



Monroe Harding

Healing happens here.

3.2.001: Abuse and Neglect Reporting Policy and Procedure

Background (PREA 115.331 a5)

Serious incidents of physical, emotional, or sexual abuse and/or neglect in agencies providing care for children/youth are relatively rare considering the thousands of hours of care provided daily in the United States. The abuse or neglect, when it does occur, must be regarded as a serious problem. The abuse or neglect of children/youth, no matter how infrequent or what form it takes may never be disregarded.

PREA related incidents are divided into several categories, including youth on youth sexual abuse, youth on youth sexual harassment, staff on youth sexual abuse, and staff on youth sexual harassment. Additionally, there are different acts that constitute sexual abuse. First, nonconsensual sexual acts include contact of any person without his/her consent, or of a person who is unable to consent or refuse; and contact between the penis and the vagina or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by the hand, finger, or other object. Abusive sexual contact includes contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person. Abusive sexual contact excludes incidents in which the intent of the sexual contact is to harm or debilitate rather than to sexually exploit. Staff sexual abuse includes any behavior or act of a sexual nature directed toward a youth by an employee, volunteer, contractor, office visitor, or other agency representative. These acts can include completed, attempted, threatened, or requested sexual acts; or occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification. Sexual relationships of a romantic nature between staff and youth are included in this definition.

A pattern of abuse or neglect within an agency or facility is both a serious problem and an even more serious symptom. There is something profoundly wrong with a program where children/youth are frequently abused and/or neglected.

Abuse and/or neglect in an agency or facility is caused by the same kind of tensions and pressures, which cause parents to abuse or neglect children and youth. Isolation is, without doubt, a major factor. If the staff member feels little or no support from others within the facility, abuse and/or neglect is much more likely to occur.

Some red flags in detecting sexual abuse include: two youth or a youth and staff spending a lot of time together, staff consistently volunteering for a particular assignment or shift, flirting, horseplay or overly familiar interaction between two youth or a youth and a staff, gift giving, favoritism, sexualized conversations, and rumors about two individuals (PREA 115.311 a2).

Caring for children/youth, particularly difficult teenagers, is a high-pressure job. Eventually, every direct service worker experiences a moment of intense anger and frustration and a desire to lash out at the youth who has triggered these feelings. In most situations, the worker is able to pull back, take a few deep breaths and talk to someone who is prepared to listen. Staff members must always try to catch themselves before they lose control and allow the youth to become the outlet for their intense anger and frustration.

I. Immediate Actions

- A. The Monroe Harding staff member should separate the alleged victim and abuser (PREA 115.364 a1). They should then assure the child/youth (as well as ensure) that he/she is safe. The staff member should not ask questions, offer suggestions or judgments, they should only listen and be supportive. The first responder will initiate the use of the PREA Incident Time (PIT) Log to ensure compliance with all necessary steps and notifications. The PIT log will accurately document the time line of the incident response.
 - i. If the abuse occurred within a time period that allows for the collection of physical evidence (within 96 hours):
 - 1. Preserve and protect any crime scene until appropriate authorities can be notified to collect any evidence (PREA 115.321 a, b; 115.364 a2, b).
 - 2. Request that the alleged victim not take any actions that could destroy physical evidence, including (as appropriate): washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating (PREA 115.364 a3).
 - 3. Request that the alleged abuser not take any actions that could destroy physical evidence, including (as appropriate): washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating (PREA 115.364 a4).

II. Reporting

- A. Preventing abuse and/or neglect is always preferable to treating it. However, if and when it is alleged, certain procedures must be followed. Staff members, including mental health practitioners, who know or have reasonable cause to suspect that a child/youth has been sexually, physically or emotionally abused must report it, regardless of where the abuse occurred (PREA 115.317 f; 115.361 a, d1; 115.352 b). If prior sexual victimization did not occur in an institutional setting, mental health practitioners must obtain informed consent from the individual before reporting the abuse, unless the resident is under the age of 18 (PREA 115.381 d).
- B. Youth may have a third party assist them in filing allegations of sexual abuse. Third parties may also file allegations on behalf of a youth. When someone reports an incident of sexual, physical, or mental abuse, or neglect by an adult or peer, the following procedure must occur (PREA 115.331 a2; 115.352 e1; 115.354; 115.365; 115.371 a):
 - i. If a report is made by a third party (other than a parent or legal guardian), Monroe Harding may require that the alleged victim agree to have the report filed on his or her

behalf (PREA 115.352 e2). If the resident denies that an incident of abuse occurred, Monroe Harding will document the youth's decision (PREA 115.352 e3). If a parent or legal guardian of a juvenile files a grievance regarding allegations of sexual abuse, including appeals, on behalf of their child, such a grievance is not conditioned upon the youth agreeing to have the request filed on his or her behalf (PREA 115.352 e4).

- C. Staff must accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports (PREA 115.351 c; 115.361 f). Youth shall be allowed access to the tools necessary to make a written report (PREA 115.351 d). Monroe Harding will not terminate an investigation solely because the source of the allegation recants the allegation (PREA 115.371 d).
- D. The staff member will notify the Vice President of Strategy and Operations immediately (PREA 115.361 a). If the staff member is uncomfortable with reporting to the Vice President, they may notify any member of the executive management team: CEO, VP, VP of Philanthropy, Director of Finance, and Director of Support Services (PREA 115.351 e).
- E. The staff member must then report such an incident the Department of Children's Services statewide hotline at **1-877-542-2873 or 1-877-237-0004** (PREA 115.321 f; 115.322 b; 115.331 a10; 115.371b).
 - i. At the request of the youth, a Monroe Harding staff member is allowed to accompany and support the victim through the forensic medical examination process and investigatory interviews, and can provide emotional support, crisis intervention, information, and referrals (PREA 115.321 e).

III. Further Actions

- A. Unless CPS states otherwise, the youth is to be taken to Metro General Hospital to be evaluated by a Sexual Assault Forensic/Nurse Examiner when available or a qualified medical professional when not. This examination will be of no cost to the victim and will be documented by Monroe Harding staff (PREA 115.321 c).
- B. The Vice-President of Strategy and Operations will determine all other appropriate parties to notify and maintain all written documentation of the allegations, as well as report the situation to the President/CEO.
 - i. The Vice-President of Strategy and Operations or designee will notify the alleged victim's parents or legal guardians unless Monroe Harding has official documentation showing the parents or legal guardians should not be notified (PREA 115.361 e1, COA BSM: 2.01 e).
 - ii. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians (PREA 115.361 e2).
 - iii. If a juvenile court retains jurisdiction over the alleged victim, the Vice-President of Strategy and Operations shall also report the allegation to the juvenile's attorney or

other legal representative of record within 14 days of receiving the allegation (PREA 115.361 e3).

- C. If the allegations made are against a Monroe Harding staff member, immediate measures must be taken to ensure the child/youth's safety. During the DCS investigation the staff member in question will not work directly with the youth involved, and at the discretion of the President/CEO and Vice-President, the staff member may be placed on administrative leave (PREA 115.371 e). The departure of the alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation (PREA 115.371 k). This investigation shall also include an effort to determine whether staff actions or failures contributed to the abuse (PREA 115.371 g1).
- D. The staff member making the report will then complete a Monroe Harding incident report. These reports will include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings (PREA 115.371 g2). These reports will be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. If a juvenile resident committed the abuse, the incident report will be retained for the length of time dictated in the policy "Client Records Retention and Destruction – Residential." (PREA 115.371 j). This report will contain accurate, uniform data, obtained by using a standardized instrument and set of definitions (PREA 115.387 a).
- E. The director or on-call personnel will complete a state incident report and fax it to all pertinent parties.
- F. Monroe Harding will cooperate with all investigations as well as adhere to the findings of DCS – Child Protective Services Unit (PREA 115.322 a, c; 115.334 a; 115.371 e, m).
- G. If a staff member is found to have abused or neglected a child/youth, Monroe Harding's code of ethics and rules of conduct will be appropriately applied. There will be no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or harassment are substantiated (PREA 115.372). Monroe Harding Incorporated has a zero tolerance policy regarding sexual abuse and harassment. Any confirmed incident will result in discipline up to and including termination (PREA 115.311 a; 115.331 a1; 115.376 a, c).
- H. Criminal investigations will be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of documentary evidence where feasible (PREA 115.371 h, j, m).
- I. Monroe Harding will offer medical and mental health evaluations and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any jail, lockup, or juvenile facility. This includes providing, when appropriate, free access to forensic exams by Sexual Assault Forensic Examiners or Sexual Assault Nurse Examiners when available, and other qualified medical practitioners when not (PREA 115.321 c).

- J. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Vice-President of Strategy and Operations shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred and shall also notify the appropriate investigative agency (PREA 115.363 a). Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation (PREA 115.363 b). Monroe Harding shall document that it provided such notification (PREA 115.363 c). If Monroe Harding receives such a notification from another facility, it shall ensure the allegation is investigated as outlined above (PREA 115.363 d).

- K. Any person that is required to report known or suspected abuse/neglect that knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor that is punishable by a fine not to exceed two thousand five hundred dollars (\$2,500) (PREA 115.361 b). These standards also apply to the state investigating agency (PREA 115.321 g1).

I have received a copy of the changes to Tennessee law in regards to child abuse reporting and I understand the importance of reporting all abuse/neglect allegations to the Department of Children's Services and the Vice-President of Strategy and Operations at Monroe Harding. I am aware of the consequences of not reporting, including possible termination of employment.

I have read and understand the Abuse and Neglect Reporting Policy and Procedure (PREA 115.331 d).

Employee/Date

CEO/President or Designee/Date