



# BRAZOS COUNTY JUVENILE SERVICES DEPARTMENT

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## Prison Rape Elimination Act (PREA)

### Introduction

The Prison Rape Elimination Act (PREA) is a federal law, Public Law 108-79, signed into law in September 2003 by the President of the United States and now designated as 42 USC 15601. PREA establishes a zero-tolerance standard against sexual abuse of incarcerated persons of any age. This makes the prevention of sexual abuse in the Brazos County Juvenile Services Department facility a top priority. PREA sets a standard that protects the Eighth Amendment rights (Constitutional right prohibiting cruel and unusual punishment) of federal, state and local juvenile offenders. It increases the collection of nationwide data on sexual misconduct and sexual assault of confined persons. It increases accountability for administrators who fail to prevent, reduce, and punish sexual misconduct and sexual assaults.

### Federal Law

PREA is the first United States Federal Law passed dealing with sexual abuse of incarcerated persons. The bill was signed into law on September 4, 2003 and the standards were published in the Federal Register on June 20, 2012 and became effective on August 20, 2012. PREA covers all adult, as well as juvenile detention facilities. The definition of "prison" for the purposes of this act includes, "any juvenile facility used for the custody or care of juvenile inmates."

PREA defines "prison" quite broadly. Within the context of PREA, prison is defined as "any federal, state, or local confinement facility, including local jails, police lockups, juvenile facilities, and state and federal prisons." Thus, short-term lockups, such as holding facilities and local jails, regardless of size, are also subject to the provisions of PREA.

A copy of the federal PREA law, Public Law 108-79, codified as 42 USC 15601 can be found on the following website:

<http://www.gpo.gov/fdsys/pkg/PLAW-108publ79/pdf/PLAW-108publ79.pdf>

A copy of the Federal Register, June 20, 2012, Vol. 77, "Final Rule of the PREA Standards, 28 CFR Part 115" can be found on the following website:

<http://www.prearesourcecenter.org/>

## **Texas Law**

Texas has a specific criminal law for employees and or agents who sexually abuse confined persons as related to prosecution of PREA-related incidents. The links to these penal codes are as follows:

Texas Penal Code, Title 8. Offenses Against Public Administration, Ch. 39. Abuse of Office:

<http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.39.htm>

Texas Penal Code, Title 5. Offenses Against The Person, Ch. 21. Sexual Offenses:

<http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.21.htm>

Texas Penal Code, Title 5. Offenses Against The Person, Ch. 22 Assaultive Offenses:

<http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm>

## **Frequently Asked Questions**

How does PREA impact the Brazos County Juvenile Services Department?

1. PREA addresses the detection, response, prevention and elimination of sexual assault, sexual abuse and sexual harassment at the Brazos County Juvenile Services Department.
2. PREA directs the collection and dissemination of information on the incidents of juvenile-on-juvenile sexual violence, as well as staff sexual misconduct with juveniles at the Brazos County Juvenile Services Department.

### **Policy:**

It shall be the policy of the Brazos County Juvenile Services Department to maintain a zero tolerance for any incidents of sexual harassment, abuse, neglect, or exploitation. The Brazos County Juvenile Services Department supports that it is the duty of every employee, volunteer, intern, contract or service provider to cooperate fully with any investigations. The Quality Assurance Administrator shall act as the designated PREA (Prison Rape Elimination Act) Coordinator and the Facility Administrator and detention managers/supervisors shall act as managers for the Juvenile Detention Center. The department shall follow all the requirements of the Texas Juvenile Justice Department (TJJD) when investigating reported allegations and incidents.

### **Procedure:**

Serious Physical Abuse and Sexual Abuse:

Anyone who witnesses, learns of, receives an oral or written report of, either by the alleged victim or by someone with knowledge of the incident, or anyone that has a reasonable belief that the incident of serious physical abuse or sexual abuse has occurred shall immediately report the incident to their supervisor, local law enforcement and the Texas Juvenile Justice Department. In the event that the supervisor is the alleged perpetrator, the next person higher in the chain of command shall be notified, up to and including the Chief Juvenile Probation Officer.

Per the Texas Family Code Chapter 261.102, the duty to report cannot and shall not be delegated to another person. It is also required that all staff complies with any applicable mandatory child abuse reporting laws. In addition, staff shall be prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

### **To whom does PREA apply?**

1. PREA applies to all federal, state, local public and private institutions that houses juveniles and adult offenders, male and female.

What is the evidence of the Brazos County Juvenile Services Department's commitment to maintaining a safe, humane, and appropriately secure environment for juvenile offenders?

2. The Brazos County Juvenile Services Department has policy, procedures, and standards for employees, volunteers and contractors that prohibit them from becoming inappropriately personally involved with juvenile offenders in our care.

3. All staff, volunteers and contractors are provided training on professional ethics and in maintaining professional boundaries when interacting with the juveniles. Employee disciplinary action, termination of volunteer and contractual services, and referral to the District Attorney's Office for alleged criminal misconduct is initiated when appropriate.

4. The investigative staff of the Brazos County Juvenile Services Department and the Texas Juvenile Justice Department has received and will continue to receive specialized training in conducting investigations into sexual assault, sexual abuse, and sexual harassment. Furthermore, when sufficient evidence exists regarding alleged misconduct of an employee, volunteer or contractor, the Brazos County Juvenile Services Department does not hesitate to remove that employee, that volunteer or contractor from having any further contact with youth.

5. The agency also supports criminal prosecution of that employee, volunteer or contractor. These are just some of the ways the Brazos County Juvenile Services Department is committed to maintaining a safe, humane, and appropriately secure environment for juvenile offenders committed to our care.

## **How does PREA impact the Brazos County Juvenile Services Department employees?**

PREA addresses the sexual safety of all juveniles in the custody of the Brazos County Juvenile Services Department including our zero tolerance policy on sexual assault, sexual abuse and sexual harassment. Zero tolerance means that the Brazos County Juvenile Services Department does not tolerate any form of sexual assault, sexual abuse or sexual harassment and affirms that there is no such thing as consensual sex between a staff and a juvenile or between a juvenile and juvenile. Employees who violate this zero-tolerance policy will be subject to disciplinary actions including investigations, administrative leave, polygraph examinations, and termination when appropriate.

## **Why should I be concerned with sexual misconduct at my facility?**

Sexual misconduct is not about sex. It is about safety and security. Both are compromised wherever boundaries break down and a staff member becomes personally or intimately involved with a juvenile.

Staff Sexual Misconduct undermines the mission of the Brazos County Juvenile Services Department by creating an unstable living and working environment for the juvenile, as well as supervising staff members. Staff sexual misconduct with a juvenile affects the correctional facility by:

- Jeopardizing staff safety
- Threatening the agency and facility safety and security
- Creating the risk of legal action--both criminal and civil
- Creating health risks
- Harming family relationships
- Creating negative public views of the Brazos County Juvenile Services Department
- Diminishing trust and morale of staff and juveniles
- Weakening respect for, and the authority of the Juvenile Supervision Officer among the juveniles.

## **What about juveniles who either manipulate the system using PREA or make false allegations against staff?**

Staff are often concerned that addressing PREA-related issues in policy and procedure, and educating juveniles as to their right to be safe while in custody, may result in false accusations or false reports of staff misconduct. Experience has shown that there may be an initial spike in reporting, or reports that “test” the facility’s system and policy. However, incidence of false reporting usually subsides when both staff and juveniles realize that there will be a thorough and timely investigation of all incidents of alleged false reporting.

## **Who do I contact if I have questions regarding PREA?**

Questions regarding PREA may be referred to:

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