**POLICY**

It is the policy of Tomorrows Hope (TH) to comply with the requirements of the Prison Rape Elimination Act (“PREA”) to protect its Reentrants and have zero tolerance toward all forms of sexual abuse and sexual harassment. In accordance with PREA, TH seeks to prevent, detect, and respond to allegations of such conduct. All allegations of sexual boundary violations, sexual abuse sexual harassment or retaliation for reporting such conduct against reentrants by employees shall be considered a serious incident, investigated and may subject employees to appropriate discipline in accordance with these procedures.

All reentrants and staff are prohibited from engaging in sexual boundary violations, sexual abuse, sexual harassment and retaliation for reporting such conduct as defined in this policy. All acts of a sexual nature are considered non-consensual due to the fact that TH reentrants are persons in custody. Reentrants cannot consent to any such act(s) due to age and/or their custodial status. All allegations against reentrant by another reentrant shall be investigated in accordance with these procedures.

The TH PREA Coordinator shall oversee the agency’s efforts to comply with the Federal PREA standards.

 **PROCEDURE**

1. **Definitions**

The following definitions shall have the meanings assigned to them in this policy for purposes of interpreting this policy.

* Administrative Team: Such team includes the CEO and Case Manager Supervisor
* Sexual Boundary Violations: Any behavior in an alternative lockup, residential or community placement of a sexual or overly personal nature that does not maintain appropriate and respectful verbal and/or physical boundaries and is not otherwise defined in this policy. Such acts include but are not limited to making threats of a sexual nature, unreasonable invasion of privacy, inappropriate discussion of matters of a sexual nature, written communication of a sexual or overly personal nature, and exerting pressure or coercion to engage in inappropriate physical behavior. Such acts are violations of this policy whether or not they are welcomed by reentrants. Other boundary violations not defined here may be a violation of the TH Code of Conduct or other policy, advisory or practice.
* Emergency Grievance: Any complaint alleging that a reentrant believes he is at substantial risk of imminent sexual abuse.
* Grievance: An allegation by a reentrant or third party on behalf of a reentrant based upon actual, perceived or alleged circumstances concerning a violation of this or other policies, or conditions of confinement.
* Grievance Box: Locked drop box labeled “grievance box” to collect completed reentrant grievance forms.
* Grievance Forms: Standardized DOC form that a reentrant, employee or third party, on behalf of a reentrant may submit in order to file a grievance.
* Mental Health Evaluation: Assessment conducted by a licensed clinician of a reentrants current emotional state and current mental health needs.
* PREA: Prison Rape Elimination Act: The Federal standard that creates requirements to prevent, detect and respond to allegations of sexual abuse, sexual harassment or retaliation by employees or reentrant for reporting such conduct.
* PREA Coordinator: TH employee who develops implements and oversees TH’s efforts to comply with the PREA standards.
* Serious Incident Report (SIR): A standardized form used to report serious incidents in accordance with the TH Serious Incident Reporting Policy.
* Sexual Abuse of a reentrant by another reentrant: As defined by PREA, sexual abuse includes any of the following acts, even with consent by reentrant:
1. Contact between the penis and the vulva or the penis and the anus, 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 reentrant by an employee, volunteer or contracted provider: As defined by PREA, sexual abuse includes any of the following acts, even with consent by a reentrant:
1. Contact between the penis and the vulva or the penis and the anus, however slight;
2. Contact between the mouth and the penis, vulva or anus;
3. Contact between the mouth and any body part where the employee, 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 employee, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire; and
5. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the employee, contractor, contracted provider or volunteer has the intent to abuse, arouse or gratify sexual desire;
6. Any attempt, threat, or request by an employee, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of the 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 reentrant; and
8. Voyeurism by a staff member, contractor or volunteer.
* Sexual Harassment by a reentrant to another reentrant: As defined by PREA, repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogator or offensive sexual nature by one reentrant directed toward another.
* Sexual Harassment by an employee, volunteer or contracted provider toward a reentrant: As defined by PREA, repeated verbal comments or gestures of a sexual nature including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures.
* Third Parties: Individuals who can report a grievance on behalf of a reentrant or assist in filing a grievance including other reentrant, employees, family members, attorneys, and outside advocates.
* Reentrant Orientation Materials: Information presented to reentrant that shall include but is not limited to the DOC approved postings of Rape Crisis Centers.
* Reentrant Education Materials: Information presented to reentrant that shall include but is not limited to the following: the DOC approved intake presentation; policy on the DOC Grievance Process; Policy on the Prevention of Sexual Abuse and Sexual Harassment.
* Volunteer: Any individual with authorization to be at TH that is not a TH staff or contracted provider including interns.
* Voyeurism by a staff member, contractor or volunteer: As defined by PREA, an invasion of privacy of a reentrant by an employee for reasons unrelated to official duties such as peering at a reentrant using the toilet, taking images of all or part of a reentrant’s naked body or of reentrant performing bodily functions.
1. **Notifications of Protections**
2. Within 48 hours of arriving at the location, during the Intake Process, employees shall notify every reentrant of the protections contained in this policy using the reentrants orientation materials. Reentrants shall sign the acknowledgement form verifying that they were informed of this information. Employees shall retain a copy within the reentrant intake packet.
3. At first scheduled case manager session, He/she shall review the reentrant education materials with the reentrant and document that they have received the information by noting such in the case manager’s progress notes. Such presentation shall include but not be limited to the following:
4. Protections contained in this policy, including the definitions of sexual boundary violations, sexual abuse and sexual harassment;
5. Information on the various reporting mechanisms for reentrant who allege being a victim of or witness to sexual boundary violations, sexual abuse and/or sexual harassment including the DOC Grievance Process; and
6. Responses to reentrants who intentionally make false allegations.
7. **Reentrants Reporting Allegations of Sexual Boundary Violations, Sexual Abuse and/or Sexual Harassment**
8. Reentrants may report allegations of sexual boundary violations, sexual abuse and/or sexual harassment in any way including but not limited to:
9. Verbally to an employee;
10. In writing through a grievance form using the DOC Grievance Process;
11. In writing or verbally to any third party who may file a grievance in accordance with the DOC Grievance Process.
12. Reentrant may report that he is or perceives himself to be subject to a substantial risk of imminent sexual abuse. Such report is considered an emergency grievance, can be reported verbally or in writing and requires investigative response within 48 hours.
13. **Employee Reporting and Responding Requirements for Allegations of Sexual Boundary Violations, Sexual Abuse and/or Sexual Harassment**
14. Allegations occurred within TH’s facility: Any TH employee who learns of or suspects alleged sexual boundary violations, sexual abuse or sexual harassment within the facility, shall immediately report the information to their supervisor and either the PREA Compliance Coordinator or one of the members from the administrative team where the allegations occurred. Such initial report may be verbal, but the reporter must also complete a written incident report prior to the end of the shift.
15. Allegations of Sexual Abuse that includes allegations of contact or penetration as found in the definition of sexual abuse for this policy alleged to have occurred within the last 5 days: Location Director and/or designee(s) shall complete the following immediate actions, as applicable:
16. Notify MOC/CFC Director
17. For obvious physical injury, call 911 for emergency medical response and provide immediate first aid, if warranted.
18. Request that the alleged victim not take any actions that could destroy physical evidence including washing or showering, brushing teeth, changing cloths, urination, defecating, drinking or eating.
19. Attempt to prevent the alleged abuser from leaving the site and taking any actions that could destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating.
20. Ensure the transport of the alleged victim to a designated Sexual Assault Nurse Examiner (SANE) Hospital where he can be examined by medical personnel not employed by TH by an Emergency medical transport.
21. Preserve and protect any alleged crime scene by not allowing anyone to go in or out of the alleged area, altering the area, or removing anything until investigators arrive and preserve any electronic monitoring data for the time period when the abuse may have occurred.
22. Keep all witnesses apart from one another until law enforcement authorities have an opportunity to speak with them.
23. Follow additional steps outlined below in Section D4.
24. For any and all other allegations of Sexual Abuse alleged to have occurred within the last 5 days or at any other time: Location Director and/or designee(s) shall:
25. Make all efforts to have the alleged victim remain in a separate and secure area away from the alleged perpetrator.
26. Call the required CFC Director if during regular business hours or MOC for after regular business hours.
27. Call the law enforcement agency for that location who will conduct any resulting criminal investigation and cooperate fully with responding law enforcement personnel.
28. If law enforcement is responding, ensure employees do not question either individual about the specific events while waiting for law enforcement.
29. Offer to transport the alleged victim to a SANE hospital if the reentrant has not already been transported ensuring the reentrant feels safe with the employee chosen to accompany him during transport.
30. Ensure the completion of a mental health evaluation within 72 hours for both the alleged victim and alleged perpetrator after any allegation of sexual abuse that is alleged to have occurred. Such evaluation must be completed by a licensed clinician to assess reentrant’s current emotional state and current mental health needs, and not to investigate the alleged incident.
31. In consultation with the CFC Director, make available to the alleged victim a victim advocate from a local rape crisis center to provide support services to the reentrant and document that such services were offered in the case manager’s progress notes.
32. Allegations of Sexual Boundary Violations and Sexual Harassment: Location Director and/or designee(s) shall:
33. Call the required regional CFC Director if during regular business hours or MOC for after regular business hours.
34. Individuals shall not disclose information about the reentrant’s allegation to anyone who is not directly involved in the treatment, investigation or any other security or management decisions.
35. Staff may privately report sexual abuse, sexual harassment and/or sexual boundary violations as required by policy and procedures outside of their chain of command and/or request their name not be used in the TH reporting documents.
36. Failure of a state or contract provider employee to report or to make intentional false allegations of sexual boundary violations, sexual abuse or sexual harassment by reentrant or employees may result in disciplinary action, up to and including termination. Termination shall be the presumptive disciplinary sanction for staff found to have engaged in sexual abuse.
37. **TH Investigation Requirements**
38. The TH Director of Investigations or his/her designee shall investigate all allegations of alleged sexual boundary violations, sexual abuse and/or sexual harassment and retaliation for reporting such allegations or cooperating with an investigation. The investigation will include an effort to determine whether employees’ actions or omissions contributed to the allegations.
39. Substantiated allegations of conduct that appear criminal in nature, including alleged sexual abuse, shall be referred to the appropriate state or local law enforcement agency. In such cases, the Director of Investigations or his/her designee shall:
40. Cooperate and consult with the MOC to ensure that the criminal investigation is completed.
41. Conduct any additional investigation deemed necessary.
42. Issue a final agency decision on the merits of any portion of a client grievance alleging sexual abuse within 60 days of the initial filing of the grievance. The TH Director of Investigations or his/her designee may claim a reasonable extension if 60 days is insufficient to make an appropriate decision due to the needs of concurrent law enforcement or other outside agency investigations.
43. Notify the reentrant who is the subject of the allegations of decisions on the merits of the allegations being investigated by the TH Investigations Unit and MOC and any time extensions for the completion of the decision and document such notifications in the reentrant progress notes. Such notifications shall include whether the:
44. Allegation has been determined to be substantiated, unsubstantiated or unfounded;
45. Employee or reentrant alleged to have committed the sexual abuse is no longer within the reentrant’s program or facility;
46. Employee or reentrant alleged to have committed the sexual abuse is indicted and/or convicted on a charge related to sexual abuse due to the reentrant’s allegation.
47. Upon receipt of a Serious Incident that constitutes an emergency grievance, CIC shall contact the Director of Investigations immediately upon receiving the verbal and/or written report. The Director of Investigations or his or her designee shall provide an initial response within 48 hours and a final decision within 5 calendar days documenting whether or not the reentrant is subject to a substantial risk of imminent sexual abuse and what action should be taken in response to the emergency grievance.
48. All TH investigations shall be documented in written reports that include a description of the physical, documentary, and testimonial evidence, facts and findings. The reports shall also contain the reasoning behind credibility assessments. No standard higher than preponderance of the evidence in determining whether or not such allegations occurred may be used. Reports will make formal investigative findings, and also detail any corrective action necessary, and will note whether management employee acts or omissions contributed to the abuse if abuse is found.
49. Investigative reports shall be retained for as long as the alleged abuser is within DOC custody, if a reentrant, or employed by the agency, plus five years.
50. After investigation, if it is determined that a reentrant intentionally made false allegations and did not act in good faith based upon a reasonable belief, program behavior management systems should be utilized to address the reentrant’s behavior.
51. The following shall not be grounds to terminate an investigation:
52. Withdrawal of the complaint;
53. Failure of the reentrant to continue with an allegation of sexual abuse, sexual harassment, boundary violation or retaliation;
54. Departure of the abuser or victim from employment or DOC custody or supervision.
55. Unless the allegation is unfounded, the Administrative Team and PREA Compliance Manager will conduct an incident review within thirty (30) days of the conclusion of the investigation. Al the conclusion of the incident review a report shall be prepared of its findings, including but not limited to the determinations identified in 8.(i) – (v) and any recommendations for improvement and submitted to the Location Manager and PREA Coordinator. The incident review shall include input from shift administrators, investigators, and health services. As appropriate and consider the following:
56. Whether the allegation or investigation indicates a need to change a policy or practice to better prevent, detect, or respond to sexual abuse;
57. Whether the incident or allegation was motivated by the victim’s race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status or gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility;
58. Whether a physical examination of the area in the facility where the incident allegedly occurred reveals any physical barriers in the area that may enable abuse;
59. The adequacy of staffing levels in the area during different shifts;
60. Whether monitoring technology should be deployed or improved to supplement supervision by staff; and
61. On an annual basis, the Director of Investigations in coordination with the PREA Coordinator shall aggregate sexual abuse data from the serious incident database and incident review submitted pursuant to section E.8 in order to prepare an annual report. Such annual report shall:
62. Identify any problem areas;
63. Include corrective action plans of each facility and agency as a whole; and
64. Compare the current ear’s data and corrective action plans to the prior year’s with an assessment of progress made in addressing sexual abuse.
65. **Practices Under PREA**
66. When necessary, but no later than once each year, the PREA Coordinator shall assess, determine and document whether adjustments are needed to staffing plans, staffing patterns or video monitoring systems resources.
67. Supervisory employees in all programs shall be proactive in the prevention of sexual abuse and harassment when making roommate and bed selections for reentrants.
68. Employees shall consider every request by a reentrant for a bed change and discretely inquire whether the reentrant is feeling unsafe. If the reentrant reports feeling unsafe, the employee should bring this to the attention of a supervisor and case manager for further review.
69. **Training Requirements**
70. All new employees with direct care responsibilities shall receive training in this policy through DOC/TH Basic Training.
71. Responsibilities under PREA and this policy;
72. Reentrant’s right to be free from sexual boundary violations, sexual abuse and sexual harassment; and reentrant and employees’ right to be free from retaliation for reporting violations of this policy;
73. How to detect and respond to signs of threatened and actual sexual abuse, how to distinguish between boundary violations and sexual abuse between reentrant and how to avoid inappropriate relationships with reentrants;
74. How to communicate effectively and professionally with reentrants.
75. TH Training Unit shall provide, at minimum, a refresher training every year to current employees.
76. Volunteers and interns who may have contact with reentrants shall receive training on this policy either through Basic Training or the Volunteer Orientation Training.
77. TH employees shall attend the trainings detailed above in section 1-3 or as otherwise determined by the Director of the DOC Training Academy.
78. Those attending the trainings listed above shall sign an acknowledgement after such trainings that they understand and will follow the training received.

**APPROVALS**

| **Approver’s Name** | **Approver’s Signature** |
| --- | --- |
| Richard Metzger |  |