

## **PREA Policy for Investigations**

Any and all allegations of sexual abuse and/or harassment will undergo an administrative investigation conducted by staff who have completed specialized training for investigating sexual abuse in confinement settings, in addition to the general training provided to all employees pursuant to 115.331. (115.334a) Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action on prosecution referral. (115.334b) Note that YSA staff do not have authority to conduct criminal investigations. YSA shall maintain documentation that agency administrative investigators have completed the required specialized training in conducting sexual abuse investigations. (115.334c) The PA State Police, the entity responsible for investigating sexual abuse in juvenile confinement settings shall provide such training to its agents and investigators who conduct such investigations. (115.334d)

The specialized investigative team for the YSA ACT Camp consists of the PREA Coordinator, the PREA Compliance Manager and Director of Clinical Services, the Operations Director, the Program Director, and the designated Supervisor. The agency shall not terminate an investigation solely because the source of the allegation recants the allegations.

Immediate actions will be taken to separate the alleged victim from the alleged perpetrator to ensure safety, and these actions will be documented in a safety plan. Immediate actions will be taken to protect the scene of the incident to ensure that no evidence is destroyed; this includes the physical scene of the incident as well as the victim's body. The alleged victim and alleged abuser will be instructed to not take any actions that could destroy evidence, such as showering, changing clothes, brushing teeth, eating, drinking, smoking, urinating, or defecating. The administrative investigation will follow the agency's Standard Operating Procedures for Investigating Reportable Incidents, HCSIS Reportable & Recordable Incidents Guidelines, Reporting Suspected Child Abuse (ChildLine), and will follow the Emergency Action Plan Checklist. When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse and shall be documented in written reports that include a description of the physical and testimonial.

YSA will make every effort to offer the resident a victim advocate from the Victims Resource Center, in person or by other means.

YSA and ACT Program staff do not conduct any internal criminal investigations for allegations of sexual abuse. All allegations are forwarded to ChildLine, PA DHS through their HICISIS mandatory reporting system, and to the PA State Police. (115.334a, d)

### **PREA Policy for Criminal Investigations and Administrative Reviews**

Any report (direct, indirect, third party, anonymous) received involving sexual abuse and sexual harassment shall be reviewed by the Clinical Director, PREA Coordinator, and/or Operations Director to determine if an incident meets the minimum criteria under the guidelines established by Prison Rape Elimination Act. The incident shall be reviewed promptly, thoroughly and objectively. Where sexual abuse is alleged, YSA shall use administrative investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to 115.334. (115.371b) If the minimum criteria are met, the matter shall be turned over to the PA State Police and DHS via ChildLine and the HICISIS reporting system. (115.371a) YSA administrative investigators shall preserve and secure direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. YSA administrative investigators shall place the alleged victim, alleged perpetrator, and any witnesses in separate safe areas where they cannot be manipulated and await the PA State Police. (115.371c) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (115.371e) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution by the PA State Police.

The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No resident who alleges sexual abuse shall be subjected to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of the allegation (115.371 f)

The departure of an alleged abuser or victim from employment or custody is not basis for terminating the investigation or influencing the outcome. (115.371k) The investigation will not be terminated solely because the source of the allegation recants the allegation. (115.371d) When outside agencies investigate sexual abuse, YSA shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation. (115.371m)

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. (115.371g)

Upon completion of the investigation by the outside parties (DHS and State Police), the entire incident shall be reviewed by YSA Incident Review Team

within 30 days. This incident review shall determine whether staff actions or inactions contributed to the incident. This review shall be documented with incident assessments, including descriptions of physical evidence, testimony and corrective actions. These reviews shall be maintained for as long as the alleged abuser is incarcerated or employed plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention. (115.371f,j,l)

The YSA ACT Program shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.(115.372a)