

Judicial Branch Policy Addressing the Prison Rape Elimination Act

Policy Statement

The Judicial Branch has zero tolerance toward all forms of sexual abuse and sexual harassment, particularly in its confinement facilities. All Judicial Branch employees who may have contact with individuals in the custody of the Judicial Branch are responsible for helping keep Judicial Branch confinement facilities free of sexual abuse and sexual harassment. All incidents of sexual abuse and sexual harassment will be reported and investigated thoroughly. Any Judicial Branch employee who engages in the sexual abuse or sexual harassment of an individual in the custody of the Judicial Branch, or who is found to be negligent in pursuing these responsibilities, will be subject to disciplinary and/or corrective action. Arrest and prosecution may also be pursued when conduct requires such response.

Any Judicial Branch volunteer or intern who engages in the sexual abuse or sexual harassment of an individual in the custody of the Judicial Branch will be terminated.

Any contractor who engages in the sexual abuse or sexual harassment of an individual in the custody of the Judicial Branch may be subject to contract cancellation.

Purpose

The Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601, et seq., was signed into law to “provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.” The Act created the National Prison Rape Elimination Commission and charged it with developing “standards for the elimination of prison rape.” The Commission made recommendations for the elimination of sexual abuse and sexual harassment in confinement facilities, including lockups, juvenile detention facilities and community confinement facilities. The Judicial Branch is mandated to comply with the standards applicable to its confinement facilities.

Definitions

Contractor - A person who provides services on a recurring basis pursuant to a contractual agreement with the Judicial Branch.

Confinement Facilities - For purposes of this policy, confinement facilities are the courthouse lockups, the two 24-hour lockups run by Judicial Marshal Services, the two juvenile detention centers, and the community confinement facilities for which the Judicial Branch contracts.

Criminal Background Check - The Judicial Branch performs criminal background checks for various job classifications which it fills by appointment, promotion and/or transfer in accordance

with Section 204 (Hiring Process - Recruitment of Candidates) of the Judicial Branch Administrative Policies and Procedures Manual. A criminal background check includes criminal convictions which have not been erased pursuant to C.G.S. §§ 46b-146, 54-76o or 54-142a.

Individual in the Custody of the Judicial Branch - Any individual who by court order or arrest status is in the care and oversight of the Judicial Branch.

Judicial Branch PREA Coordinator - The individual appointed by the Chief Court Administrator responsible for overseeing the Judicial Branch's efforts to comply with the PREA standards.

Unit PREA Coordinator - The individual appointed by the executive director responsible for the units in their division who oversees the confinement of individuals in the custody of the Judicial Branch.

Reference Check - The Judicial Branch performs reference checks of candidates for positions which it fills by appointment, promotion and/or transfer in accordance with Section 204 (Hiring Process – Recruitment of Candidates) of the Judicial Branch Administrative Policies and Procedures Manual. References include, but are not limited to, personal or professional references, educational institutions, and prior employers.

Retaliation - Any covert or overt action or threat of action taken against an employee, contractor, volunteer, intern or individual in the custody of the Judicial Branch in response to their complaint of sexual abuse or sexual harassment or cooperation in the reporting or investigation of sexual abuse or sexual harassment, regardless of the merits or the disposition of the complaint. Examples of acts of retaliation are unnecessary discipline, intimidation, unnecessary changes in work or program assignments, unjustified transfers or placements and unjustified denials of privileges or services.

Sexual Abuse -

includes:

- (1) Sexual abuse of an individual in the custody of the Judicial Branch by another individual in the custody of the Judicial Branch; and
- (2) Sexual abuse of an individual in the custody of the Judicial Branch by a Branch employee, contractor, intern or volunteer.

Sexual abuse of an individual in the custody of the Judicial Branch by another individual in the custody of the Judicial Branch 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) 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 a hand, finger, object, or other instrument; and,
- (d) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any individual in the custody of the Judicial Branch, excluding contact incidental to a physical altercation.

Sexual abuse of an individual in the custody of the Judicial Branch by an employee, contractor, intern or volunteer includes the following regardless of the consent of the individual in the custody of the Judicial Branch:

- (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 employee, contractor, intern or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (d) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the employee, contractor, intern or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (e) 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 employee, contractor, intern or volunteer has the intent to abuse, arouse or gratify sexual desire;
- (f) Any attempt, threat or request by an employee, contractor, intern or volunteer to engage in the activities described in sections (a)-(e) of this section;
- (g) Any display by an employee, contractor, intern or volunteer of his or her uncovered genitalia, buttocks, or breasts in the presence of an individual in the custody of the Judicial Branch;
- (h) Any other conduct or behavior that is prohibited under Connecticut General Statutes §§ 53a-70, 53a-70a, 53a-70b, 53-70c, 53a-71, 53a-72a, 53a-72b, or 53a-73a; and,
- (i) Voyeurism by an employee, contractor, intern or volunteer.

Voyeurism by an employee, contractor, intern or volunteer means an invasion of privacy of an individual in the custody of the Judicial Branch by an employee, contractor, intern or volunteer for reasons unrelated to official duties, such as peering at an individual who is using a toilet to perform bodily functions; requiring an individual to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an individual's naked body or of an individual performing bodily functions.

Sexual Harassment includes:

- (1) Repeated and unwelcomed sexual advances, requests for sexual favors or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one individual in the custody of the Judicial Branch toward another individual in the custody of the Judicial Branch;

- (2) Verbal comments or gestures of a sexual nature to an individual in the custody of the Judicial Branch by an employee, contractor, intern or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures;
- (3) The display of sexually suggestive pictures or objects in a confinement facility;
- (4) Any other conduct of a sexual nature that would constitute a violation of sexual harassment in a Judicial Branch workplace as determined by Section 607 (Sexual Harassment in the Workplace) of the Judicial Branch Policies and Procedures Manual.

Notice

All employees, contractors, interns and volunteers who may have contact with individuals in the custody of the Judicial Branch and all individuals in the custody of the Judicial Branch must be notified of the Branch's zero-tolerance policy regarding sexual abuse and sexual harassment.

During the admission process, all individuals in the custody of the Judicial Branch are provided information about the Judicial Branch's zero-tolerance policy along with instructions for reporting a complaint.

Contracts and Contractors

Any contracts entered into or renewed after October 1, 2013 must (1) include language with the entity's obligation to adopt and comply with the PREA standards and (2) permit the Judicial Branch to monitor their compliance with the PREA standards.

The Judicial Branch will not enlist the services of any individual contractor who may have contact with individuals in the custody of the Branch who has engaged in, or has attempted to engage in, sexual abuse.

The Judicial Branch will consider any incidents of sexual harassment in determining whether to enlist the services of any individual contractor who may have contact with individuals in the custody of the Branch.

Hiring and Promotion

Judicial Branch Employees

The Judicial Branch will not hire, appoint, or promote anyone who may have contact with individuals in the custody of the Branch, who has engaged in, or has attempted to engage in, sexual abuse. See Appendix A for a listing of the job classifications determined by the Branch to potentially have contact with individuals in its custody.

The Judicial Branch will consider any prior reported incidents of sexual harassment in determining whether to hire, appoint, or promote anyone who may have contact with individuals in the custody of the Branch.

Selection for appointment or promotion of any Judicial Branch employee who may have contact with individuals in the custody of the Judicial Branch is contingent upon the satisfactory completion of a reference and criminal background check. Judicial Branch Policy and Procedures prohibit the unlawful discrimination against persons on the basis of a prior criminal conviction. Information obtained through a reference and criminal background check is considered for employment purposes if relevant to the position being applied for.

Criminal Background Check

Once the field of candidates has been narrowed through the interview process, the respective Judicial Branch Division Human Resource Unit will be responsible for conducting a criminal background check on any candidate for a position that may have contact with individuals in the custody of the Judicial Branch. For those divisions that do not have a dedicated Human Resource Unit, the Branch's Human Resource Management Unit will serve as their Human Resource Unit.

The criminal background check will consist of the following:

- 1) A signed Reference/Criminal Record Check Authorization and Release of Information (Attached new JD-ES-295);
- 2) Such other forms and documentation that may be required by division policy or practice for the respective job classification;
- 3) A review of the individual's criminal record obtained from criminal justice agencies and/or criminal/motor vehicle databases, except those records that have been erased pursuant to C.G.S. §§ 46b-146, 54-76o, or 54-142a.

The results of the criminal background check will be reviewed by the Human Resource Unit for the Division and the respective unit director, or designee. At a minimum, any conviction of Connecticut General Statutes §§ 53a-70, 53a-70a, 53a-70b, 53-70c, 53a-71, 53a-72a, 53a-72b, or 53a-73a, or any other state law prohibiting this same conduct will be considered prior to the appointment or promotion of any candidate.

In the event a candidate is disqualified for appointment or promotion because of the results of the criminal background check, the results will be forwarded to the Director of Human Resource Management for review.

The Judicial Branch will utilize a system to annually capture new criminal record information on current employees who may have contact with individuals in the custody of the Judicial Branch.

Reference Check

Once the field of candidates has been narrowed through the interview process, the Division Human Resource Unit or respective unit Panel Chair will be responsible for conducting a

reference check on any candidate for a position that may have contact with individuals in the custody of the Judicial Branch.

The reference check will utilize the signed Reference/Criminal Record Check Authorization and Release of Information (Attached new JD-ES-295) and consist of the following:

- 1) Assessing the accuracy of information provided on the application/resume;
- 2) Personal or professional character references, when provided;
- 3) Educational institutions;
- 4) Motor vehicle departments, if applicable;
- 5) Prior employers;
- 6) Other relevant sources.

With regards to prior institutional employers, the reference check will include an inquiry as to whether the candidate engaged in any substantiated allegations of sexual abuse or resigned during the pendency of an investigation of alleged sexual abuse.

To the extent permitted by law, the Judicial Branch will provide information on substantiated allegations of sexual abuse and sexual harassment involving former and current employees upon receiving a request from an institutional employer for whom such employee has applied to work.

Employee Responsibilities

Employees who may have contact with individuals in the custody of the Judicial Branch must report to the Human Resource Management Unit the next business day if they have engaged in or attempted to engage in sexual assault.

Training

The Judicial Branch will annually train all employees who may have contact with individuals in the custody of the Branch to be able to fulfill their responsibilities under this policy. Upon completion of the training, employees must acknowledge they understood the training.

Specialized training is provided for Judicial Branch employees designated by the Chief Court Administrator.

Reporting Incidents and Complaints

The Judicial Branch will take all reports of sexual abuse and sexual harassment seriously, regardless of who made the report or the manner in which the report was made.

Incidents of sexual abuse, sexual harassment, or retaliation may come from a variety of sources including, but not limited to employees, individuals in the custody of the Branch, family

members of individuals in the custody of the Branch, and members of the public. These incidents can be reported verbally and/or in writing.

All Judicial Branch employees, regardless of title, who may have contact with individuals in the custody of the Branch are under a duty to report any knowledge, suspicion, or information regarding incidents and complaints of sexual abuse, sexual harassment or any act of retaliation against any individual for reporting an incident of sexual abuse or sexual harassment or for participating in an investigation of an allegation of sexual abuse or sexual harassment involving individuals in the custody of the Judicial Branch. All Judicial Branch employees, regardless of title, who may have contact with individuals in the custody of the Branch are also under a duty to report any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The PREA Incident Report form, JD-ES-293, was developed to facilitate the proper reporting and investigation of all incidents of sexual abuse and/or sexual harassment involving individuals in the custody of the Judicial Branch. JD-ES-293 may be completed by an individual in the custody of the Judicial Branch, or an employee, reporting an incident of sexual abuse or sexual harassment. JD-ES-293 may also be completed by a Judicial Branch employee involved in the administrative investigation of any complaint or incident of sexual abuse or sexual harassment pursuant to this policy.

Incidents and Complaints Between Individuals in the Custody of the Judicial Branch

All incidents or complaints of alleged sexual abuse, sexual harassment, or retaliation between individuals in the custody of the Judicial Branch will be immediately reported to the highest level supervisor assigned to the Judicial Branch confinement facility in which the alleged incident occurred. The Supervisor will contact the Unit PREA Coordinator. The Unit PREA Coordinator will contact the Branch PREA Coordinator and initiate an investigation into the complaint or reported incident in accordance with the appropriate Division policies and procedures for the respective confinement facility.

If an employee learns that an individual in the custody of the Judicial Branch was sexually abused while confined at another facility, the employee must contact their Unit's PREA Coordinator immediately. The Unit PREA coordinator must notify the head of the facility where the alleged sexual abuse occurred as soon as practical, but no later than 72 hours, and contact the Branch PREA Coordinator.

If a Juvenile Detention staff member is informed that an individual in the custody of the Judicial Branch was sexually abused while confined in another facility, the staff member must contact the Juvenile Detention Superintendent or Juvenile Detention Deputy Superintendent. The Superintendent or Deputy Superintendent must notify the head of the facility where the alleged sexual abuse occurred as soon as practical, but no later than 72 hours. In addition, the Superintendent or Deputy Superintendent must also inform the Unit PREA Coordinator, who will contact the Branch PREA Coordinator.

Incidents and Complaints Involving Judicial Branch Employees

All incidents or complaints of alleged sexual abuse, sexual harassment, or retaliation by a Judicial Branch employee will be reported in accordance with the procedures outlined in Section 607 (Sexual Harassment in the Workplace) of the Judicial Branch Policies and Procedures Manual.

As stated in Section 607 (Sexual Harassment in the Workplace) of the Judicial Branch Policies and Procedures Manual, employees who report sexual abuse, sexual harassment, or retaliation and employees who assist in investigating such reports will not suffer adverse job consequences as a result of their report or assistance.

Individuals in the custody of the Judicial Branch who wish to file a complaint or report an incident of sexual abuse, sexual harassment, or retaliation may do so to any Judicial Branch employee. Individuals in the custody of the Judicial Branch will be given the option to submit a formal complaint by completing, with the assistance of a Judicial Branch employee, the PREA Incident Report form (JD-ES-293). However, the completion of the form is not required for making a complaint.

The reporting of incidents and complaints of sexual abuse and sexual harassment do not have to be reported pursuant to an established chain of command. Any employee who believes that an incident involving sexual abuse, sexual harassment, or retaliation has occurred, or who received a complaint about such activity shall immediately contact any of the following: the Judicial Branch PREA Coordinator, the Unit PREA Coordinators, the Program Manager for Equal Employment Opportunity for the Judicial Branch, a personnel officer, manager or the director in the Administrative Services Division Human Resource Management Unit, a supervisor, manager, or division executive director. Employees must notify the appropriate personnel regardless of whether the JD-ES-293 was completed.

Investigations

Criminal Investigations – Sexual Abuse

The Connecticut State Police shall serve as the investigating authority for all allegations of sexual abuse that occur within a Judicial Branch facility. All allegations of sexual abuse that occur within a Judicial Branch facility either between individuals in the custody of the Judicial Branch or by a Judicial Branch employee must be reported as soon as practical to the Connecticut State Police, the Executive Director of the appropriate division and the Judicial Branch and Unit PREA Coordinator in accordance with the reporting procedures provided above. Sexual abuse investigations by the Connecticut State Police may occur concurrently with an administrative investigation by Judicial Branch personnel. The Judicial Branch will assist the Connecticut State Police as needed.

Administrative Investigations – Sexual Abuse and Sexual Harassment

All administrative investigations will be conducted promptly, thoroughly and objectively.

The Judicial Branch's Human Resources Management Unit shall serve as the investigating authority for all allegations of sexual abuse, sexual harassment, or retaliation involving a Judicial Branch employee that occur within a Judicial Branch confinement facility.

The Unit PREA Coordinator in which the confinement facility reports to shall initiate an administrative investigation into all complaints or incidents of sexual abuse, sexual harassment, or retaliation between individuals in the custody of the Judicial Branch in accordance with division and/or unit policies and procedures. The administrative investigation will include whether the alleged incident of sexual abuse, sexual harassment, or retaliation was the result of employee misconduct or negligence.

Investigation Reports/Findings

The reports and/or findings of all investigations, whether substantiated or not, must be submitted to the Judicial Branch PREA Coordinator upon completion.

Sexual Abuse Review Process

Following every investigation in which there is a substantiated or unsubstantiated finding that sexual abuse occurred in a confinement facility under the control of the Judicial Branch, the Judicial Branch PREA Coordinator will initiate a review of the incident within 30 days of the conclusion of the investigation. The review team will include, at a minimum, upper-level management officials, supervisors from the location where the incident occurred, and investigators. Upon the conclusion of the review, the facility will implement the recommendations for improvement or document its reasons for not doing so.

Retaliation


Any employee, contractor, intern, volunteer, or individual in the custody of the Judicial Branch who reports an incident of sexual abuse or sexual harassment or cooperates in a sexual abuse or sexual harassment investigation must not be retaliated against. Any complaint of retaliation by an employee, contractor, intern, volunteer, or individual in the custody of the Judicial Branch will be reported and investigated in accordance with the procedures and instruction provided in this policy. Any individual who is found to have been in violation of this policy will be subject to appropriate disciplinary action or referred to the State Police for criminal investigation.

The Judicial Branch's PREA Coordinator and individual Unit PREA Coordinators will monitor the conduct and treatment of those employees and individuals in the custody of the Branch and will promptly remedy any discovered retaliation.

Data Collection

The Judicial Branch will prepare an annual report on the incidents of sexual abuse in its confinement facilities and the residential confinement facilities with which it contracts. A summary of the report will be posted on the Judicial Branch's Internet site.

Approved


Patrick L. Carroll III
Chief Court Administrator

6-1-15
Date