

POLICY STATEMENT

IV. Administrative

- Response to Sexual Assault on a Client (PREA)

PURPOSE: It is the policy of S.W.C.C.C.C/ Hilltop House to adopt the Prison Rape Elimination Act of 2003 by supporting the elimination, reduction, prevention and reporting of nonconsensual sex, abusive sexual contact and sexual harassment within the correctional system. PREA applies to all Hilltop House staff, volunteers, contractors as well as all Federal, State and locally sentenced or pretrial clients of the program.

Hilltop House has a zero-tolerance policy towards all forms of sexual abuse, and sexual harassment.

Staff shall report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

PREA Standards: 115.211; 115.212; 115.213; 115.215; 115.221; 115.222; 115.231; 115.232; 115.233; 115,234; 115.251; 115.254; 115.261; 115.262; 115.264; 115.265; 115.271

General Provisions.

1. It is the policy of Hilltop House to ensure that any form of sexual abuse or sexual harassment between clients or between clients and staff/volunteers/contract employees, regardless of consensual status, is strictly prohibited. Such conduct is subject to administrative disciplinary sanctions and may result in criminal prosecution. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination of employment.
2. Clients under Hilltop House jurisdiction whose placement in Hilltop House residential facility cannot give consent to engage in behavior defined as sexual under this policy, regardless of the client's age.
3. Retaliation against any client, employee or other individual who reports or assists in the investigation of alleged sexual abuse or sexual harassment is strictly prohibited and is grounds for disciplinary action up to and including termination of employment.
4. The facility administrator or Board of Directors is responsible for the implementation and enforcement of this rule.

Definitions:

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

Voyeurism by a staff member, contractor, volunteer or resident.

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

Zero Tolerance:

- (1) The practice of not permitting undesirable behavior from offenders or staff to persist by applying immediate consequences for prohibited sexual conduct or incidents of retaliation related to the reporting of sexual abuse and sexual harassment.

Reporting of Sexual Abuse and Sexual Harassment.

If the alleged victim is considered a vulnerable adult under C.R.S. 18-6.5-108, Hilltop House staff shall report the allegation to the Durango Police under applicable mandatory reporting laws.

1. Any Hilltop employee, client, resident, volunteer, contractor or other individual who has cause to believe that they, or another client in the program has been subjected to an act of sexual abuse, sexual harassment and or retaliation or receives a report of sexual abuse, sexual harassment and or retaliation or possible sexual abuse or sexual harassment and or retaliation, whether verbally or in writing, must immediately notify the proper authorities.
2. **When staff learns that a client is subject to a substantial risk of imminent sexual abuse, immediate action must be taken to protect the client.**
3. Any person or persons advocating on behalf of a client may file a report. This includes: third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on behalf of residents. Any of these persons may report an act or threat of sexual abuse or sexual harassment anonymously to:
 - A. Any Hilltop House staff member, volunteer, contract employee, or any other individual may report the incident: by calling or e-mailing any of the members of the management team listed below:
 - a. Sally Frey, Executive Director
970-247-1342 x 13
sally.frey@swcccc.org
 - b. Bren Berryhill, Facility Manager
970-247-1342 x 30
Bren.berryhill@swcccc.org
 - c. Eve Presler, Case Management Supervisor
970-247-1342 x 15
Eve.presler@swcccc.org

- d. Send a letter to 1050 Avenida Del Sol Durango, Co. 81301.
 - B. Staff members may report by calling the Director on her cell phone (970-317-9117), and or send an email to the address above, place a letter in the grievance box or slide it under the door to the Director, Facility Manager, or Case Management Supervisor's office door.
 - C. The Durango Police Department
 - D. Call the T.I.P.S. line at (877)-362-8477
 - E. If a resident declines to have third-party assistance in filing a report alleging sexual abuse, this will be documented in a report submitted to the Director.
4. Staff members will accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. The staff member receiving the report shall promptly document any verbal reports of sexual abuse and sexual harassment and follow policy for reporting.
 5. If the alleged victim reports that the sexual abuse occurred while confined at another facility, the Director (or designee) will notify the head of the facility or appropriate office of the agency/facility. This should occur the same day of the report, but no later than 72 hours. Efforts will be made to provide support (medical, emotional, etc.) to the reporting resident.
 6. Apart from reporting to designated supervisors or officials and designated state or local services agencies, all staff should keep confidential any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
 7. Staff members will report immediately if they notice or suspect any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Upon receiving a report of sexual abuse or imminent risk of sexual abuse to a resident/client, staff shall: (see attached checklist)

- Secure the victim in the office and ensure to the best of your ability that he/she does not shower, remove clothing, use the restroom or consume any liquids.
- Contact Director or designee, (request assistance to secure facility/crime scene).
- Listen to victim, remain professional and take notes.
- Assess client's medical needs

Note: These should all be done prior to the end of the staff person receiving the report's shift. Staff may need to stay beyond the scheduled time to accomplish this.

If suspect is known and present in the facility

- Ensure no contact with victim and to the best of your ability do not allow him/her to shower, remove clothing, use restroom or consume any liquids.
- Make notes of any comments made by suspect.
- Contact law enforcement to make report (victim may need to be contacted at hospital depending on medical needs).

- Collection of evidence (clothing, sheets, and blankets) shall be done with and at the direction of law enforcement. In most instances the extent of this cooperation shall involve securing the possible crime.
- Generate incident reports. All information shall be shared only with persons who have a “need to know”.

Actions of the Facility Administrator Regarding a Report of Alleged Sexual Abuse or Sexual harassment:

The facility administrator, in consultation with the Durango Police Department Investigator, will take the following actions immediately upon receipt of the report:

1. take immediate steps to protect the victim by ensuring that the alleged victim and alleged perpetrator are physically separated pending an investigation, which may include, but is not limited to:
 - a. dorm placement or other placement within the facility: or
 - b. administrative transfer for resident victims or abusers.
 - c. removal of alleged staff or resident abusers from contact with victims, this may include regressing resident abusers to jail if other sanctions beyond the alleged abuse exist.
 - d. emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
2. preserve evidence that may be pertinent to an investigation of the matter.

Alleged abusers are subject to disciplinary sanctions only when a criminal finding of guilt for resident-on-resident sexual abuse has been determined. Any incident of sexual abuse or sexual harassment shall be reported, in writing to the Division of Criminal Justice, Durango La Plata Community Corrections Board and the Southwest Colorado Community Corrections Centers Inc. Board of Directors no later than the first workday following the incident.

Medical Services.

- A. For both criminal and administrative investigations, a victim of sexually abusive penetration and sexual abuse will be offered free transportation to a hospital, clinic, or emergency room which can provide for medical examination by a Sexual Assault Nurse Examiner (SANE) or equally qualified medical personnel at no cost to the victim. *Staff shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners such as call an ambulance for medical assistance.*
- B. Access to Emergency Medical and Mental Health Services. (These services will be provided by an external medical agency/personnel and coordinated with the Sexual Assault Service Organization)
 - Alleged victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional

judgment at no cost to the victim.

- Alleged victims of sexual abuse shall be offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate.
- Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

C. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers. (These services will be provided by external medical agency/personnel and coordinated with the Sexual Assault Service Organization)

- The facility refers and assists with coordination with medical and mental health evaluation and, as appropriate, treatment to all clients who have been victimized by sexual abuse in any prison, jail, lockup, community confinement facility or juvenile facility. When necessary and feasible, the evaluation and treatment of such victims shall include follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- Alleged client victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
- If pregnancy results from the conduct described in paragraph (c) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
- Alleged client victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
- Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- The facility shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners (Case Managers will be responsible for scheduling this mental health evaluation)

Prevention Procedures.

1. Upon admission to Hilltop House clients shall be provided with information regarding sexual abuse and sexual harassment including prevention/intervention, self-protection, reporting, medical treatment and mental health counseling. During resident orientation, the sexual abuse and sexual

harassment information shall be communicated, verbally and in writing, in a language clearly understood interpreted effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary for residents with disabilities.

- A. Staff shall refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances (circumstances must be documented) where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties or the investigation of the resident's allegations."
2. To prevent sexual abuse and sexual harassment and provide a safe and secure environment Hilltop House Community Corrections will provide the highest level of supervision of clients to prevent sexual abuse and sexual harassment through:
 - A. a staff to client ratio as required under Colorado Community Corrections Standards
 - B. surveillance equipment to aid staff in detecting inappropriate behavior
 - C. staff trained in the prevention and identification of sexual abuse
 - D. PREA awareness and signage will be placed throughout the facility.

Detection Procedures:

1. To aid in the detection of sexual abuse and sexual harassment all staff will be diligent in the completion of headcounts and walkthroughs within all parts of the facility and outdoors.
2. Hilltop House utilizes a 24 camera video surveillance system that all staff may access to monitor blind spots and outdoor recreation areas within and around the facility to aid in the detection of possible client violations to include sexual abuse.
3. Hilltop House staff, supervisors and case managers conduct regular PREA staffing plan meetings to address concerns, share information and discuss the need for additional video cameras, blind spots and client room assignments.

Facility PREA Coordinator:

The facility PREA Coordinator should be of a position high enough to carry necessary authority to develop, implement and oversee the facility's effort to comply with PREA standards and coordinate facility PREA compliance and audits. Position has access to investigative materials. Instruct and monitor staff concerning specific operational actions, approve all training curriculum, and make changes to PREA policy, practices and procedures. The Director is designated as the PREA Coordinator for Hilltop House.

Confidentiality.

Information concerning the identity of a victim reporting sexual abuse and sexual harassment and the facts of the report itself, will be limited to those who have need to know in order to make decisions concerning the client's welfare, treatment, and other security and management decisions and for law enforcement or investigative purposes.

Record Keeping.

All case records associated with claims of sexual abuse and sexual harassment including incident reports, investigative reports, client information, case disposition, medical and counseling evaluation findings, and recommendations for post release treatment and/or counseling will be retained in accordance with Hilltop House record retention schedule.

Tracking

The Director shall maintain a tracking system that records all allegations of sexual abuse and sexual harassment and their disposition. The Director shall maintain, review, and collect data as needed from all available incident-based documents, documents including reports, investigation files and sexual abuse incident reviews. The incident-based data collected shall be aggregated at least annually and shall include, at a minimum, the data necessary to answer all questions from the most recent survey of the Survey of Sexual Violence conducted by the Department of Justice. The form currently being used is called the SURVEY OF SEXUAL VICTIMIZATION, 2021. These forms will be completed by the PREA Coordinator (or designee).

Definition for the uniform collection of data

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

Unsubstantiated: Unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.

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

Aggregated information shall include:

Substantiated Allegations of Sexual Assault and Sexual Harassment

Client on Client
Staff on Client

Unsubstantiated Allegation of Sexual Assault and Sexual Harassment

Client on Client
Staff on Client

Unfounded Allegation of Sexual Assault and Sexual Harassment

Client on Client

Staff on Client

This data shall be tracked on a standardized spreadsheet and documented on the SWCCCC – Hilltop House website (www.SWCCCC.org) All such information shall be provided to the Department of Justice upon request.

Retaliation

Unlawful retaliation can be any action that could discourage a client, staff member or volunteer worker from coming forward to make or support a claim of sexual abuse or sexual harassment. Adverse action need not be job-related or occur within the facility or administration to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and local law for any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual abuse or sexual harassment, either internally or with a referring or law enforcement agency
- Testified or assisted in a proceeding involving sexual abuse or sexual harassment.
- Opposed sexual abuse or sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor of sexual abuse or sexual harassment.
- Reported that an employee or client of the facility has been sexually abused or sexually harassed.
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful.

However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment. Reports of retaliation must be reported to the Director (or designee) who will respond immediately.

Follow Up:

Case Managers and Facility administrators will monitor conduct and treatment of staff and clients who make reports or cooperate with investigations to see if there are changes that may suggest possible retaliation for a minimum of 90 days after conclusion of any investigation (monitoring beyond 90 days shall be extended if the initial monitoring indicates a continuing need). This will be accomplished via periodic status checks and during weekly Case Manager meetings (i.e. monitoring of client disciplinary reports, program changes and negative program and employment performance reviews). All status checks and meetings will be denoted in the individual client’s chronological notes in Etrac and on the Client or Staff Retaliation Monitoring form.

Any individual who cooperates with an investigation who expresses a fear of retaliation Hilltop House will take appropriate measures to protect that individual against retaliation.

All staff assigned to monitor retaliation shall act promptly to remedy any such retaliation

Disciplinary Considerations:

When determining what types of sanction, if any, should be imposed, on a client, the disciplinary process shall consider whether a client’s mental disabilities or mental illness contributed to his or her behavior.

Residential Sanctions:

Hilltop House may discipline a client for sexual contact with staff only upon a finding that the staff member did not consent to such contact. The presumption will be that the resident would be removed from the program and explore criminal investigation.

If the alleged sexual contact is between residents, and an investigation completed that found allegations to be substantiated, with consent or not, then the resident(s) may receive a class 100 level write-up and sanction. The resident rulebook reads:

Condition #104 – Compliance with Appropriate Sexual Behavior: Individuals placed in community corrections shall demonstrate sexual behavior that conforms to the requirements of the Program. If discovered, residents will report any instances of inappropriate sexual behavior to the appropriate authorities.

Violation – Engaging in Sexual Acts Harassment: Individuals commit a violation of this condition of placement when one subjects another person to sexual contact, through physical action and/or verbal or written statements with or without consent; engaging in sexual acts in the facility or on facility grounds; indecent exposure; inappropriate sexual advances or comments directed to staff, residents or visitors. This includes any behavior of a sexual or romantic nature whether verbal, nonverbal, or physical.

The most serious of all rule infractions. These violations typically consist of egregious behaviors and or criminal conduct. Violations in this class may result in immediate termination.

Class I Violation Responses	
*Administrative Review for Termination	YES
**Investigative Facility Hold	YES
Behavioral Intervention	YES
Community/Facility Service Hours	24 Hours
Restriction Days	24 Days

*May result in immediate termination.

** Facility Hold may be used as a response to immediate public/community safety risks. Facility holds may be removed once sanctions are imposed.

Staff Member:

Upon receiving an allegation of sexual harassment/abuse against a staff member, the staff member would not be allowed contact and may be put on administrative leave. Depending on the severity of the incident(s) possible sanctions and interventions could include additional training; a corrective action plan; or up to and including termination. If there are substantiated instances of sexual abuse by a staff

member, that staff member will be terminated and turned over to local law enforcement for a criminal investigation.

For the purpose of disciplinary action from staff or resident; a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Updated 3/23

CHECKLIST FOR PREA RELATED INCIDENTS

Steps and actions to be considered following a possible Sexual Abuse or Sexual Harassment between
client-on-client and staff-on-client

Check when completed

Initial Report

Time initial report made _____ am / pm to staff _____

Reporting party secured in staff office name: _____

Contact victim advocate (SASO) 970-247-5400

Immediate Notifications

Facility Supervisor Director Case Manager Supervisor Case Manager

Durango Police Officer Name: _____ Date & Time: _____

Medical

Circle

Did victim sustain any physical injury Yes No Injuries: _____

Victim offered medical services Yes No _____

Victim refused medical services Yes No _____

Transported to medical service Time _____

Informed Medical Personnel of possible Sexual Assault Name: _____

Victim requested to speak to Mental Health

Mental Health contacted Name: _____ Time: _____

Initial Responder (remain professional, discrete, non judgmental and willing to listen, take notes)

Secure crime scene where allegation was reported to happen: location: _____

Time secured: _____

Allegation occurred less than 72 hours ago. Consider the following:

- Don't allow the victim or perpetrator to do the following until after Durango Police Investigators allow:
- Change Clothes, brush hair, cut fingernail, use bathroom, spit, shower eat/drink

Alleged perpetrator identified. Name: _____

Keep alleged perpetrator and victim separated make notes of any comments made by either party.

Documentation:

Reports completed (attach this checklist to all reports)

[] Information passed to those that “need to know”

Staff Printed Name: _____ Date _____

Staff Signature: _____

PREA IMMEDIATE RESPONSE PROCEDURES

Upon witnessing or receiving a report of sexual abuse, the first responder shall:

- Ensure the victim and abuser(s) are separated.
- If incident occurred within 72 hours, instruct victim and abuser to not shower, brush teeth, urinate, defecate, eat or drink, change clothes or do anything that may destroy evidence. Secure crime scene.
- Is immediate medical attention required? If so, call 911
- Call Durango Police Department and report a possible sexual assault.
- Contact victims advocate (SASO at 970-247-5400)
- Contact On-Call Supervisor & Director
- Complete all checklist and incident reports

Any victims and/or reporting parties of sexual abuse must be monitored for any retaliation for a minimum 90 days.