herein shall prevent staff from discussing a juvenile's needs or services with other staff when necessary and appropriate in the course of business or resolving a juvenile grievance under the Request and Remedy Process.

Section 5. PREA coordinator; facility PREA compliance manager

(a) Subject to the supervision of the Executive Director, the Commission's PREA Coordinator is responsible for overseeing Commission-wide implementation and management of this Policy.

(b) Subject to the approval of the Director of Operations, or the Director of Community Programs, as applicable, each facility Superintendent shall appoint a PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with this Policy.

PART 2. SCREENING, ORIENTATION AND TRAINING, HIRING AND PROMOTION AND SELECTION OF CONTRACTORS

Section 6. Screening and classification

(a) As part of the detailed social history and medical/dental examination undertaken at reception, under the provisions of N.J.A.C. 13:100-2.1(e), but in any event within 72 hours of initial intake and, in addition, within 72 hours of each transfer to a facility, and periodically thereafter, information shall be obtained and reviewed about a juvenile's personal history and behavior necessary and appropriate to identifying and reducing the risk of sexual abuse by or upon a juvenile.

1. Such information shall be obtained and assessed using an objective screening instrument.

2. At a minimum, the agency shall attempt to ascertain information about:
   - i. Prior sexual victimization or abusiveness;
   - ii. Any gender nonconforming appearance or manner, or identification as LGBTQI, and whether the resident may therefore be vulnerable to sexual abuse.
   - iii. Current charges and offense history;
   - iv. Age;
   - v. Level of emotional and cognitive development;
   - vi. Physical size and stature;
   - vii. Mental illness or mental disabilities;
   - viii. Intellectual or developmental disabilities;
   - ix. Physical disabilities;

x. The juvenile's own perception of vulnerability; and

xi. Any other specific information about individual juveniles that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

3. Such information for Probationers who are not processed through reception, and who report directly to a Community Program, shall be secured within 72 hours of admission by a Qualified Mental Health Care Professional, or by a trained social worker or medical designee if a Qualified Mental Health Care Professional is not available.

4. If there is an indication that a juvenile has either experienced prior sexual victimization, or previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the juvenile shall be offered a follow-up meeting with a Qualified Mental Health Care Professional within 14 days of the intake screening.

i. If a Qualified Mental Health Care Professional is not available, a Qualified Medical Professional may be substituted in the case of a juvenile who has experienced prior sexual victimization.

(b) When gender has been determined, that determination shall govern the housing of the juvenile. Otherwise, in deciding whether to assign a transgender or intersex juvenile to a male or female facility, and in making other housing and programming assignments, the Commission shall consider on a case-by-case basis whether a placement would ensure the juvenile's health and safety, and whether the placement would present a threat to the safety of the juvenile, any other juveniles, or to the secure operation of the facility.

1. Classification decisions with respect to facility, education and work assignments shall at no time be made solely on the basis of LGBTQI or gender nonconforming status or identification.

(c) Upon receiving an allegation that a juvenile was sexually abused or sexually harassed while confined at another facility, the procedures set forth in Section 12(a) shall be followed.

(d) Should a Qualified Mental Health Care Professional or other screener identify a juvenile as requiring special attention or housing considerations, that information shall be immediately forwarded to the Superintendent, and must be considered in any determination whether the juvenile should be placed on a Secure Facility's special needs roster.

1. A notation in the juvenile's progress notes, together with a written plan of action when appropriate, shall be made by the Commission's Central Intake and Classification Office

for any juvenile identified as either posing an identified risk for sexually aggressive behavior, or having an identified vulnerability to sexual victimization.

2. A juvenile, including those being considered for transfer to a residential Community Program, shall be referred to the Sex Offense Classification Committee (SOCC), where a Qualified Mental Health Care Professional will conduct a clinical interview and administer a sex offense-specific risk assessment tool, whenever a juvenile:

i. Has a present or past adjudication for a sexual offense;

ii. Has a history of dismissed or amended charges involving sexual behaviors; and

iii. Has been involved in other incidents indicating an identified risk for sexually aggressive behavior.

(e) All information gathered and documented at initial intake shall be included in the intake psychological assessment and the comprehensive informational assessment/case action plan (CIA/CAP) to be presented to the Reception Classification Committee for further consideration of assignment and referrals.

(f) As applicable, a Classification Committee shall identify the status of the juveniles to be transferred between facilities as either:

1. Potentially sexually aggressive (SAG);

2. Sexually active (SAT);

3. Potential victim (V); or

4. Not Applicable (N/A).

(g) Information produced by any of the above shall be considered in any subsequent classification reviews for change in housing unit or facility and CAP updates for case planning.

Section 7. Juvenile orientation

(a) At the time of the screening under Section 6, above, juveniles shall receive information explaining, in an age appropriate fashion, the Commission's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment as provided for in Section 12, below.

(b) The juvenile orientation required under N.J.A.C. 13:95-12 and N.J.A.C. 13:103-2 shall be given within 10 days of admission to a Facility, and shall provide comprehensive age

appropriate education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. Topics covered shall include:

1. The Commission's zero tolerance toward all forms of sexual abuse and sexual harassment involving juveniles in its facilities;

2. Acceptable and appropriate behaviors for themselves and other juveniles, as well as staff;

3. Reporting procedures available under this Policy to a juvenile who either becomes a victim of, or witnesses sexual abuse or sexual harassment;

4. Their rights under the Request and Remedy Process;

5. Procedures for direct access to the Commission's Ombudsman; and

(c) In accordance with the provisions of N.J.A.C. 13:95-12.3(b) and N.J.A.C. 13:103-2.4(a)(1), Resident Handbooks shall include material clearly describing all material rights, privileges, services, programs, and obligations of juveniles under the Prison Rape Elimination Act and this Policy.

1. Orientation materials shall be available in Spanish, and all Commission material available to Juveniles, including provisions of this Policy, shall be translated as needed in order to ensure effective communication with Juveniles who are not fluent in English.

i. At no time may a Juvenile be used to provide translation services.

Section 8. Training

(a) The Director of Operations, in consultation with the Supervisor of Rehabilitative and Treatment Services and the Director of Training, shall develop and implement a comprehensive curriculum of initial and two-year refresher training for all staff members who may come into contact with juveniles. Such curriculum shall cover all provisions of this Policy, with emphasis on the following subjects:

1. Staff member responsibilities;
2. Juvenile rights;
3. The Request and Remedy Process;
4. Common aspects of sexual abuse and reactions of victims of sexual abuse;
5. Detection of sexual abuse;

6. Distinguishing consensual sexual contact from sexual abuse between juveniles;

7. Avoiding inappropriate relationships with juveniles;

8. Sensitivity training on communicating effectively and professionally with LGBTQI and gender nonconforming juveniles; and

9. Compliance with the mandatory reporting provisions of Section 12(a).

(b) Staff member training shall be tailored to the unique needs and attributes of the gender of the juveniles at the various Commission facilities. A staff member shall receive additional training if the staff member is reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa.

(c) Volunteers and contractors who have contact with juveniles shall be trained in sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

1. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with juveniles, but all volunteers and contractors who have contact with juveniles shall be notified of the Commission's zero-tolerance policy regarding sexual abuse and sexual harassment, and informed how to report such incidents.

2. Documentation confirming that volunteers and contractors understand the training they have received shall be maintained, respectively, by the Supervisor, Chaplaincy Services and the Contracts Manager.

(d) The following staff shall receive PREA incident investigation training, under the direction of the Executive Director or designee:

1. All Facility Superintendents and Assistant Superintendents;
2. JCOs with the rank of Lieutenant or above; and
3. Community Program Regional Administrators.

Section 8.1. Hiring and Promotion; Selection of Contractors

(a) The Commission shall not hire or promote anyone who may have contact with juveniles, and shall not enlist the services of any contractor who may have contact with juveniles, 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.

(b) Incidents of sexual harassment shall be considered in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

PART 3. SEARCHES, SEGREGATION AND SPOT INSPECTIONS

Section 9. Cross gender search restrictions, transgender and intersex searches

(a) Both cross gender searches and cross gender viewing of undressed juveniles are prohibited, except in an emergency situation:

1. In a Secure Facility, when ordered by the Superintendent, Assistant Superintendent or the highest ranking custody supervisor on duty; and

2. In Community Programs, when ordered by the Superintendent.

(b) All pat down and strip searches shall conform to the requirements of applicable Commission rules found at N.J.A.C. 13:95-5.6 and 13:95-5.7, for Secure Facilities, and N.J.A.C. 13:103-11.6 and 13:103-11.7, for Community Programs.

1. Both the request for authorization to conduct a cross gender, including an explanation of the emergency requiring the cross gender search and the order to undertake such a search, as are provided for in N.J.A.C. 13:95-5.6(d), 13:95-5.7(d)4, 13:103-11.6(d) and 13:95-11.7(c)4, shall be in writing.

(c) A transgender or intersex juvenile shall not be searched or physically examined for the sole purpose of determining the juvenile's genital status.

1. If the juvenile's genital status is unknown, it may be determined during conversations with the juvenile, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

2. When gender has been determined, that determination shall govern the gender of staff conducting a search of the juvenile;

3. In situations where gender has not yet been determined, consistent with operational needs of the facility, a search of a transgender or intersex juvenile shall be conducted in such a fashion as to ensure that individual portions of the juvenile's person are searched by staff of the corresponding gender, and not in the presence of staff of the opposite gender.

Section 10. Segregation from general population

In accordance with the rules governing the Behavior Accountability Unit (N.J.A.C. 13:95-7), Protective and Temporary Close Custody (N.J.A.C. 13:95-11) and disciplinary Room Restriction (N.J.A.C. 13:101-6.16 and 6.17), juveniles may be segregated from the general population for only the period necessary to maintain safety and security.

Section 11. Random spot inspections in secure facilities

(a) During each shift at each secure facility a custody supervisor with the rank of Sergeant, or above, shall conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment.

1. Staff members are prohibited from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to a legitimate operational function of the facility.

PART 4. REPORTING; EMERGENCY PROCEDURES

Section 12. Incident reporting protocols

(a) All incidents involving either the sexual abuse or sexual harassment of a juvenile shall be reported in accordance with this section.

1. Under the provisions of N.J.S.A 9:6-8.10, any person having reasonable cause to believe that a juvenile under the age of 18 has been subjected to child abuse or acts of child abuse, including but not limited to sexual abuse, shall report the same to the Division of Child Protection and Permanency (DCPP) by telephone or otherwise.

i. The staff member who first receives the allegation of, or witnessed, an act of sexual abuse involving a juvenile under the age of 18 is required to contact the DCPP Abuse Hotline, as set forth in these protocols.

2. "Reasonable cause to believe" as it relates to Commission Facilities are deemed to exist in any of the following circumstances:
    i. A juvenile directly makes an allegation involving himself/herself and either a staff member or another juvenile.
    ii. A juvenile or a staff member makes an allegation regarding an event he/she has witnessed involving either a staff member or another juvenile.
    iii. A juvenile directly makes an allegation involving himself/herself, which occurred prior to entering a Commission facility.
3. Reporting protocols for a staff member who works at a Secure Facility are as follows:
    i. Upon receiving an allegation of, or witnessing an act of sexual abuse or sexual harassment, the staff member shall contact the Shift Supervisor in Center Control.
    ii. The Shift Supervisor shall report the allegation to the Office of Investigations, and shall deploy a custody supervisor to present to the reporting staff member with:
        a. A juvenile face sheet; and
        b. If an alleged victim of sexual abuse is under the age of 18, a Suspected Child Abuse Report.
    iii. Both day and off-hours on-call telephone numbers of the Office of Investigations shall be posted prominently in staff areas of each secure facility.
    iv. If an alleged victim of sexual abuse is under the age of 18, the reporting staff member shall call the DCPP Abuse Hotline in the presence of the deployed custody supervisor.
        a. At the completion of the call to the DCPP Abuse Hotline, the reporting staff member shall complete the Suspected Child Abuse Report, which shall be witnessed by an attending custody supervisor.
        b. The attending custody supervisor shall ensure that the Suspected Child Abuse Report is returned to the Shift Supervisor in Center Control, who shall notify the Superintendent and then file it.
4. Reporting protocols for a staff member who works at a Community Program are as follows:

i. Upon receiving an allegation of, or witnessing an act, of sexual abuse or sexual harassment, the staff member shall contact the Shift Coordinator and the Superintendent, or designee.

ii. The Superintendent or designee shall direct that the Shift Coordinator report the allegation to the Office of Investigations, and if an alleged victim of sexual abuse is under the age of 18, shall present to the reporting staff member a Suspected Child Abuse Report.

   a. Both day and off-hours on-call telephone numbers of the Office of Investigations shall be posted prominently in staff areas of each Community Program.

iii. If an alleged victim of sexual abuse is under the age of 18, the reporting staff member shall call the DCPP Abuse Hotline in the presence of the Shift Coordinator.

   a. At the completion of the call to the DCPP Abuse Hotline, the reporting staff member shall complete the Suspected Child Abuse Report, which shall be witnessed by an attending Shift Coordinator.

   b. The Shift Coordinator shall ensure that the Suspected Child Abuse Report is returned to the Superintendent or designee, who shall then file it.

5. Reporting protocols for a staff member who works at a JP&TS office are as follows:

   i. Upon receiving an allegation of, or witnessing an act, of sexual abuse or sexual harassment, the staff member shall contact the Assistant District Parole Supervisor or designee, who shall report the allegation to the Office of Investigations, and if the alleged victim is under the age of 18, shall present to the reporting staff member a Suspected Child Abuse Report.

      a. Both day and off-hours on-call telephone numbers of the Office of Investigations shall be posted prominently in staff areas of JP&TS facility.

   ii. If an alleged victim of sexual abuse is under the age of 18, the reporting staff member shall call the DCPP Abuse Hotline in the presence of the Assistant District Parole Supervisor or designee.

      a. At the completion of the call to the DCPP Abuse Hotline, the reporting staff member shall complete the Suspected Child Abuse Report, which shall be witnessed by the Assistant District Parole Supervisor or designee.

b. The Assistant District Parole Supervisor or designee shall ensure that the Suspected Child Abuse Report is forwarded to Director of Juvenile Parole and Transitional Services, who shall then file it.

6. Reporting protocols for a staff member who works at the Commission's Central Office, Tramburg, Central Classification or the Office of Investigations are as follows:

i. Upon receiving an allegation of, or witnessing an act, of sexual abuse or sexual harassment, the reporting staff member shall immediately report the allegation to the Director of Operations or designee.

a. Both day and off-hours on-call telephone numbers of the Office of Investigations shall be posted prominently in the Commission's Central Office, Tramburg, Central Classification and the Office of Investigations.

ii. Subject to the provisions of Section 16.2(d)1, the Director of Operations or designee shall notify the Office of Investigations, and, if an alleged victim of sexual abuse is under the age of 18, shall present to the reporting staff member a Suspected Child Abuse Report.

iii. If an alleged victim of sexual abuse is under the age of 18, the reporting staff member shall call the DCPP Abuse Hotline in the presence of the Director of Operations or designee.

a. At the completion of the call to the DCPP Abuse Hotline, the reporting staff member shall complete the Suspected Child Abuse Report, which shall be witnessed by the Director of Operations or designee.

b. The manager or designee of the reporting staff member shall ensure that the Suspected Child Abuse Report is given to the Director of Operations or designee, who shall then file it.

7. The reporting protocols set forth above in (a)3 through (a)6, as applicable, shall be used upon a staff member receiving an allegation that a juvenile was abused while confined at either a non-Commission facility or another Commission Facility or office.

i. Within 72 hours of receiving a report of abuse at a non-Commission facility the Director of Investigations or designee shall report the allegation to the non-Commission facility.

8. Any report made under this section must contain information as to the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries,

abuse or maltreatment, and any other information that would be helpful with respect to the alleged abuse and the identity of the perpetrator.

(b) A juvenile may report an incident of sexual abuse or sexual harassment in any one or more of the following ways:

1. Verbally or in writing to any staff member;

2. By telephone to either or both DCPP and an outside sexual abuse hotline, confidential access to which shall be provided by the Commission;

3. By telephone or written correspondence to the Commission's Ombudsman; and

4. In writing, utilizing the Request and Remedy Process.

(c) Juveniles requiring assistance to file a report may request assistance from the Commission's Ombudsman, a third-party, including another juvenile, a staff member, family members, their attorney, or an outside advocate. When staff assistance is requested the Superintendent or designee shall appoint an appropriate staff member.

(d) The parents or guardian of a juvenile who has not yet reached the age of 18 may report an incident of sexual abuse or sexual harassment in any one or more of the ways set forth in (b), above.

(e) Third parties, including other juveniles, staff members, family members, attorneys, and outside advocates, may assist juveniles in filling out PREA Complaint Forms

1. A report of sexual abuse or harassment against a juvenile who is 18 years of age or older may be made directly to the Commission by any third-party, provided that the juvenile has consented to the making of the report. The Commission will not process any such report by a third-party unless the consent requirement has been satisfied.

i. If the juvenile's consent is not given, that fact shall be fully documented.

2 In addition, with respect to a juvenile who is under the age of 18, his or her parent or guardian may report an incident of sexual abuse or sexual harassment on the juvenile's behalf without the juvenile's consent.

Section 12.1. Notifications to Attorney of Record and to Parents or Guardian

(a) Within 14 days of receiving an allegation of sexual abuse, the Superintendent or Assistant District Parole Supervisor, or designee shall report the allegation to the juvenile's attorney of record.

(b) In addition, if a juvenile is under the age of 18 upon receiving an allegation of sexual abuse, the Superintendent or Assistant District Parole Supervisor, or designee shall promptly report the allegation to the alleged victim's parents or legal guardians, unless official documentation is in the Juvenile's classification file showing the parents or legal guardians should not be notified.

1. If the alleged victim is under the guardianship of DCPP, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.

Section 13. Allegation that a juvenile is at substantial risk of imminent sexual abuse; immediate corrective action

(a) Whenever it appears that a juvenile may be at substantial risk of imminent sexual abuse, the Superintendent, designee, or highest ranking staff member on duty shall take immediate action to protect the juvenile, and shall then immediately report the matter to the Executive Director or designee.

(b) A juvenile may report an allegation that a juvenile is subject to a substantial risk of imminent sexual abuse to the Commission's Ombudsman, either by telephone or through the Request and Remedy Process.

1. After receiving the report, the Ombudsman shall immediately forward the allegation to the Executive Director or designee.

(c) Upon receiving a report that a juvenile may be at substantial risk of imminent sexual abuse, the Executive Director or designee shall order such corrective actions as he or she deems necessary and appropriate.

(d) All allegations and determinations with respect to a juvenile who may be in substantial risk of imminent sexual abuse and responsive actions taken shall be fully documented.

Section 14. Respect and language

(a) Staff, volunteers and contractors shall at all times use language and terminology that is respectful of, and that does not further stereotype LGBTQI people, and shall not refer to a juvenile by using language that conveys bias or hostility against LGBTQI people.

(b) Staff, volunteers and contractors shall not imply to or tell LGBTQI juveniles that they are abnormal, deviant or sinful based on their sexual orientation, gender identity, or gender

expression, or that they can or should change their sexual orientation, gender identity, or gender expression.

(c) Each juvenile may select a preferred name and pronoun to be used at the facility that reflects his or her gender identity, even if his or her name has not been legally changed, provided that any such selection shall be in writing, and shall include information indicating whether the juvenile wants the preferred name and pronoun shared with anyone outside of the facility.

1. Nothing herein shall be construed to require the use of any alias or name other than a juvenile's legal name in classification and other official Commission records.

Section 15 Shower and bathroom privacy

The Superintendent or designee shall insure that, upon request, a transgender or intersex juvenile shall be afforded privacy when using the shower and bathroom.

PART 5. COORDINATED RESPONSE; SEXUAL ABUSE ALLEGATION

Section 16 Initial report of allegation

An allegation that a juvenile has been subjected to sexual abuse shall be reported in accordance with the protocols set forth in Section 12, above.

Section 16.1 First responder, medical responses; victim advocate

(a) Consistent with the reporting protocols set forth in Section 12, first responders to an allegation of sexual abuse shall immediately take steps to:

1. Ensure that the victim is kept safe and separated from the alleged abuser;

2. Secure the incident area and treat it as a crime scene until arrival of officers from the Office of Investigations; and

3. If the alleged incident occurred within the past five days, ensure that neither the juvenile victim nor the alleged abuser takes any action that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating until after evidence collection.

(b) Staff are prohibited from requiring or encouraging a juvenile to use any informal process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse or sexual harassment.

(c) In accordance with Commission rules and classification procedures, multiple protection measures shall be employed, such as housing changes or transfers for juvenile victims or abusers, removal of alleged staff or juvenile abusers from contact with victims, and emotional support services for juveniles or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(e) Medical and mental health treatment if within 5 days of an alleged incident.

1. On-site medical and mental health treatment for sexual assault victims shall be limited to emergency measures for physical injuries if applicable and emotional stability of the juvenile without interfering with evidence collection. Facility staff shall document all actions taken in an incident report form and the electronic medical record (EMR).

2. As soon as possible, the victim shall be taken for a medical examination to an outside facility, which is on an approved list maintained by the Executive Director or designee, having on staff and available licensed Sexual Assault Forensic Examiners (SAFEs) and/or Sexual Assault Nurse Examiners (SANEs).

3. Upon return to a Commission facility, a Qualified Health Care Professional shall ensure immediate review of all medical reports prepared by a SAFE or SANE for both the alleged victim and perpetrator when applicable for appropriate referrals and follow-up.

4. Alleged victims and perpetrators shall be referred to mental heath services to be seen for evaluation and follow-up services as needed as soon as possible, but in any event not later than within 24 hours.

(f) Medical Treatment if not within 5 days of an alleged incident:

1. Upon notification of an alleged sexual assault of a juvenile, on-site nursing assessment for possible medical issues shall occur with a referral made to the facility physician or nurse practitioner for needed treatment and follow-up care. Referrals for outside treatment shall be made when necessary or appropriate in view of the juvenile's medical condition. Requests from DCPP or the Office of Investigations to send the juvenile to the local emergency room for examination and evidence collection shall be accommodated.

2. Ensure follow-up on any medical orders, including testing for HIV and sexually transmitted diseases by consent or court order.

(g) Either the Commission's mental health services unit or an Operating Agent, as applicable, shall:

1. See the juvenile victim as soon as possible, but in any event within 24 hours, for assessment and crisis intervention as appropriate. As necessary, the Superintendent, in consultation with the Office of Rehabilitative and Treatment Services, shall insure special arrangements for juveniles in residential community homes;

2. In consultation with a Qualified Mental Health Care Professional, assess the need for follow-up counseling for the alleged victim; and

3. Designate a victim advocate for the alleged victim.

(h) For at least 90 days following a report of sexual abuse, the Superintendent shall direct on-going monitoring of conduct and treatment of juveniles and staff who reported the sexual abuse, and of juveniles who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by juveniles or staff, and shall act promptly to remedy any such retaliation.

1. Monitoring shall include periodic status checks of affected juveniles, as well as continuing reviews of disciplinary reports, housing and program changes, negative assessments, and reassignments of staff.

2. Such monitoring shall continue for as long as is necessary beyond 90 days if the initial monitoring indicates a continuing need.

3. If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

4. The obligation to monitor shall terminate if the Office of Investigations determines that underlying allegations are unfounded.

PART 5A. INVESTIGATION PROCEDURES

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 the PREA Coordinator for a determination whether the case should be referred for investigation by OOI.

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.

PART 5B. NOTIFICATIONS

Section 16.6 Notification of juvenile

Upon receipt of the findings, as provided for in 16.5(d), above, the Executive Director or designee shall promptly inform the juvenile whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

Section 16.7 Notification; outside entity investigation.

If an investigation was undertaken by an outside entity, the Director of Investigations shall request that the outside entity forward to the Executive Director or designee documentation sufficient to notify the juvenile that the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

Section 17. Notification of related occurrences

(a) Following a juvenile's allegation that a Commission staff member has committed sexual abuse against the juvenile, and unless an investigation has determined that the allegation is unfounded, the juvenile shall subsequently be informed by the Superintendent or designee, whenever:

1. The staff member is no longer posted within the juvenile's housing unit;

2. The staff member is no longer employed at the facility;

3. The Commission learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

4. The Commission learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(b) Following a juvenile's allegation that he or she has been sexually abused by another juvenile, the alleged victim shall subsequently be informed by the Superintendent or designee, whenever:

1. The Commission learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

2. The Commission learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

(c) All such notifications or attempted notifications shall be documented.

(d) The Commission's obligation to report under this section shall terminate when the juvenile to be informed is released from Commission custody or parole supervision.

PART 6. NO RETALIATION; DISCIPLINE FOR VIOLATION

Section 18. No retaliation

(a) At no time shall a Juvenile, Staff member or other person be subject to any coercion, discipline or other retaliation, reprisal, or retribution as a result of his or her filing either a report of alleged sexual abuse or sexual harassment.

(b) Nothing herein shall be construed to prevent the charging of any juvenile who commits a violation under the provisions of N.J.A.C. 13:101-4.1.

Section 19. Enforcement and discipline for violation

(a) The PREA Coordinator is responsible for enforcement of, and compliance with this Policy.

(b) In accordance with the Commission's zero tolerance toward all forms of sexual abuse and sexual harassment involving juveniles, incidents of such sexual abuse and sexual harassment will be disciplined strictly.

1. Dismissal will be the presumptive disciplinary sanction for any staff member who engages in sexual abuse or sexual harassment against a juvenile.

    i. A staff member who is terminated for such sexual abuse or sexual harassment, or who resigns in lieu of termination for sexual abuse or sexual harassment, shall be reported to law enforcement agencies, unless the activity was clearly not criminal and shall be reported to any relevant licensing bodies.

2. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with juveniles and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(c) Violations of this Policy not involving sexual abuse or sexual harassment will be enforced in the same manner as other Commission policies. Violation may result in formal discipline, up to and including dismissal.

(d) The Commission shall take such other protective and remedial measures as it deems appropriate, including prohibiting further contact with juveniles, in the case of a violation of this Policy by an intern, contractor or volunteer not involving sexual abuse or sexual harassment.

PART 7. DATA COLLECTION AND REVIEW

Section 20. Sexual abuse incident reviews

(a) A sexual abuse incident review shall be conducted at the conclusion of every sexual abuse investigation, except where the investigation has concluded that the allegation is unfounded.

(b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

(c) The review shall be undertaken by a team appointed by the Executive Director comprised of upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners, and which shall:

1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; LGBTQI identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

4. Assess the adequacy of staffing levels in that area during different shifts;

5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

6. Prepare a report of its finding including, but not limited to, determinations made pursuant to this subsection (c), and any recommendations for improvement and submit such report to the Superintendent and to the facility's PREA Compliance Manager.

(d) The Executive Director or designee shall document the Commission's response to the report required by (c)6, above, including the extent to which and why the report's recommendations have or have not been implemented.

Section 21. Data Collection

(a) The Director of Operations in consultation with the Commission's Chief of Information Technology shall implement a data collection protocol under which:

1. Accurate and uniform data is collected and recorded for every allegation of sexual abuse at Commission facilities, and at any non-Commission institutions holding juveniles under contract or other arrangement with the Commission, using a standardized instrument and set of definitions;

2. Incident-based sexual abuse data is aggregated at least annually;

3. Incident-based data collected includes, 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; and

4. Data is collected, maintained and reviewed as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

Section 22. Data review for corrective action

(a) At least annually the Director of Operations or designee shall review data collected and aggregated pursuant to Section 21, in order to assess and improve the effectiveness of Commission policies and procedures with respect to:

1. Sexual abuse prevention;

2. Detection of and response to incidents of sexual abuse; and

3. Training as required by this Policy.

(b) On the basis of such reviews, the Director of Operations shall make such recommendations to the Executive Director as are reasonable and necessary with respect to:

1. Operational areas or issues requiring remedial action; and

2. Recommendations for amendments to this Policy, other policies, internal management procedures or rules.

(c) An annual report summarizing findings and recommended corrective actions for each Commission facility, as well as for the Commission as a whole, shall be prepared and submitted to the Executive Director, for his or her approval.

1. The report shall include a comparison of the current year's data and corrective actions with those from prior years, and shall provide an assessment of the agency's progress in addressing sexual abuse.

2. As approved by the Executive Director, the report shall be posted on the Commission's website. Such posting shall include information on how hard copies may be secured by members of the public.

3. Specific material shall be redacted from a report when publication of the material would either:

i. Present a clear and specific threat to the safety of a juvenile, staff or to the safe and orderly operation of a facility; or

ii. Violate the confidentiality provisions of Section 4, above

4. Any redaction must indicate the nature of the material being redacted.

Section 23. Data storage, publication, and destruction

(a) Data collected pursuant to Section 21 shall at all times be kept confidential, in accordance with the provisions of Section 4, above.

(b) Aggregated sexual abuse data will be available to the public at least annually on the Commission's website, provided that no data shall be posted that would either:

i. Present a clear and specific threat to the safety of a juvenile, staff or to the safe and orderly operation of a facility; or

ii. Violate the confidentiality provisions of Section 4, above

(c) Data collected under the provisions of Section 21 shall be maintained, stored and disposed of in accordance with records retention schedules prepared in accordance with the provisions of N.J.A.C. 15:3-2, Records Retention.

OFFICIAL SIGNATURES ON FILE IN THE COMMISSION'S OFFICE OF ADMINISTRATION

APPROVED BY:

Name: Luis Valentin Title: PREA Coordinator

Signature: Luis S Valentin Date: 8/20/14

Name: Keith Poujol Title: Chief Administrative Officer

Signature: Keith Poujol Date: 8/20/2014

Name: Robert Montalbano Title: Interim Deputy Executive, Director, Programs

Signature: Robert Montalbano Date: 8.20.14

Name: Felix Mickens Title: Deputy Executive Director, Operations

Signature: Date: 8/20/14

REVIEWED AND APPROVED BY THE EXECUTIVE DIRECTOR:

Signature: Kevin M. Brown (PW) Date: 8/20/14

Kevin M. Brown