

POLICY TITLE:	PREA (Prison Rape Elimination Act)
DEPARTMENT:	Administration
EFFECTIVE DATE:	December 2021

Policy: Turning Point Recovery Centers' (TPRC) shall maintain a zero tolerance towards all forms of sexual abuse and sexual harassment. Any person who becomes aware of or suspects sexual abuse, or sexual harassment must report it immediately to the Program Director. All residents and staff have the right to work in an environment free of sexual harassment and sexual abuse.

Definitions:

A. SEXUAL ABUSE. For the purposes of this policy, sexual abuse shall be defined as the following conduct between persons regardless of gender. There are two categories of sexual abuse:

1) Sexual abuse of a resident by another resident includes 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:

a) Any intentional touching or contact, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to physical altercation. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and:

2) Sexual abuse of a resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the resident:

- a) Any 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. 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;
- b) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraph (a) of this section;
- c) Any display by a staff member, contractor, vendor or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a resident, and;
- d) Voyeurism by a staff member, contractor, or volunteer.

B. SEXUAL HARASSMENT. Sexual Harassment is defined as repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a staff member, contractor, volunteer, or another resident directed toward a resident.

C. PREA. (Prison Rape Elimination Act).

D. EXIGENT CIRCUMSTANCES. Any set of temporary and unforeseen circumstances that require immediate action in order to prevent a threat to the safety or security of the facility.

E. PREPONDERANCE OF THE EVIDENCE. Proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more probably true than not.

1. Prevention Planning

A. PREA COORDINATOR

- 1) The PREA coordinator's responsibilities include:
 - a) Ensure compliance with the Prison Rape Elimination Act policies and standards
 - b) Develop and implement a PREA training plan.
 - c) Monitor intake screening procedures.
 - d) Ensure all incidents of sexual abuse are referred to the appropriate law enforcement authorities.
 - e) Ensure reports and investigations are conducted on all incidents of sexual abuse or sexual harassment.
 - f) Maintain data collection of incidents and coordinate reporting of such to MDOC.
 - g) Review all incidents and take appropriate actions to prevent any future occurrences

B. STAFFING PLAN

1) TPRC shall develop a staffing plan to provide adequate staffing levels and where applicable, video monitoring to ensure staff and resident safety and to protect residents against sexual abuse. When developing the staffing plan, the facility shall take into account the layout, composition of the resident population, and any other relevant factors.

2) Anytime there are deviations in the staffing plan, the Program Director or designee shall document the deviation and justify the reason.

3) Whenever necessary, but at least once a year, the PREA Coordinator shall, in conjunction with the Program Director and Chief Executive Officer shall assess, determine and document whether adjustments are needed to the staffing plan, video and other monitoring technology, and the resources the facility has available to adhere to the staffing plan.

C. CROSS GENDER VIEWING AND SEARCHES

1) All residents shall be able to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender. Staff of the opposite gender are not allowed (without being accompanied by a same gender staff) to enter an area where residents are likely to be showering, performing bodily functions, or changing clothing.

2) Cross gender pat downs, strip searches and body cavity searches are prohibited.

3) Staff shall not search or physically examine a transgender or intersex resident for the sole purpose of determining genital status.

D. HIRING AND PROMOTION DECISIONS

1) All employees shall have a criminal background check completed at the time of employment, prior to any promotion, and annually thereafter. All new employees will be appropriately screened by human resources staff before starting employment and are required to disclose any previous misconduct of a sexual nature, whether engaging in, or having attempted to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion; or if the employee has been civilly or administratively adjudicated to have engaged in any of this activity. Material omissions regarding misconduct, or providing false information shall be grounds for termination.

2) All staff must continue to disclose any sexual misconduct 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.

3) Incidents of sexual harassment will be considered when deciding to hire or promote an individual.

4) All volunteers and contractors shall have a criminal background check completed prior to having contact with any resident. Any volunteer or contractor involved in sexual misconduct 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 shall not be enlisted to provide services to any residents.

D. RESIDENTS WITH DISABILITIES AND RESIDENTS WHO ARE LIMITED ENGLISH PROFICIENT

1) All residents will have every opportunity to participate in all aspects of sexual abuse and sexual harassment prevention, detection and response. The program shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities or limited English proficient.

2) Interpretation services will be provided as needed. Resident interpreters will not be utilized for any investigation aspects of reported sexual abuse or harassment except where an extended delay in obtaining an effective interpreter could compromise resident's safety or performance of first responders or investigation of resident's allegation. Any use of resident interpreters must be documented.

F. UPGRADE TO FACILITIES AND TECHNOLOGIES

1) TPRC will ensure any substantial modification of existing facility will consider the effect of the design or modification in protecting residents from sexual abuse. Any video equipment upgrade will also consider the Program's ability to protect residents from sexual abuse.

2. Response Planning

A. EVIDENCE PROTOCOL AND MEDICAL EXAMINATIONS

1) Upon notification of any incident of sexual abuse or sexual assault, staff shall secure the scene of the incident, and at a minimum not allow the alleged victim or alleged abuser to shower, toilet, eat, drink, or change clothes.

2) Upon notification, the PREA Coordinator or designee will contact the appropriate law enforcement agency who will conduct and coordinate the investigation. The PREA Coordinator or designee shall, in conjunction with law enforcement staff make transportation arrangements for the alleged victim to receive appropriate medical care at a local hospital where SAFE/ SANE staff are available.

3) Community based victim services will be made available to victims in addition to Department of Correction Medical and Mental Health Services as needed.

B. POLICIES TO ENSURE REFERRALS OF ALLEGATIONS FOR INVESTIGATION

1) All incidents of sexual abuse or sexual harassment will be investigated. Any incident involving potential criminal behavior will be immediately reported to local law enforcement for criminal investigation. The PREA Coordinator shall ensure any report of sexual abuse or sexual harassment determined to be a non-criminal matter by law enforcement will be investigated at the facility level.

2) The PREA coordinator will also ensure the Mi Department of Correction (Parole) is notified of any incidents of sexual abuse or sexual harassment. This information shall be made available on the MDOC website.

3. Training and Education

A. EMPLOYEE TRAINING

- 1) During employee orientation and annually thereafter, staff shall receive the following PREA training:
 - a. The facility's zero tolerance for all forms of sexual abuse and sexual harassment;
 - b. How to fulfill their responsibilities in regards to prevention, detection, reporting, and response;
 - c. The resident's right to be free from of sexual abuse and sexual harassment;
 - d. The resident's and staff member's right to be free from retaliation for reporting sexual abuse and sexual harassment
 - e. The dynamics of sexual abuse and sexual harassment in residential settings, including determining which residents are most vulnerable,
 - f. The common reactions of sexual assault or sexual abuse victims;
 - g. How to avoid inappropriate relationships with residents;
 - h. How to communicate effectively and professionally with all residents, and
 - i. How to comply with relevant laws related to the mandatory reporting of sexual abuse to authorities

2) Staff shall sign a training document acknowledging that they understand the training.

3) PREA training addresses factors pertaining to both males and females

B. VOLUNTEER AND CONTRACTOR TRAINING

- 1) All volunteers or contractors who will be working unaccompanied by staff with residents will receive the same training as noted above for employees.
- 2) All volunteers and contractors who will be working unaccompanied by staff with shall sign an acknowledgment that they have received PREA training and that they understand the PREA policy.
- 3) Volunteers or contractors who have not had background checks conducted will not have contact with residents and will be escorted and supervised by a staff member at all times when in resident areas. Prior to entry to the facility they will receive some basic PREA training.
- 4) An individual may, at one point in time, not fall into the category above. However, a change in that person's job duties, privileges, or policies and procedures may result in him or her having contact with residents. If such a change occurs, the requirements for background checks and PREA training become immediately applicable to that individual.

C. RESIDENT EDUCATION

1) During intake orientation, all residents will receive a resident handbook, and a facility handout containing information about PREA. All residents shall sign an acknowledgment that they have received the handbook and the PREA handout which contain the following information:

- a. The facility's zero tolerance policy regarding sexual abuse and sexual harassment; how to report incidents or suspicions of sexual abuse, sexual harassment; their rights to be free from sexual abuse and sexual harassment; their rights to be free from retaliation for reporting such incidents; and agency policy and procedures for responding to such incidents.

D. SPECIALIZED TRAINING: INVESTIGATIONS

1) It is the policy of TPRC that any criminal act is referred and reported to local law enforcement and the MDOC (Parole)

E. SPECIALIZED TRAINING: MEDICAL AND MENTAL HEALTH CARE

1) TPRC does not employ medical staff. All medical and mental health services are referred to the local hospital, or appropriate community service organization

F. SCREENING FOR RISK OF VICTIMIZATION AND ABUSIVENESS

1) All residents shall be assessed upon admission to the TPRC program. Intake screening shall be conducted immediately upon arrival but no later than 72 hours after arrival.

2) Resident screening shall be completed utilizing the PREA intake screening assessment and shall at a minimum consider:

- a. The resident's age, physical build;
- b. Any physical, mental, or development disabilities;
- c. If the resident has been previously incarcerated, or whether the resident has previously experienced sexual victimization;
- d. The residents own perception of vulnerability;
- e. If the resident is perceived as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- f. Any prior convictions for sex offenses against an adult or child

3) Residents will not be disciplined for refusing to answer or discuss information requested by the intake form

4) Risk Factors for victimization include residents that are:

- a. Transgender/transsexual
- b. Sex offenders
- c. Homosexual
- d. Bisexual
- e. Younger than the general population
- f. Frail, small of stature or petite
- g. Mentally ill
- h. Developmentally disabled
- i. Physically, mentally, cognitively or communicatively impaired
- j. First time offender
- k. Has a history of sexual abuse/victimization

5) Risk factor for predation:

- a. History of previous behavior
- b. Long history of incarceration
- c. Large physical build
- d. Aggressive demeanor

6) All residents will be reassessed for risk of sexual victimization or of being sexually abusive 30 days after their admission or in the event of a referral, request, or incident; based upon any additional, relevant information since intake. Question regarding previous sexual abuse, concerns about safety, sexual orientation and gender identity will be reviewed face to face with staff and documented in the resident's record.

G. USE OF SCREENING INFORMATION

1) The facility shall make individual determinations on a case by case basis about how to ensure the safety of all residents and shall utilize the screening information to determine housing, work, education, and programming assignments.

2) Transgender and intersex residents' own views with respect to his or her safety shall be given serious consideration in housing assignments. Transgender and intersex residents shall be given the opportunity to shower separately from other residents, and shall not be placed in a dedicated unit solely based on their identification status.

4. REPORTING

A. RESIDENT REPORTING

1) At intake all residents will be advised of all reporting options available to report sexual abuse, sexual harassment, retaliation, staff neglect, or other violations that may have contributed to an incident through the Resident Handbook issued upon arrival.

2) Residents shall also receive information on how to privately report any such information to public or private agencies while remaining anonymous. At the time of intake and orientation, the resident shall be provided with numbers and addresses for victim advocate services along with toll free rape crisis hot line numbers. As well, the information is posted throughout the program facilities.

3) Residents shall also be notified that any staff member must accept and promptly document any report made verbally, in writing, anonymously, or from a third party.

B. STAFF REPORTING

1) Staff members shall be provided a method to privately report sexual abuse or sexual harassment of residents. Methods of reporting shall include in-person, phone, mail, email, fax or any means by which the staff person feels comfortably in reporting to supervisory level staff, the PREA Coordinator. Staffs are expected to report any knowledge or suspicion of abuse. The methods of reporting are expected to vary based on the situation and the individual involved. Should there be any question as to the most appropriate method; the PREA Coordinator or Supervisor should be contacted.

C. EXHAUSTION OF ADMINISTRATIVE REMEDIES

1) PREA related issues are subject to the grievance procedure.

D. RESIDENT ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES

1) Residents are provided contact information to outside victim advocates and support services when requested. Any resident may call the National Sexual Assault Hotline toll-free number at any time.

2) Resident phone calls are not monitored or recorded. All calls are confidential.

E. THIRD PARTY REPORTING

1) Any third party reports of sexual abuse may be made via telephone, fax, email, or in person. The facility email address, telephone and facsimile numbers are available publicly on TPRCs website.

5. OFFICIAL RESPONSE FOLLOWING RESIDENT REPORT

A. STAFF AND AGENCY REPORTING DUTIES

1) All staffs are required to report any instance of alleged or actual sexual abuse or sexual harassment, retaliation, or staff neglect to their Program Director, next level supervisor or the PREA Coordinator immediately. Staff members shall not reveal any information related to the report to anyone other than the extent necessary.

2) The PREA coordinator or designee will ensure appropriate law enforcement is contacted on all criminal matters for investigation. The MDOC as appropriate shall also be notified of any incidents or allegations of sexual abuse or sexual harassment.

B. AGENCY PROTECTION DUTIES

1) Upon receiving any information that a resident is subject to or at risk of sexual abuse the Program Director, PREA Coordinator and CEO will be notified and appropriate action will be taken to protect the resident.

C. REPORTING TO OTHER CONFINEMENT FACILITIES

1) Upon receiving information or allegation that a resident was sexually abused while confined at another facility, the Program Director shall notify the MDOC Parole, and the facility head of the facility from which the inmate arrived and, if a Community Confinement facility, the head of that facility will be notified immediately (but no later than 72 hours after receiving the allegation) and an incident report completed documenting such notification.

D. STAFF FIRST RESPONDERS

1) Upon learning of an allegation that an resident was sexually abused, the first responding staff member shall separate the alleged victim and abuser ensuring that neither showers, bathes, eats, drinks, uses the toilet, or changes clothes if the abuse occurred within a time period that still allows for the collection of physical evidence.

2) The staff member will also secure the crime scene to preserve any physical evidence available and make appropriate notifications.

E. COORDINATED RESPONSE

1) Coordinated response plans are available for each TPRC Residential Work Release / Reentry Center. See program's response plan

F. PRESERVATION OF ABILITY TO PROTECT RESIDENTS FROM CONTACT WITH ABUSERS:

1) TPRC shall not enter into or renew any collective bargaining agreement or other agreement that limits the facility's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

G. AGENCY PROTECTION AGAINST RETALIATION

1) It is TPRC's policy that all residents or staff who report sexual abuse or sexual harassment, or cooperate with a sexual abuse or sexual harassment investigation will be protected from retaliation by other residents or staff.

2) The PREA Coordinator shall monitor the conduct and treatment of any resident or staff member who reported the abuse to see if there are changes that may suggest possible retaliation. Monitoring shall be conducted for at least 90 days but shall be extended beyond 90 days if there is a continuing need.

3) The PREA Coordinator shall conduct periodic status checks and take any necessary protective measures to ensure resident and staff safety.

4) Retaliation monitoring shall be conducted for any person that expresses fear of retaliation for participating in a sexual abuse or sexual harassment investigation.

5) If the original allegation is unfounded, the facility is no longer under obligation to monitor.

6. INVESTIGATIONS

A. CRIMINAL AND ADMINISTRATIVE AGENCY INVESTIGATIONS

1) The PREA Coordinator or designee shall investigate promptly, thoroughly, and objectively all allegations of sexual abuse or sexual harassment including those from a third party.

2) Any allegation determined to be criminal in nature shall be immediately reported to law enforcement for investigation. If law enforcement determines there is no criminal activity, the facility will conduct its own administrative investigation into the incident.

3) An administrative investigation shall be documented listing all findings including a determination whether staff actions or failures to act contributed to the incident.

4) The investigator shall make an effort to determine whether staff actions or failures to contributed to the abuse and that the written reports will include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

5) A criminal investigation shall be conducted by law enforcement officials. Facility staff shall cooperate with and assist with any request made by law enforcement. The PREA Coordinator shall endeavor to remain informed about the progress of the investigation.

6) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

7) Written investigation reports shall be retained for as long as the alleged abuser remains at the facility, or employed by the organization, plus five years.

B. EVIDENTIARY STANDARD FOR ADMINISTRATIVE INVESTIGATIONS

1) The facility shall impose no standard higher than the preponderance of evidence in determining whether allegations of sexual abuse or sexual assault are substantiated.

C. REPORTING TO RESIDENTS

1) It is the policy of TPRC that residents shall be informed of the outcome of an investigation whether the allegation was determined to be substantiated, unsubstantiated, or unfounded. Furthermore, any action taken against a staff member or any knowledge about convictions or criminal charges against a resident abuser shall be reported to the resident victim. All victim notifications will be documented in an incident report.

7. DISCIPLINE

A. SANCTIONS ON STAFF

1) Any staff member found in violation of sexual assault will be terminated immediately.

2) Any staff member found to be in violation of sexual assault shall be subject to disciplinary sanctions up to and including termination.

3) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

4) Licensed staff will be reported to the appropriate licensing agency.

4) Any staff member found to be guilty of sexual assault will be reported to law enforcement regardless if the staff member resigns.

B. CORRECTIVE ACTION FOR CONTRATORS AND VOLUNTEERS

1) Any contractor or volunteer who engages in sexual assault, sexual abuse, or sexual harassment shall be prohibited from contact with residents and local law enforcement will be contacted unless the activity is determined to be non-criminal. TPRC shall discontinue the services of Contractors, Volunteers or Interns who have engaged in sexual abuse and/or harassment.

2) Appropriate remedial measures up to and including termination of services will be taken on violations of sexual abuse or sexual harassment by contractors or volunteer on non-criminal incidents.

3) All incidents will be reported to relevant licensing bodies

C. DISCIPLINARY SANCTIONS FOR RESIDENTS:

1) Residents will be subject to disciplinary sanctions or remanded back to the MDOC following an administrative finding that the resident engaged in sexual assault, sexual abuse or sexual harassment of another resident. Any resident criminally charged will be remanded.

2) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.

3) The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

8. MEDICAL AND MENTAL HEALTH CARE

A. ACCESS TO MEDICAL AND MENTAL HEALTH CARE:

1) Victims of sexual abuse will receive timely unimpeded access to emergency medical treatment and crisis intervention services at no cost to the resident regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

2) TPRC does not employ medical or mental health staff. Any victim of sexual assault or sexual abuse will be transported to a local hospital for appropriate treatment and information about sexually transmitted diseases in accordance with professionally accepted standards of care by SAFE/SANE qualified staff.

ONGOING MEDICAL AND MENTAL HEALTH CARE FOR VICTIMS AND ABUSERS

1) Continued medical and mental health treatment for victims and abusers will be provided by MDOC or local medical facilities as deemed appropriate at no cost to the resident(s).

9. DATA COLLECTION AND REVIEW

A. SEXUAL ABUSE INCIDENT REVIEWS

1) The PREA Coordinator in consultation with the Incident Review Team, which includes the CEO, Program Director, PREA Coordinator, and other pertinent individuals, will conduct an incident review within 30 days of the conclusion of all sexual abuse investigations including allegations that are found to be unsubstantiated.

2) The Incident Review Team shall consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or was motivated or otherwise caused by a group of dynamics at the facility

3) The Incident Review Team shall examine the area where the incident allegedly occurred to assess whether physical barriers in the area enabled the abuse; assess staffing levels; assess use of monitoring equipment; and prepare a report of its findings and recommendations for improvement.

4) Based on the review of an incident, appropriate corrective actions shall be taken as determined by the Incident Review Team.

B. DATA REVIEW FOR CORRECTIVE ACTION

1) TPRC shall collect accurate, uniform data for every allegation of sexual abuse that has taken place in each of its programs/facilities. Data shall be aggregated according to facility as well as the agency as a whole. A standardized tool shall be used, which answers all of the questions from the most recent Survey of Sexual Violence conducted by the Department of Justice. The following shall be collected on each alleged report:

- On each alleged report, creating a total number of reports and their outcome
- What type of alleged harassment / abuse occurred - client on client, client on staff, staff on client, staff on staff
- What Type of Client - originating referral source

- Type of abuse or harassment – nonconsensual sexual acts, abusive sexual contact, sexual harassment, sexual misconduct...
- Was the alleged claim of sexual harassment /abuse substantiated, unfounded, or the investigation is still on going
- Contributing factors – race, gang affiliation, sexual identity, sexual orientation, physical plan issues, staff supervision, violation of Codes of Ethics

2) Data shall be aggregated and presented in an annual report. The facility shall prepare an annual report of its findings and corrective actions. The report shall include a comparison of the current year's data with those of previous years and shall provide an assessment of the facility's progress in addressing sexual abuse.

3) The annual report shall be approved by the CEO and shall be made readily available to the public through its website or other means upon request

C. DATA STORAGE, PUBLICATION AND DESTRUCTION

1) TPRC shall collect data and maintain records of all incidents related to sexual abuse and sexual harassment whether alleged or actual. The data collected shall include, 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.

2) Prior to making the data public, all personal identifiers shall be redacted. This data, minus redactions, shall also be provided to the MDOC for inclusion in their annual report.

3) Records will be maintained for at least 10 years after the date of initial collection.

10 . AUDITS

1) Audits will be scheduled every 3-years and will follow Department of Justice Community Confinement Standards 115.401-405

Scope:

- ❖ Advisory Board
- ❖ Chief Executive Officer
- ❖ Program Director
- ❖ PREA Coordinator