

POLICY 5.90 APPLYING PREA JUVENILE STANDARDS IN JR

Policy Committee Chair

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Approved



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Authorizing Sources

PL108-79, Prison Rape Elimination Act of
2003 (PREA)
28 CFR Part 115 PREA Juvenile Facility
Standards
RCW 9A.20.021
RCW 9A.44
RCW 13.40.570
RCW 26.44.030
RCW 26.44.080
WAC 110-700-0005
WAC 110-730

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I. PURPOSE AND SCOPE

This policy establishes a zero tolerance policy for any form of sexual abuse or sexual harassment of youth in the care of Juvenile Rehabilitation (JR), including youth on youth sexual assault and custodial sexual misconduct by staff. When youth are victimized, they suffer physically, psychologically and emotionally. Repercussions may be long lasting, not only for the youth, but for the families and communities to which they will return. Preventing victimization is a top priority for JR.

The policy follows the federal Prison Rape Elimination Act (PREA) Juvenile Facility Standards, which set forth standards for preventing, detecting, and reporting sexual abuse and sexual harassment, and investigating allegations. Additional standards have been incorporated to other JR policies, which are referenced in Section V.

All staff, contractors, volunteers, and interns working in or for Juvenile Rehabilitation (JR) are responsible for reviewing and complying with JR policies.

¹ 4/7/2023 Technical Edit: Updated links to JR policies due to SharePoint migration.

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II. POLICY²

STAFF AND YOUTH CONDUCT

- 1. JR has a zero tolerance for all forms of sexual abuse and sexual harassment in facilities operated directly by JR and in facilities operated under contract. (PREA Standard 115.311 (a))**
- 2. Sexual contact with a JR youth by a staff member is considered abusive and is prohibited. It may be prosecuted pursuant to RCW 9A.44.160 and RCW 9A.44.170. It must be reported in accordance with Policy 5.91, *Reporting Abuse and Neglect of JR Youth*.**
- 3. Expectations for staff conduct is guided by Policy 1.20, *Establishing Standards of Conduct for Staff*.**
- 4. Sexual intercourse or sexual contact (RCW 9A.44.010) between JR youth, even when perceived as consensual, is counter to the treatment, care and rehabilitative goals of their commitment to JR and is prohibited. Youth will be subject to disciplinary sanctions for engaging in this behavior. (PREA Standard 115.378 (g))**
 - 4.1. Sexual contact between JR youth would not be considered sexual abuse for youth disciplinary purposes (including if an investigation determines the activity was not coerced). (PREA Standard 115.378 (g))
 - 4.2. Sexual contact between individuals of sufficient age difference may be prosecuted pursuant to RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.086 and 9A.44.089.
 - 4.3. All sexual contact between JR youth will be referred to Child Protective Services in accordance with Policy 5.91, *Reporting Abuse and Neglect of JR Youth*.
 - 4.4. Youth will be disciplined subject to WAC 110-730 if sexual abuse occurs between youth.

STAFF DISCIPLINARY SANCTIONS³

- 5. Staff must be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies, (PREA Standard 115.376 (a)) Although incidents will be assessed on a case-by-case basis, termination shall be the presumptive disciplinary sanction for staff who engaged in sexual abuse. (PREA Standard 115.376 (b))**
- 6. Appointing authorities must immediately institute proceedings to terminate staff who have been found through DCYF or law enforcement investigation, guilty plea or conviction to have engaged in sexual intercourse or sexual contact with a JR youth in accordance with RCW 13.40.570. (PREA Standard 115.376 (b))**
- 7. Disciplinary sanctions for violations of DCYF or JR policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will 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. (PREA Standard 115.376 (c))**

² 4/7/2023 Technical Edit: Updated links to JR policies due to SharePoint migration.

³ 5/18/2023 Technical Edit: Added presumption of termination for sexual abuse per PREA Audit.

Policy 5.90, Applying PREA Juvenile Standards in JR 5/21/2019**8. All terminations for violations of JR sexual abuse or sexual harassment policies or resignations by staff who would have been terminated if not for their resignation must be reported to law enforcement and to any relevant licensing bodies. (PREA Standard 115.376 (d))**

- 8.1. The Superintendent, Regional Administrator or designee will complete the report to law enforcement and to relevant licensing bodies. The report will be documented and maintained at the facility.

REPORTING**9. Staff must immediately report the following without delay (PREA Standard 115.361 (a)):**

- 9.1. Any knowledge, suspicion or information they receive regarding an incident of sexual abuse or sexual harassment occurred in a jail, detention facility or JR facility,
- 9.2. Retaliation against youth or staff who reported such an incident,
- 9.3. Any staff neglect or violation of responsibilities which may contribute to an incident or retaliation.

10. Reports will be made to Child Protective Services in accordance with Policy 5.91, *Reporting Abuse and Neglect of JR Youth*, and to local administration per statements 15-16.

- 10.1. Facility administration will make a referral to the appropriate law enforcement agency with the legal authority to review the allegation for possible criminal investigation, per DCYF AP 2.01. (PREA Standard 115.322 (b))
- 10.2. JR must immediately make a referral to Child Protective Services per Policy 5.91, *Reporting Abuse and Neglect of JR Youth*.

11. Reports must be documented.

- 11.1. Allegations of sexual abuse or sexual harassment will be documented on an incident report, Child Protective Services report and Administrative Report of Incidents in the JR Automated Client Tracking (ACT) system.
- 11.2. Incidents involving staff will be marked as "restricted" to increase confidentiality within the ACT system. Incidents involving staff alleged perpetrators will automatically be restricted from general view in ACT to increase confidentiality.
- 11.3. Upon receiving any allegation of sexual abuse, the Superintendent or Community Facility Administrator or designee will immediately and without delay report to the alleged victim's parents or legal guardians, unless the facility has official documentation (such as a no-contact order or other court order) showing the parents or legal guardians should not be notified. (PREA Standard 115.361 (e)(1))
 - 11.3.1. If the alleged victim is under the guardianship of Children's Administration, the report must be made to the alleged victim's caseworker. (PREA Standard 115.361 (e)(2))

12. Youth must be provided multiple methods for reporting sexual abuse and sexual harassment, in accordance with Policy 2.10, *Handling Youth Complaints*. (PREA Standard 115.351 (a))

Policy 5.90, Applying PREA Juvenile Standards in JR 5/21/2019**13. If necessary, staff must be able to report sexual abuse and sexual harassment of youth outside their direct chain of command. (PREA Standard 115.351 (e))**

- 13.1. The receiving staff will make a report to Child Protective Services per Policy 5.91, *Reporting Abuse and Neglect of JR Youth*.
- 13.2. The Superintendent, Regional Administrator or designee will be notified the report has been made per Policy 5.91, *Reporting Abuse and Neglect of JR Youth*.
- 13.3. If there is need, the receiving staff may make the notification to the Division Director after contacting Child Protective Services.

RESPONSE**14. Upon learning of an allegation a youth was sexually abused, the first staff member to respond to the report must:**

- 14.1. Separate the alleged victim and abuser, (PREA Standard 115.364 (a)(1))
- 14.2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence. (PREA Standard 115.364 (a)(2))
- 14.3. If the abuse occurred within 120 hours, the first responder must request the alleged victim and alleged abuser not take any actions which could destroy physical evidence, including (but not limited to) washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. (PREA Standard 115.364 (a)(3-4))
- 14.4. If the first staff responder is not a security staff member, the responder shall be required to request the alleged victim not take any actions which could destroy physical evidence, and then notify security staff. (PREA Standard 115.364 (b)(1))

15. Each JR facility must have a written plan aligned with JR agency policy which guides coordinated actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership. (PREA Standard 115.365)**16. Appointing authorities must immediately remove an employee from access to any JR youth when there is an allegation of sexual misconduct, in accordance with RCW 13.40.570.****17. Youth are to be provided access to emergency and ongoing medical and mental health care as it relates to sexual abuse or sexual harassment in accordance with Policy 4.30, *Providing Health Care for JR Youth*. (PREA Standard 115.382-383)****18. Forensic medical examinations will be performed by medical providers at the local hospital. (PREA Standard 115.321 (c))****19. If a youth is subject to a substantial risk of imminent sexual abuse, the Superintendent, Community Facility Administrator, Regional Administrator or designee must take immediate action to protect the youth. (PREA Standard 115.362)**

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20. Within 72 hours of receiving an allegation a youth was sexually abused outside of JR, the Superintendent, Community Facility Administrator, Regional Administrator or designee must notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Notification must be documented. (PREA Standard 115.363 (a-c))

20.1. Notification must be given to Child Protective Services within 24 hours and to local law enforcement if appropriate. The notification must be documented. (PREA Standard 115.361 (a, c))

20.2. The JR PREA Administrator must be notified.

PREA INVESTIGATIONS

21. JR will investigate all allegations of sexual abuse or sexual harassment, regardless of the source.

21.1. An administrative or criminal investigation must be completed for all allegations of sexual abuse and sexual harassment. (PREA Standard 115.322 (a))

21.2. All allegations of sexual abuse and sexual harassment will be referred for investigation to an agency with the legal authority to conduct criminal investigations, such as Washington State Patrol or local law enforcement. (PREA Standard 115.322 (b)).

22. PREA Investigations in JR will be completed in accordance with the PREA Investigation Protocol and PREA Investigation Flow Chart (attached).

23. Allegations received from another facility or agency will be investigated in accordance with this policy. (PREA Standard 115.363 (d))

24. JR must conduct administrative investigations of allegations of sexual abuse or sexual harassment which are not investigated to a finding by law enforcement.

24.1. Designated investigators who conduct PREA-related investigations must:

24.1.1. Have experience and education in conducting sexual abuse investigations

24.1.2. Complete specialized high level, advanced training including interviewing juvenile sexual abuse victims, Miranda & Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral (PREA Standard 115.334 (b))

24.2. PREA Investigators must:

24.2.1. gather direct and circumstantial evidence, including any available electronic monitoring data;

24.2.2. identify the alleged sexual abuse type by category;

24.2.3. interview alleged victims, suspected perpetrators, and witnesses;

24.2.4. review prior complaints and reports of sexual abuse involving the suspected perpetrator (PREA Standard 115.371 (c)(1));

Policy 5.90, Applying PREA Juvenile Standards in JR 5/21/2019**24.3. Administrative investigations must:**

- 24.3.1. Include an effort to determine whether staff actions or failures to act contributed to the abuse (PREA Standard 115.371 (g)(1))
- 24.3.2. Be documented in written reports which include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative fact and findings. (PREA Standard 115.371 (g)(2))

24.4. JR will use no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. (PREA Standard 115.372 (a)(1)).

25. JR must not terminate an investigation solely because the source of the allegation recants the allegation. (PREA Standard 115.371 (d)(1))**26. JR must not terminate the investigation due to the departure of the alleged abuser or victim from employment or control of the facility or agency. (PREA Standard 115.371 (k))****27. Staff are prohibited from revealing any information related to a sexual abuse report to anyone other than those who will make treatment, investigation, security or other management decisions. (PREA Standard 115.361 (c))****28. Retaliation against youth or staff who file complaints or cooperate in investigations of allegations related to sexual abuse or sexual harassment is prohibited. (PREA Standard 115.367 (a))**

28.1. Superintendents, Regional Administrators or designees are to monitor and respond to allegations of retaliation. (PREA Standard 115.367 (a))

28.2. JR must provide multiple protection measures, such as housing changes or transfers for youth victims or abusers, removal of alleged staff or abusers from contact with victims, and emotional support services for youth or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (PREA Standard 115.367 (b))

28.3. For at least 90 days following a report of sexual abuse, JR must monitor the conduct or treatment of youth or staff who reported the sexual abuse and of youth who were reported to have suffered sexual abuse to see if there are changes which may suggest possible retaliation by other youth or staff, and must act promptly to remedy any such retaliation. (PREA Standard 115.367 (c))

28.3.1. JR must monitor any disciplinary reports, housing, or program changes, negative performance reviews or reassignments of staff. (PREA Standard 115.367 (c)). For youth, monitoring must include periodic status checks. (PREA Standard 115.367 (d))

28.3.2. JR must continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. (PREA Standard 115.367 (c))

28.4. If any other individual who cooperates with an investigation expresses a fear of retaliation, JR must take appropriate measures to protect the individual against retaliation. (PREA Standard 115.367 (e))

28.5. JR's obligation to monitor must terminate if it is determined the allegation is unfounded. (PREA Standard 115.367 (f))

Policy **5.90, Applying PREA Juvenile Standards in JR 5/21/2019****29. The Superintendent, Regional Administrator or designee must inform the victim of circumstances surrounding an allegation of sexual abuse. (PREA Standard 115.373(a))**

- 29.1. Following an investigation into a youth's allegation of sexual abuse, the Superintendent, Regional Administrator or designee must inform the victim as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
(PREA Standard 115.373(a))
- 29.2. If CPS or law enforcement conducted the investigation, JR will request the relevant information in order to inform the youth of the outcome of the investigation.
(PREA Standard 115.373(b))
- 29.3. Except when an allegation has been determined to be unfounded, following a youth's allegation he or she was sexually abused by a staff member, the Superintendent, Regional Administrator or designee must inform the youth when:
(PREA Standard 115.373(c))
 - 29.3.1. The staff is no longer employed at the facility.
 - 29.3.2. The staff has been indicted or convicted on a charge related to sexual abuse within the facility, if JR learns of the outcome.
- 29.4. Communication will be documented on the PREA Notice of Investigation Findings (DCYF Form 20-293). A copy will be given to the youth and placed in the youth's case file per DCYF AP 13.06 Records Management and Retention⁴.
- 29.5. Following a youth's allegation he or she was sexually abused by another youth, the Superintendent, Regional Administrator or designee must inform the youth whenever either of the following occur (PREA Standard 115.373(d))
 - 29.5.1. The alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility, if JR learns of the outcome.
- 29.6. Communication will be documented on the PREA Notice of Investigative Findings (DCYF Form 20-294). A copy will be given to the youth and placed in the youth's case file per DCYF AP 13.06 Records Management and Retention³.
- 29.7. The obligation to report under this standard shall terminate if the victim is discharged from JR care. (PREA Standard 115.373(f))

STAFF TRAINING**30. JR must train all employees who may have unsupervised contact with JR youth. (PREA Standard 115.331 (a)) The training must include:**

- 30.1. The zero tolerance policy for sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(1))
- 30.2. How to fulfill their responsibilities under agency policy regarding prevention, detection, reporting and response policies and procedures; (PREA Standard 115.331 (a)(2))
- 30.3. Youth rights to freedom from sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(3))

⁴ 5/4/23 Technical Edit: Updated to reference DCYf AP 13.06.

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- 30.4. The right of youth and staff to be free from retaliation for reporting sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(4))
 - 30.5. The dynamics of sexual abuse and sexual harassment in juvenile facilities; (PREA Standard 115.331 (a)(5))
 - 30.6. The common reactions of juvenile victims of sexual abuse and sexual harassment; (PREA Standard 115.331 (a)(6))
 - 30.7. How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between youth; (PREA Standard 115.331 (a)(7))
 - 30.8. How to avoid inappropriate relationships with youth; (PREA Standard 115.331 (a)(8))
 - 30.9. How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, questioning, intersex and gender non-conforming youth in accordance with DCYF Admin Policy 6.04: Supporting LGBTQIA+ Individuals⁵; (PREA Standard 115.331 (a)(9))
 - 30.10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; (PREA Standard 115.331 (a)(10))
 - 30.11. Relevant laws regarding the applicable age of consent for youth and youth allegations (PREA Standard 115.331 (a)(11))
- 31. Staff who do not have unsupervised contact with youth will receive PREA training at the appropriate level for the amount of contact they will have with youth.**
- 32. The staff training must be tailored to the unique needs and attributes of youth in JR's juvenile facilities and to the gender of the youth at the employee's facility. (PREA Standard 115.331 (b))**
- 33. JR must provide refresher training every two years to ensure awareness and compliance with current JR policies prohibiting sexual abuse and sexual harassment. Training must be documented through employee signature or electronic verification. (PREA Standard 115.331 (c-d))**
- 34. JR must verify all volunteers, interns and contractors who have contact with youth have been trained on their responsibilities under the agency's current sexual abuse and sexual harassment prevention, detection, and response policies. JR must maintain documentation confirming volunteers and contractors understand the training they have received. (PREA Standard 115.332 (a, d))**
- 34.1. The level and type of training provided to volunteers, interns and contractors must be based on the services they provide and the level of contact they have with youth. (PREA Standard 115.332 (b))
 - 34.2. All volunteers, interns and contractors must be notified of JR's zero tolerance policy regarding sexual abuse and sexual harassment and provided procedures for reporting incidents or suspicions of sexual abuse or sexual harassment. (PREA Standard 115.332 (b))

⁵ 5/4/23 Technical Edit: Updated to reference DCYF AP 6.04.

Policy **5.90, Applying PREA Juvenile Standards in JR 5/21/2019****YOUTH EDUCATION**

- 35. All youth must receive age appropriate information about sexual abuse and sexual harassment on the day of arrival. (PREA Standard 115.333 (a)) The information provided must:**
- 35.1. Explain the agency's zero-tolerance policy,
 - 35.2. Provide information about how to report incidents or suspicions of sexual abuse or sexual harassment.
 - 35.3. Youth must sign the PREA Youth Intake form (DCYF Form 20-280) and have a copy placed in the Case File.
- 36. Within 10 days of entry and placement, JR must provide comprehensive age-appropriate education to youth either in person or through video. (PREA Standard 115.333 (b)) The education must address:**
- 36.1. Their rights to be free from sexual abuse and sexual harassment,
 - 36.2. Their rights to be free from retaliation for reporting any incidents, and
 - 36.3. The agency's policies and procedures for responding to such incidents.
- 37. Youth must receive education upon transfer to a different facility to the extent the policies and procedures at the new facility are different from those at the previous facility. (PREA Standard 115.333 (c))**
- 38. JR must provide youth education in formats accessible to all youth, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, in accordance with DCYF AP 6.02 Access to Services for Clients and Caregivers who are Limited English Proficient (LEP) and DCYF AP 6.03 Access to Services for Individuals with Disabilities, as well as to youth who have limited reading skills. (PREA Standard 115.333 (d))⁶**
- 39. JR must document each youth's participation in PREA education sessions. (PREA Standard 115.333 (e)). Documentation will be maintained on the PREA Youth Education Session Acknowledgment form (DCYF Form 20-281).**
- 40. JR must make sure key information is continuously and readily available or visible to youth through posters in the living units, facility handbooks, and other written formats. (PREA Standard 115.333 (f))**

SCREENING AND SUPERVISION

41. Within 72 hours of the resident's arrival at the facility and periodically throughout a resident's confinement, the agency shall obtain and use information about each resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident.
- 41.1. Such assessments shall be conducted using an objective screening instrument.
 - 41.2. At a minimum, the agency shall attempt to gather information about:
 - 41.2.1. Prior sexual victimization or abusiveness;

⁶ 5/4/23 Technical Edit: Updated to reference DCYF AP 6.02 and DCYF AP 6.03.

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- 41.2.2. Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;
 - 41.2.3. Current charges and offense history;
 - 41.2.4. Age;
 - 41.2.5. Level of emotional and cognitive development;
 - 41.2.6. Physical size and stature;
 - 41.2.7. Mental illness or mental disabilities;
 - 41.2.8. Intellectual or developmental disabilities;
 - 41.2.9. Physical disabilities;
 - 41.2.10. The resident's own perception of vulnerability; and
 - 41.2.11. Any other specific information about individual residents indicating heightened need for supervision, additional safety precautions, or separation from certain other residents.
- 41.3. This information shall be ascertained through conversations with the resident during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files.
- 41.4. JR must use all information obtained to make housing, bed, program, education and work assignments for youth with the goal of keeping youth safe from sexual abuse. (PREA Standard 115.342 (a))
- 41.5. JR must implement appropriate controls on the dissemination of responses to the screening tool in order to ensure sensitive information is not exploited to the youth's detriment by staff or other youth. (PREA Standard 115.341 (e))
- 42. Transgender and Intersex youth must be treated in accordance with DCYF Admin Policy 6.04: Supporting LGBTQIA+ Individuals⁷.**
- 43. Cross-gender searches are prohibited except in exigent circumstances. Searches must be conducted in accordance with Policy 5.70, *Conducting Searches*. (PREA Standard 115.315)**
- 43.1. All cross-gender frisk/pat down searches must be documented using the PREA Cross Gender Pat Down Searches form (DCYF Form 20-286). Documentation must be accessible for review at any time. (PREA Standard 115.315 (c))
- 44. Youth must be allowed 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 during graveyard shifts or per *Policy 5.50, Managing Room Confinement and Isolation* and *Policy 3.30, Assessing and Treating Youth Suicide and Self-Harm Risk*. (PREA Standard 115.315(d))**
- 44.1. Staff will document accidental viewing of youth breasts, buttocks, or genitalia on the PREA Accidental Exposure Report form (DCYF Form 20-284).

⁷ Technical Edit: updated to reference DCYF Admin policy 6.04.

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45. Staff must announce themselves when entering an area where youth of the opposite gender may be showering, performing bodily functions, and changing clothing (PREA Standard 115.315(d))

46. JR must ensure youth with disabilities and youth who are limited English proficient have an equal opportunity to participate in or benefit from all aspects of JR's efforts to prevent, detect and respond to sexual abuse and sexual harassment. (PREA Standard 115.316)

46.1. Access to interpreters must be provided in accordance with DCYF AP 6.02 Access to Services for Clients and Caregivers who are Limited English Proficient (LEP)⁸. (PREA Standard 115.316)

46.2. Written materials must be provided in formats, or through methods to ensure effective communication with youth who have disabilities. (PREA Standard 115.316)

POST-INCIDENT REVIEW

47. Each facility must conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation for substantiated and unsubstantiated allegations. (PREA Standard 115.386 (a))

47.1. No incident review is required if allegation has been determined to be unfounded. (PREA Standard 115.386 (a))

47.2. The review must occur within 30 days of the conclusion of the investigation. (PREA Standard 115.386 (b))

47.3. The review team must include upper management from the facility at which the incident occurred with input from line supervisors. Input from investigators may be included, as well as from medical providers and mental health practitioners in facilities who have them. (PREA Standard 115.386 (c))

47.4. The review team must use the PREA Sexual Abuse Incident Review (DCYF Form 20-295) to:

47.4.1. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (PREA Standard 115.386 (d)(1))

47.4.2. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex status or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (PREA Standard 115.386 (d)(2))

47.4.3. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (PREA Standard 115.386 (d)(3))

47.4.4. Assess the adequacy of staffing levels in that area during different shifts; (PREA Standard 115.386 (d)(4))

⁸ 5/4/23 Technical Edit: Updated to reference DCYF AP 6.02.

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- 47.4.5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; (PREA Standard 115.386 (d)(5))
- 47.4.6. Prepare a report of its findings and any recommendations for improvement and submit such report to the Superintendents, Regional Administrators or designees and the PREA Administrator. (PREA Standard 115.386 (d)(6))
- 47.5. The review team findings and recommendations must be documented on the PREA Sexual Abuse Incident Review Summary Report (DCYF Form 20-292).
- 47.6. JR must implement the recommendations for improvement or must document reasons for not doing so. (PREA Standard 115.386 (e))

ADMINISTRATIVE STRUCTURE**48. JR must have an administrative structure supporting the implementation of the PREA Standards.**

- 48.1. JR must employ a PREA administrator with designated authority to develop, implement and oversee agency efforts to comply with the PREA Standards in all of its facilities. (PREA Standard 115.311 (b))
- 48.2. Because JR operates more than one facility, each facility must designate a PREA Compliance Manager with authority to coordinate the facility's efforts to comply with the PREA standards. (PREA Standard 115.311 (c))
- 48.3. Because JR contracts with local juvenile courts for the confinement of its youth, JR must include in any new contract or contract renewal the court's obligation to adopt and comply with the PREA Standards. Contracts will be monitored in accordance with DCYF AP 4.01 Contracting⁹. (PREA Standard 115.312)

DATA MANAGEMENT**49. JR must collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. (PREA Standard 115.387 (a))**

- 49.1. JR must aggregate the incident-based sexual abuse data at least annually. (PREA Standard 115.387 (b))
- 49.2. The incident-based data collected must 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. Upon request, the data from the previous calendar year must be provided to the Department of Justice by June 30. (PREA Standard 115.387 (c, f))
- 49.3. JR must maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. (PREA Standard 115.387 (d))
- 49.4. JR must obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its youth. (PREA Standard 115.387 (e))

⁹ 5/4/23 Technical Edit: Updated to reference DCYF AP 4.01.

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- 49.5. JR must review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training. (PREA Standard 115.388 (a)) The data review must include:
- 49.5.1. Identifying problem areas;
 - 49.5.2. Taking corrective action on an ongoing basis;
 - 49.5.3. Preparing an annual report of its findings and corrective actions for each facility as well as for the agency as a whole.
- 49.6. The annual report must include a comparison of the current year's data and corrective actions with those from prior years and must provide an assessment of the agency's progress in addressing sexual abuse. (PREA Standard 115.388 (b))
- 49.7. JR's report must be approved by the Assistant Secretary and made readily available to the public through its website. (PREA Standard 115.388 (c))
- 49.8. JR may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted. (PREA Standard 115.388 (d))

50. JR must ensure data collected in section 44 is securely retained and is maintained for at least 10 years after the date of its initial collection in accordance with DCYF AP 13.06 Records Management and Retention¹⁰. (PREA Standard 115.389 (a, d))

51. JR must make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website. (PREA Standard 115.389 (b))

- 51.1. Before making aggregated sexual abuse data publicly available, the agency must remove all personal identifiers. (PREA Standard 115.389 (c))

III. DEFINITIONS

Exigent Circumstances: Any set of temporary and unforeseen circumstances requiring immediate action in order to combat a threat to the security or institutional order of a facility.

Cross-Gender: Interaction of male youth with female staff, or of female youth with male staff.

Custodial Sexual Misconduct: Sexual intercourse or sexual contact between a person who is a resident of a juvenile correctional facility and an employee of the juvenile correctional facility who has or could reasonably be believed to have the ability to influence the terms, conditions, length or fact of incarceration or correctional supervision. Consent of the victim is not a defense to prosecution. (RCW 9A.44.160 and 9A.44.170).

PREA: The Prison Rape Elimination Act. PREA is federal legislation.

Sexual Contact: any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party per RCW 9A.44.010.

¹⁰ 5/4/23 Technical Edit: Updated to reference DCYF AP 13.06.

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Sexual Abuse Categories: U.S. Department of Justice, Survey of Sexual Victimization details sexual abuse under five categories, which are used to identify specific incident behaviors:

1. Non-Consensual Sexual Act: Sexual contact of a youth by another youth, if the victim does not consent, or of a youth who is unable to consent or refuse; AND.
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Penetration of the anal or genital opening of another person, however slight, by hand, finger, object, or other instrument;; and
2. Abusive Sexual Contact: Sexual contact of a youth by another youth, if the victim does not consent, or of a youth who is unable to consent or refuse; AND
 - a. Any intentional touching, either directly or through the clothing, of the genitalia (to include the penis, vulva or groin), anus, breast, inner thigh, or buttocks of another person.
 - b. Contact incidental to a physical altercation does not fall under PREA legislation.
3. Staff Sexual Misconduct: Any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, contractor, intern, official visitor or other agency representative (excludes family, friend or other visitors). Sexual abuse of a youth by a staff member includes any of the following acts, with or without consent of the youth:
 - a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - b. Contact between the mouth and the penis, vulva, or anus;
 - c. Contact between the mouth and any body part where the staff member has the intent to abuse, arouse, or gratify sexual desire;
 - d. Penetration of the anal or genital opening, by a hand, finger, object, or other instrument, however slight, that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire;
 - e. Any intentional contact, either directly or through the clothing, of or with the genitalia (to include the penis, vulva or groin), anus, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire; Or
 - f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs a - e of this section; Or
 - g. Any display by a staff member of his or her uncovered genitalia (penis, vulva, or groin) buttocks, or breast in the presence of a youth, unrelated to official duties or for sexual gratification; and
 - h. Voyeurism.
4. Sexual harassment of a youth by another youth: Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature.

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5. Sexual harassment of a youth by a staff, contractor, volunteer, or intern: Repeated verbal statements, comments, or gestures including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or repeated profane or obscene language or gestures.

Security Staff: employees primarily responsible for the supervision and management of youth in JR facilities. Security staff includes Counselors, Counselor Assistants, Supervisors and may include management staff.

Staff Member: all employees of JR, contractors, volunteers and interns.

Undue Familiarity: includes conversation, contact, personal or business dealing between a staff member and youth which is unnecessary, not a part of the employee’s duties, and related to a personal relationship or purpose rather than legitimate treatment or custody.

Voyeurism: Voyeurism means an invasion of youth privacy by staff for reasons unrelated to official duties. Voyeurism includes:

1. peering at a youth who is using a toilet in his or her cell to perform bodily functions;
2. requiring a youth to expose his or her buttocks, genitals, or breasts; or
3. taking images of all or part of a youth’s naked body or of a youth performing bodily functions.

IV. RELATED JR POLICIES¹¹

Policy 1.20 – Establishing JR Standards of Conduct

Policy 3.50 – Using the Polygraph in YSO Treatment

Policy 1.30 – Reporting Serious and Emergent Incidents

Policy 4.30 – Providing Health Care for JR Youth

Policy 2.10 – Handling Youth Complaints

Policy 5.50 – Managing Confinement and Isolation

Policy 2.60 – Foreign National Individuals

Policy 5.70 – Conducting Searches

Policy 3.20 – Assessing Sexually Aggressive or Vulnerable Youth (SAVY)

Policy 5.91 – Reporting Child Abuse & Neglect of JR Youth

Policy 3.30 – Assessing and Treating Youth Suicide and Self-Harm Risk

Policy 6.20 – Managing Residential Youth Communications

¹¹ 4/7/23 Technical Edit: Updated links to JR policies due to SharePoint migration.

Policy **5.90, Applying PREA Juvenile Standards in JR 5/21/2019**

V. REFERENCES¹²

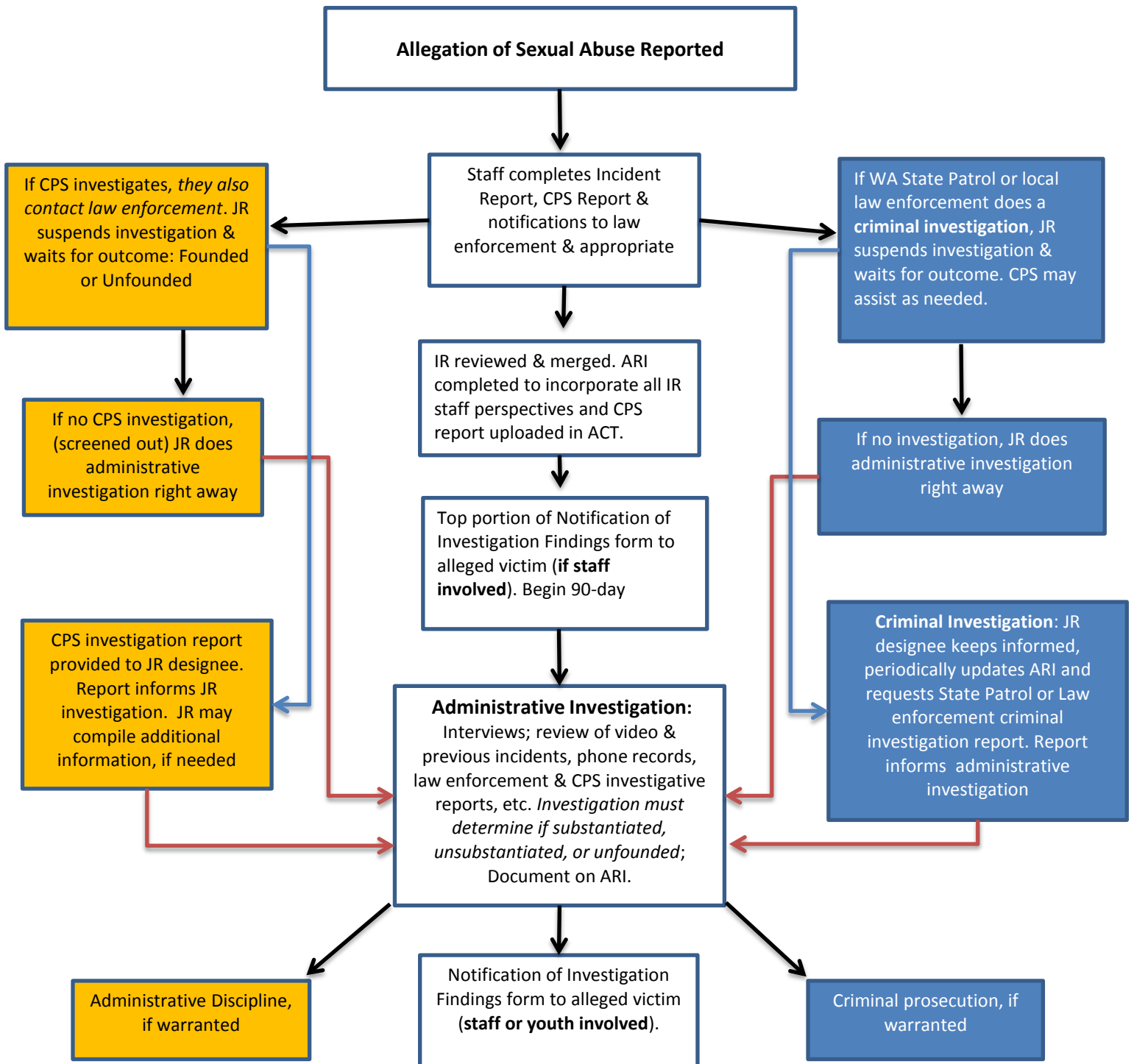
DCYF AP 2.02 – Complaint Resolution	DCYF AP 11.07 – Conducting Workplace Investigations
Process DCYF AP 4.01 – Contracting	DCYF AP 11.13 - Preventing and Addressing Discrimination, Harassment, Sexual Harassment, and Retaliation
DCYF AP 6.02 – Access to Services for Clients and Caregivers who are Limited English Proficient (LEP)	DCYF AP 11.21 - Ethics and Employee Conduct
DCYF AP 6.03 - Access to Services for Individuals with Disabilities	DCYF AP 13.06 – Records Management and Retention
DCYF AP 6.04 - Supporting LGBTQIA+ Youth	

VI. FORMS AND DOCUMENTS

Document Title	Available In ACT	Link to Form
Sexual Safety in JR: Intake Zero Tolerance		DCYF Form 20-280
Youth PREA Education Session Acknowledgment		DCYF Form 20-281
PREA Accidental Exposure Report		DCYF Form 20-284
PREA Cross-Gender Pat Down Searches		DCYF Form 20-286
PREA Sexual Abuse Incident Review Summary Report		DCYF Form 20-292
PREA Notice of Investigation Findings (Staff on Youth)		DCYF Form 20-293
PREA Notice of Investigation Findings (Youth on Youth)		DCYF Form 20-294
PREA Sexual Abuse Incident Review		DCYF Form 20-295
PREA Investigation Flow Chart		
PREA Investigation Protocol		

¹² 5/18/2023 Technical Edit: Added/updated DCYF Admin. Policies/links.

Juvenile Rehabilitation Investigation Flowchart



Within 30 days of the conclusion of an investigation, complete **Sexual Abuse Incident Review (unless unfounded)**. Investigations involving outside agencies can often take months to complete; in these cases the Sexual Abuse Incident Review should be completed within 30 days of the date the investigation began. It is acceptable to complete them even if the outcome is still not known.

Juvenile Rehabilitation – Attachment A Protocol for Response to Sexual Abuse & Sexual Harassment Allegations

Refer to your facility sexual abuse coordinated response plan for specific duties in cases of sexual abuse occurring while working, including incidents that occur within 120 hours of the allegation.

1. All allegations whether received verbally, via 3rd party, anonymously or in writing, must be documented in an Incident Report (IR) immediately. Document the facts (who, what, where, when, why) but do not go further (investigate) at this time. If the incident occurred sometime in the past be sure to get an estimated date/time/location of the incident and ensure this information is used; Do NOT use the date you are receiving the allegation.
2. Maintain confidentiality and limit sharing of information to “need-to-know” persons only and securely store all documentation.
3. If a resident makes an allegation about an incident that allegedly occurred *at a previous facility* he/she resided in, the staff receiving the allegation is responsible for ensuring that an IR/ARI is completed. When completing the IR/ARI, information regarding the facility, building, and unit should represent WHERE the alleged incident occurred and approximate date/time.
4. A report to CPS is typically done in conjunction with the IR. It is highly unlikely that CPS will investigate youth-on-youth **sexual harassment** allegations.
5. For **sexual abuse** allegations, especially staff sexual misconduct & non-consensual sexual act, law enforcement shall be notified also (CPS protocol requires them to contact law enforcement; confirm if they are going to do this).
6. Allegations of **sexual abuse** must also be documented in an Administrative Report of Incidents (ARI). When creating an ARI choose *ARI – Incident Report*.
7. For at least 90 days following an allegation of **sexual abuse** the alleged victim and/or staff or resident that reported the sexual abuse, shall be monitored for retaliation using DCYF Form #20-287, PREA Retaliation Tracking. If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual from retaliation. If the allegation is determined to be unfounded monitoring may be terminated.
8. When staff, a contractor, or a volunteer is the alleged perpetrator of **sexual abuse**, they are typically reassigned or prohibited from the facility/unit during the investigation. The alleged victim shall be provided with DCYF Form 20-293, PREA Notice of Investigation/Findings (top portion only at this time) to sign and date as a notification that an investigation is taking place. NOTE: *This form will be used again to notify the alleged victim of the finding of the investigation. 3rd party reporters are NOT to receive notice of investigation findings; it is the alleged victim’s confidential information.*
9. When CPS/law enforcement determines they **will** investigate (criminal investigation) the PREA Compliance Manager typically, but not necessarily, becomes the point of contact and provides whatever support is needed and stays updated on the status of the investigation.
10. When CPS/law enforcement determines they will NOT investigate it becomes JR’s responsibility to investigate (administrative investigation; non-criminal).

Juvenile Rehabilitation – Attachment A
Protocol for Response to Sexual Abuse & Sexual Harassment Allegations

Refer to your facility sexual abuse coordinated response plan for specific duties in cases of sexual abuse occurring while working, including incidents that occur within 120 hours of the allegation.

11. Youth-on-youth sexual **harassment** allegations may be investigated by JR counselor-level or higher staff (investigator training is not required). Sexual **abuse** allegations (abusive sexual contact or non-consensual sexual act) must be investigated by a PREA-designated investigator. WSP typically investigates when staff is the alleged perpetrator of sexual abuse.
12. When conducting an investigation of **sexual abuse** investigators will use DCYF Form 20-309, PREA Investigation Report. The form provides standard questions and subjects that should be considered as part of the investigation. It also serves as documentation of the investigation.
13. All investigations must conclude with an outcome (finding) of substantiated, unsubstantiated or unfounded based on a preponderance of the evidence.

Preponderance of the Evidence: This standard is used for JR non-criminal administrative investigations in determining whether allegations are substantiated. Findings for investigations using a preponderance of the evidence are based on the following principles:

- a) If the investigation concludes there is a greater than 50% chance that the incident occurred, it is **substantiated**. For CPS this is the equivalent of an investigation that is *founded*.
 - b) If the investigation concludes there is a less than 50% chance that the incident occurred, it is **unsubstantiated**. *CPS does not use this term; their investigation outcomes are either founded or unfounded.*
 - c) If the investigation concludes there is *no evidence* that the incident occurred, it is **unfounded**.
14. Within 30 days of the conclusion of an investigation of sexual abuse, a Sexual Abuse Incident Review must be completed using DCYF Forms 20-292 & 20-295 (**required for substantiated and unsubstantiated findings only**). Since the incident review may result in a need to make immediate changes at the facility it may be best to do it as soon as possible.
 15. Because CPS/law enforcement investigations can take weeks or months to complete, a sexual abuse incident review can be completed within 30 days, if it can be assumed that the outcome will be substantiated or unsubstantiated.
 16. At the conclusion of an investigation the alleged victim shall again be provided with DCYF Form 20-293, PREA Notice of Investigation/Findings (bottom portion only) to sign and date as a notification of the investigation finding.
 17. At the conclusion of an investigation and sometimes during the investigation process the ARI will require updates in the “outcomes” section of the form. Accurate information in this section will ensure that data is tracked properly; it will also significantly reduce the need to be contacted by the PREA Administrator or HQ Compliance Manager after the fact.
 18. Depending on the incident consider an update to victim and perpetrator SAVY.