

XI. Investigations

A. Criminal investigations (PREA § 115.371).

1. Procedures governing the referral of cases involving sexual abuse and sexual harassment are found in Policy 6-19.
2. Where sexual abuse is alleged, the Fremont County Sheriff's Department shall use investigators pursuant to their policies and procedures. It is anticipated that those policies and procedures will govern the following items:
 - a. Specialized training in sexual abuse investigations involving juvenile victims.
 - b. Gathering and preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
 - c. Interviewing alleged victims, suspected perpetrators, and witnesses;
 - d. Review of prior complaints and reports of sexual abuse involving the suspected perpetrator.
 - e. Assessing the credibility of an alleged victim, suspect, or witness on an individual basis, and not simply by the person's status as an in custody juvenile or staff.
 - f. The prohibition of requiring a juvenile who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
 - g. The degree to which the 5-C can be informed of the progress of the investigation.
 1. To the extent allowed by the investigating agency, 5-C shall endeavor to remain informed of the progress and outcome of the investigation.
3. 5-C shall cooperate fully in any investigation, and shall participate in any investigative process when requested to do so by the main investigative agency, including conducting compelled interviews as directed by the Fremont County Prosecuting Attorney's Office/5-C's attorney, and Fremont County Human Resources Department as long as the compelled interviews will not be an obstacle for subsequent criminal prosecution when the quality of evidence appears to support criminal prosecution.
4. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

B. Administrative agency investigations (PREA § 115.371) and evidentiary standard for administrative investigations (PREA § 115.372).

1. Administrative investigations shall be conducted by 5-C attorney and Fremont County Prosecuting Attorney's Office.
 - a. 5-C shall cooperate fully with administrative investigations.
 - b. 5-C shall participate in any investigative process involving administrative investigations only as directed by 5-C's attorney and Fremont County Prosecuting Attorney's Office.
2. Such administrative investigations shall include, but not be limited to the following items:

- a. An effort to determine whether staff actions or failures to act contributed to the abuse,
 - b. Written descriptions of the physical and testimonial evidence,
 - c. Documentation of the reasoning behind credibility assessments, and,
 - d. Investigative facts and findings.
3. Substantiated allegations of conduct that appears to be criminal shall be referred to the Fremont County Prosecuting Attorney's Office for prosecution.
 4. For administrative investigations, 5-C and/or the Fremont County Prosecuting Attorney's Office shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

C. Investigation reports

1. 5-C shall retain all written administrative and criminal investigation reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention.
2. Reports of investigations involving sexual abuse by staff shall be turned over to the Fremont County for inclusion in the staff's member's file.

D. Reporting to residents (PREA § 115.373).

1. Following an investigation into a juvenile's allegation of sexual abuse suffered in 5-C, the juvenile shall be informed by 5-C staff as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
 - a. If 5-C did not conduct the investigation, 5-C shall request the relevant information from the investigative agency in order to inform the juvenile.
 2. Following a juvenile's allegation that a staff member has committed sexual abuse against the juvenile, 5-C shall subsequently inform the juvenile (unless it has been determined that the allegation is unfounded or the juvenile has been released) whenever:
 - a. The staff member is no longer employed at 5-C;
 - b. 5-C learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - c. 5-C learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
 3. Following a juvenile's allegation that he or she has been sexually abused by another juvenile, 5-C shall subsequently inform the alleged victim (unless it has been determined that the allegation is unfounded or the juvenile has been released) whenever:
 - a. 5-C learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - b. 5-C learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
 4. All such notifications or attempted notifications shall be documented.
- E. Termination of investigations

1. 5-C shall not seek or request the investigating agency to terminate an investigation solely because the source of the allegation recants the allegation.

2. The departure of the alleged abuser or victim from the employment or control of 5-C shall not provide a basis for terminating an investigation.