

Policy

Addressing Staff Sexual Misconduct with Youth in Custody

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Kentucky Department of Juvenile Justice

Lexington, KY

Objectives

- Define what makes a good policy
- Challenges and dilemmas
- Writing policy and procedure
- Triage your agency's policies and procedures
- When policy is effectively used

What makes a good policy?

- Zero tolerance
- Clear Definitions
- Multiple reporting points for employees and youth
- Operational procedures that support zero tolerance
- Strong investigative protocols
- Employee training
- Youth orientation

Other considerations:

- Remember – sexual misconduct affect all staff and youth
- Thread consideration of staff sexual misconduct issues through your policies
- Review and update policies following the ACA model
- Document training
- Consider agency culture
- Consistency with state law
 - Policy and procedures can make up for deficiencies in the law

Decisions need to be made about:

- Reporting by employees and sanctions for not reporting
- Sanctions for youth for “malicious” reports
- Reporting methods/routes


Challenges and Dilemmas

- Leadership
 - Role modeling behaviors and commitment
- Culture and history
 - Unions
 - Past attempts to address sensitive issues
- Standard operating procedures are in “sync” with policy
- Training

Challenges and Dilemmas, continued:

- Youth programming
 - Gender responsive
 - Inclusive
 - Equality and parity
- Investigative protocols/practices
 - Demystifying the internal affairs
 - Ability to conduct investigations

Applicable KY DJJ Policies

- Sexual Harassment
 - Sexual Assault
 - Employee Conduct
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Sexual Harassment Policy

- Affects all employees, consultants and contractors
- Prohibited Behavior is:
 - Lewd or sexual comments
 - Sexual innuendo
 - Vulgar gestures
 - Having sexually suggestive objects in the work place
 - Transmitting or downloading obscene message
 - Demeaning or offensive conduct directed towards someone because of gender
- Quid Pro Quo

Sexual Harassment Policy Cont'd

- Employees must name the behavior and ask the harassment to stop
- Employees are responsible for the reporting of incidents
- Supervisors are responsible for asking the employee about the incident and reporting it to Division Directors or appropriate management
- Addresses confidentiality, retaliation and false accusations

Sexual Assault Policy

- Youth and Staff will seek immediate treatment
- Affects all DJJ operated or contracts facilities
- Sexual Assault is defined as “coercive or assaultive”
- The nurse on duty and Superintendent should be reported to
- Youth taken to local emergency room

Sexual Assault Policy Cont'd

- Immediate notification is required to the Investigations office
- Critical incident reports should be filed immediately
- Chain of custody procedures followed
- Housing decisions should be made for youth
- Mental Health qualification should occur for the youth

Employee Code of Conduct

- Applies to all employees of the DJJ
- Addresses the following (in relation to sexual misconduct with youth):
 - Language
 - Engaging in unwelcome communication
 - Truthfulness
 - Take appropriate precautions to prevent allegations of sexual misconduct
 - Maintain professional relationships with youth
 - Abuse of youth is not tolerated
 - Cooperation during investigations

Employee Code of Conduct Cont'd

- Professional Relationship is defines as:
 - Not doing the following with youth:
 - Loaning personal belongings
 - Entering into business relationships
 - Give special privileges unless earned
 - Accept a bribe or payment
 - Lend money
 - Enter into a dating or sexual relationship with a past or current committed youth under 18
 - Enter into a dating or sexual relationship with someone under DJJ care who is over 18

Proposed PREA Policy

- The KY DJJ will comply with PREA to eliminate, reduce, and prevent sexual assault and rape within correctional institutions
- This policy applies to detention centers, youth development centers, group homes, day treatment centers, foster homes, private child care or in any circumstances custody or control of the DJJ
- This policy applies to employees, contractors, volunteers, visitors, and other youth in custody

Proposed PREA Policy Cont'd

- Includes:
 - Rape
 - Sexual Assault
 - Sexual Harassment
 - Sexual Misconduct

Also Consider Policies on:

- Mandatory Reporting
- Investigations
- Emergency Healthcare
- Mental Health Evaluation
- Over familiarization

Evaluating Your Policies and Procedures

- Does your policy cover the essential issues?
- Are there cultural or historical roadblocks that exist today?
- Are stakeholders included and committed?
- Is there accountability?

Evaluating Your Policies and Procedures Cont'd

- How are records kept?
- Are policies and procedures effective?
 - Job descriptions, post orders
 - Philosophical basis for p/p
- Is value added from investigations?

How do employees know the policy?

- Informal vs. formal “education”
- Lead by example: do what we say, not what we do
- Are there policies and procedures that do not mesh
- Corruption: subcultures, cliques, code of silence

Effective Policies

- Are understood by employees, volunteers, and youth
- Are role modeled by supervisors, and managers
- Can be easily understood, are realistic, and guides employees
- Are integrated into operations
- Aligns with state law
- Sees that reporting occurs
- Leadership understands and acknowledges the aftermath of allegations and investigations

Effectiveness Continued

- Investigations are timely and professional
 - Conclusions reached
 - Employees cooperate
 - Disciplinary sanctions consistent
- There is medical and mental health support
 - Employees and youth
 - Employee assistance programs
- Links to Outside Agencies

We have learned:

- What makes good policy
- Decisions that need to be made about policy
- How your employees learn the policy
- Leadership is “essential”
- What makes an effective policy
- Training is important to the understanding of your policy
- Operations that don't match policy and procedure are ineffective

Summary

- Written policy exists best with definitions
- Operational practices follows policy
- Behavior and philosophy need to be role modeled
- Training is an effective tool for employees and offenders