

Nueces County Juvenile Department	Policy and Procedures Date Revised 10-19
Section: Standards for Juvenile Facilities	PREA Standards: 115.5 General Definitions.

§ 115.5 General definitions

For purposes of this part, the term—

Agency means the unit of a State, local, corporate, or nonprofit authority, or of the Department of Justice, with direct responsibility for the operation of any facility that confines inmates, detainees, or residents, including the implementation of policy as set by the governing, corporate, or nonprofit authority.

Agency head means the principal official of an agency.

Community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

Contractor means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency.

Detainee means any person detained in a lockup, regardless of adjudication status.

Direct staff supervision means that security staff are in the same room with, and within reasonable hearing distance of, the resident or inmate.

Employee means a person who works directly for the agency or facility.

Exigent circumstances mean any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Facility means a place, institution, building (or part thereof), set of buildings, structure, or area (whether enclosing a building or set of buildings) that is used by an agency for the confinement of individuals.

Facility head means the principal official of a facility.

Full compliance means compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.

Gender nonconforming means a person whose appearance or manner does not conform to traditional societal gender expectations.

Inmate means any person incarcerated or detained in a prison or jail.

Intersex means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Jail means a confinement facility of a Federal, State, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges for sentences of one year or less, or persons adjudicated guilty who are awaiting transfer to a correctional facility.

Juvenile means any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.

Juvenile facility means a facility primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.

Law enforcement staff means employees responsible for the supervision and control of detainees in lockups.

Lockup means a facility that contains holding cells, cell blocks, or other secure enclosures that are:

- (1) Under the control of a law enforcement, court, or custodial officer; and
- (2) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Medical practitioner means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Mental health practitioner means a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. A “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims.

Pat-down search means a running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the individual possesses contraband.

Prison means an institution under Federal or State jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.

Resident means any person confined or detained in a juvenile facility or in a community confinement facility.

Secure juvenile facility means a juvenile facility in which the movements and activities of individual residents may be restricted or subject to control using physical barriers or intensive staff supervision. A facility that allows residents access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, typically will not be a secure juvenile facility.

Security staff means employees primarily responsible for the supervision and control of inmates, detainees, or residents in housing units, recreational areas, dining areas, and other program areas of the facility.

Staff means employees.

Strip search means a search that requires a person to remove or arrange some or all clothing to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender means a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Substantiated allegation means an allegation that was investigated and determined to have occurred.

Unfounded allegation means an allegation that was investigated and determined not to have occurred.

Unsubstantiated allegation means an allegation that was investigated, and the investigation produced insufficient evidence to make a final determination as to whether the event occurred.

Volunteer means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

Youthful inmate means any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

Youthful detainee means any person under the age of 18 who is under adult court supervision and detained in a lockup.

Nueces County Juvenile Department	Policy and Procedures Date Revised 10-19
Section: Standards for Juvenile Facilities	PREA Standards: 115.6 Definitions related to Sexual abuse

§ 115.6 Definitions related to sexual abuse

For purposes of this part, the term—

Sexual abuse includes—

- (1) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
- (2) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.

Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or 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:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, 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 an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, 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 staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other 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;

(6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;

(7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(8) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual harassment includes—

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Nueces County Juvenile Department	Policy and Procedures Date Revised 10-19
Section: Standards for Juvenile Facilities	PREA Standards: 115.311 zero Tolerance of Sexual abuse and Sexual harassment

§ 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.

(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with enough time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all its facilities.

(c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with enough time and authority to coordinate the facility’s efforts to comply with the PREA standards.

Prison Rape Elimination Act (PREA) was created in 2003 to establish a zero-tolerance policy for the elimination, reduction, and prevention of sexual abuse and sexual harassment within correctional systems. The Nueces County juvenile Justice Center (NCJJC) is committed to maintaining a zero-tolerance policy regarding sexual abuse and sexual harassment. As a resident of this facility, everyone has the right to be free from sexual abuse, sexual harassment, neglect, and exploitation. This includes not being subjected to sexually assaultive, abusive, and or harassing behavior from staff and other residents and outside contract workers or visitors. Residents with disabilities are afforded the same rights and will be provided access to interpreters, presented material to effectively communicate with those residents who have intellectual disabilities, limited reading skills, blind, or have low vision. Residents will have access to interpreters who can interpret effectively, accurately, and impartially. They will be both receptive and expressive using any necessary specialized vocabulary. Interpreters will be provided through local community resources. Residents with disabilities have equal opportunity to participate in and benefit from all aspects of NCJJC’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. NCJJC is a secure facility and there is NO such thing as consensual sex, meaning no person regardless of age can “agree” to have sex or sexual contact with staff or another resident. If the facility learns that a resident is subjected to or at a substantial risk of imminent sexual abuse, the facility shall take immediate action to protect the resident. Within this policy all references to sexual abuse will also include sexual harassment, as appropriate. The NCJJC 1st Assistant Chief will be designated as the PREA Coordinator. The PREA Coordinator shall have enough time and authority to develop, implement, and oversee efforts to comply with the PREA standards. All residents, staff, and outside contractors and workers will be trained to identify PREA. Staff along with a camera system, a grievance procedure for residents along with staff and outside visitors will be utilized to identify violations with PREA. Residents will have access to a phone to call TJJD to report any problems they feel meets PREA. Staff will be trained periodically to help remind them of how PREA works and what to do in case they are in a PREA situation. Residents will be given on going curriculum regarding PREA so that they may report any instances that may arise. Supervisor’s meetings are held weekly. If any PREA activity has occurred, supervisors will discuss the incident.

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Sexual harassment includes—

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(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

1. Any resident is found to have engaged in a PREA level violation, depending on the nature of the offense, may have new charges implemented, sanctions in the program may be implemented and their housing level changed.
2. Staff who engage in PREA violations depending on the nature of the offense may be terminated with additional charges filed with local law enforcement. Their certification with the State of Texas will also be terminated.
3. The Nueces County Juvenile Justice Center will designate their 1st Assistant Chief as their agency wide PREA Coordinator. The coordinator will be responsible for developing, implementing, and overseeing agency efforts to comply with the PREA standards throughout all facilities.
4. The Nueces county Juvenile Justice Center does operate multiple units. The detention facility and the post adjudication facility will be utilized Jennifer Gutierrez as the compliance manager. The training coordinator for probation will help coordinate the facilities compliance with PREA with both the probation department and the JJAEP as well. The detention superintendent as well as the post superintendent will act as PREA managers and will report to the PREA Coordinator.
5. The facilities for the Nueces County Juvenile Justice Center will have ongoing education for juveniles and staff regarding PREA. Juveniles are assessed upon intake. Juveniles will be classified as to their housing assignments after their intake. Juvenile offenders are shown the PREA video during intake and at various times during the month. Residents will also be educated on the grievance process along with TJJD's automated phone grievance procedure. Once a child has made a complaint, an immediate investigation will take place. The PREA compliance manager and managers will begin the investigation by collecting all relevant information, including reports from those involved and video surveillance. The child's needs will be considered first. If the child needs to be safeguarded for safety, they will be. If a staff or volunteer or outside entity may be the perpetrator, they will be removed from the facilities until such time that the investigation is complete, and all findings are presented.

<p>Nueces County Juvenile Department</p>	<p>Policy and Procedures Date Revised 10-19</p>
<p>Section: Prevention and Planning</p>	<p>PREA Standards: 115.312 Contracting with other entities for the confinement of residents</p>

§ 115.312 Contracting with other entities for the confinement of residents

- (a) A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.
- (b) The Nueces county Juvenile Justice Center does contract with outside entities for the confinement of its residents. The Nueces County Juvenile Justice Center will include PREA language in all its contracts with private agencies, government agencies or entities that confine residents.
- (c) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.
- (d) All contracts what are renewed and or developed as a new contract will have provisions in the contract that provide for contract monitoring in order to ensure that PREA standards are being complied with. The Nueces County Juvenile Justice Center will also have its placement officer upon visiting placements ensure that the contracting placements are complying with PREA

Nueces County Juvenile Department	Policy and Procedures Date Revised 10-19
Section: Standards for Juvenile Facilities	PREA Standards: 115.313 Supervision and Monitoring

§ 115.313 Supervision and monitoring

(a) The agency shall ensure that each facility it operates shall develop, implement, and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- (1) Generally accepted juvenile detention and correctional/secure residential practices;
- (2) Any judicial findings of inadequacy;
- (3) Any findings of inadequacy from Federal investigative agencies;
- (4) Any findings of inadequacy from internal or external oversight bodies;
- (5) All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated);
- (6) The composition of the resident population;
- (7) The number and placement of supervisory staff;
- (8) Institution programs occurring on a shift;
- (9) Any applicable State or local laws, regulations, or standards;
- (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (11) Any other relevant factors.

(b) The agency shall comply with the staffing plan except during limited and discrete exigent circumstances and shall fully document deviations from the plan during such circumstances.

(c) Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of this final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.

(d) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.311, the agency shall assess, determine, and document whether adjustments are needed to:

- (1) The staffing plan established pursuant to paragraph (a) of this section;
 - (2) Prevailing staffing patterns;
 - (3) The facility's deployment of video monitoring systems and other monitoring technologies; and
 - (4) The resources the facility has available to commit to ensure adherence to the staffing plan.
- (e) Each secure facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

Staffing requirements will meet the Texas Juvenile Justice Department Standards.

- (a) The facility-wide juvenile supervision officer-to-resident ratio shall not be less than:
- (1) one juvenile supervision officer to every eight residents during program hours; and
 - (2) one juvenile supervision officer to:
 - (A) every 20 residents during non-program hours if the post-adjudication facility is not located in the same building as a pre-adjudication facility; or
 - (B) every 18 residents during non-program hours if the post-adjudication facility is in the same building as a pre-adjudication facility.
 - (b) For a juvenile supervision officer to count in the facility-wide ratio, the officer shall always be present on the facility premises.

When residents are participating in any programming or activity on the facility premises but not inside a SOHU or MOHU:

- (1) residents shall be in the constant physical presence of a juvenile supervision officer; and
- (2) there shall be at least one juvenile supervision officer for every 12 residents participating in the program or activity

(a) While residents are in a SOHU during program hours, they shall be in the constant physical presence of a juvenile supervision officer unless:

- (1) the residents are placed in their individual sleeping quarters, in which case a juvenile supervision officer shall observe and document each resident's behavior at random intervals not to exceed 15 minutes; or
- (2) an exception in §343.638 of this title applies.

(b) While residents are in a SOHU during non-program hours, a juvenile supervision officer shall visually observe each resident at random intervals not to exceed 15 minutes. (c) Juvenile supervision officers shall

document each visual observation made. The documentation shall include the time of the observation and generally describe the resident's behavior.

(a) While residents are in a MOHU,

residents shall be in the constant physical presence of a juvenile supervision officer during program and non-program hours.

(b) Juvenile supervision officers shall document general observations of dorm activity at intervals not to exceed 30 minutes. Texas

PREA Standards:

Each secure facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which will be fully documented. Only security staff shall be included in these ratios.

Unannounced Rounds:

Shift supervisors will conduct and document unannounced rounds at least once daily during the morning or night shift to identify and deter staff sexual abuse and harassment. Staff will not be alerted to the unannounced unscheduled rounds occurring. The shift Juvenile supervision officer will document the unannounced round on the supervisor's unit check log to be maintained in the JSO supervisor's office. These rounds are to deter staff from being able to sexually abuse or harass residents.

Video Surveillance:

The facility utilizes video monitoring systems throughout the facility. Whenever necessary, the video will be used to help alleviate blind spots where sexual abuse could prevail. Consultation with the PREA Coordinator and the PREA Manager's from each facility shall be conducted yearly or anytime a PREA event is reported. These meetings will be documented.

PREA Facility Review:

The PREA team will review and assess the facilities to determine and document whether adjustments are needed to the;

1. Staffing plan
2. Prevailing staffing patterns
3. The deployment of video monitoring systems and other monitoring technologies
4. The resources available to ensure adherence to the staffing plan
5. Digital surveillance files will be retained for 90 days.

Unit Announcement:

Unless there is an exigent circumstance staff of the opposite gender entering a unit will announce their presence when entering an area where residents are likely to be showering, performing bodily functions, and or changing. Staff will document on the unit log if an exigent circumstance has occurred.

Each secure facility shall implement a policy and practice of having intermediate level or higher level supervisors conduct and document un announced rounds to identify and deter staff from sexual abuse and

sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each secure facility shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

The Nueces County Juvenile Department will have intermediate supervisors conduct unannounced rounds periodically and document these rounds. The rounds will be done at night as well as days. It is prohibited to have staff announce that supervisors are in the building. Each facility will incorporate into their policy and procedures manual additional information pertaining to coming in on weekends and nights, as well as alerting of staff members that supervisors are in the building.

Nueces County Juvenile Department	Policy and Procedures Date Revised 10-19
Section: Standards for Juvenile Facilities	PREA Standards: 115.315 Limits to cross-gender viewing and searches

§ 115.315 Limits to cross-gender viewing and searches

(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

(b) The agency shall not conduct cross-gender pat-down searches except in exigent circumstances.

(c) The facility shall document and justify all cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat-down searches.

(d) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a resident housing unit. In facilities (such as group homes) that do not contain discrete housing units, staff of the opposite gender shall be required to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.

(e) The facility shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Searches:

Cross Gender strip or pat searches will be conducted only in exigent circumstances. (documented and justified) or when performed by LVN/ Physician/ Physician's Assistant. Staff will be trained to conduct cross gender pat down searches, and searches of transgender and intersex residents in a professional and respectful manner. This will be done in the least intrusive manner possible, consistent with security needs. The facility shall document and justify all cross gender strip searches, cross gender visual body cavity searches, and cross gender pat down searches.

1. All residents are able to shower, perform bodily functions, and change clothing without non medical staff of the opposite gender viewing their genitals, buttocks, breasts (female), except in the case of an emergency, by accident, or performing routine cell or room checks.

2. Staff shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or if necessary by learning the information as part of a broader medical exam conducted in private by a medical practitioner. Information may also be gathered through the child's guardian.
3. Body cavity search: An anal or genital body cavity search is the physical probing search of the resident's rectum and or vagina. An anal or genital cavity search shall be conducted only if there is probable cause to believe that the resident is concealing contraband. The search shall only be conducted by a licensed physician in a private room or setting.

